SOFTWARE LICENSE AND DISTRIBUTION AGREEMENT

THIS SOFTWARE LICENSE AND DISTRIBUTION AGREEMENT (the "**Agreement**") is effective as of [_____] between [_____] (herein referred to as "**Licensee**"), and General Electric Company, operating through its Software Center of Excellence, located at 2623 Camino Ramon, San Ramon, CA 94583 (herein referred to as "**Licensor**") (each a "**Party**" and collectively the "**Parties**").

Section 1   Scope. This agreement and the attachments and schedules included herein state the terms and conditions under which Licensor shall license to Licensee the specific components and documentation of those programs listed on Exhibit A ("**Licensed "Programs**") for good and valuable consideration, receipt of which is hereby acknowledged.

Section 2   License.

a) License Grant. Subject to the terms and conditions of this Agreement, and solely within the Business Field of Use (as defined below), Licensor hereby grants, and Licensee hereby accepts, a worldwide, perpetual, fully paid-up, royalty-free, non-exclusive license to:

   i)   install the Licensed Programs in object code form on Licensee's premises, and permit Licensee's users to use the Licensed Programs so installed, solely for development, testing, demonstration, staging, and production;

   ii)   permit Licensee's customers ("Customers") to install the Licensed Programs in object code form on such Customers' respective premises, and permit such Customers' respective users to use the Licensed Programs so installed, solely for development, testing, demonstration, staging, and production;

   iii)   permit Customers to permit third-party hosts ("Hosts") to install the Licensed Programs in object code form on such Hosts' respective premises, and permit such Customers' respective users to use the Licensed Programs so installed, solely for development, testing, demonstration, staging and production; use the Licensed Programs in object code form in a Software as a Service ("SAAS") deployment model, solely during the development, testing, staging and/or production stages of Licensee's deployment;

   iv)   combine the Licensed Programs with additional software in a way that adds substantial functionality not present in the Licensed Programs (the result, a "Combination Product");

   v)   install the Combination Product on its premises and permit its users to use the Combination Product so installed (and sublicense Customers to do so on their respective premises), solely for development, testing, demonstration, staging, and production; and

   vi)   use the Combination Product in object code form in a SAAS deployment model, and to sublicense Customers to do so on their Respective premises, and to permit Customers to permit Hosts to do so on such Hosts' respective premises for use of Customers' users, such SAAS deployment to be made solely during the development, testing, staging and/or production stages of Licensee's deployment.

b)   For the purposes of this Agreement, the right to "use" the Licensed Programs shall include the right to utilize, run, access, store, copy, test or display the Licensed Programs. No right or license is granted or agreed to be granted to disassemble or decompile any Licensed Programs furnished in object code form, and Licensee agrees not to engage in any such conduct unless permitted by law. Reverse engineering of Licensed Programs is prohibited, unless such a right is explicitly stated in the corresponding documentation (referenced in Exhibit A), and then only to the extent explicitly permitted.   Licensor shall have no obligation to support any such reverse engineering, any product or derivative of such reverse engineering, or any use of the Licensed Programs with any modified versions of any of their components .

c)   For purposes of this Agreement, the "**Business Field of Use**" shall mean the uses identified on Exhibit B, as may be updated from time to time by agreement of the Parties.

d)   Licensee shall ensure that its Combination Products, if any, incorporate the Licensed Programs in such a way as to prevent third parties from viewing the source code of the Licensed Programs or gaining access to any programmatic interface or other hidden aspect of the Licensed Programs.

e)   Use of some open source and third party software applications or components included in or accessed through the Licensed Programs may be subject to other terms and conditions found in a separate license agreement, terms of use or "Read Me" file located at the download page. The Licensed Programs are accompanied by additional software components solely to enable the Licensed Programs to operate as designed. Licensee is not permitted to use such additional software independently of the Licensed Programs unless Licensee secures a separate license for use from the named vendor.

f)   Title. As between Licensor and Licensee, title to and ownership of the Licensed Programs shall at all times remain with Licensor.

g)   Backup Copies. Licensee shall have the right to make and keep a reasonable number of back-up copies of the Licensed Programs.

Section 3   Delivery and Installation.

a)   Delivery. Licensor shall deliver the Licensed Programs, in object code form only, to the address specified above, unless otherwise agreed in writing by the Parties.

b)   Installation. Unless otherwise specified in a support services agreement to be negotiated by the parties, Licensee will be responsible for installation of the Licensed Programs, at a site as mutually agreed by the Parties.

Section 4   Software Updates; Support and Training

a)   Updates, Corrections, and New Versions.
   i) "Update" means a commercially available modification or maintenance release of one of the Licensed Programs that corrects errors in, or adds minor features to, the Licensed Program. Updates are represented by a change in the version number of the Licensed Version to the right of the decimal point, e.g. from version 1.0 to 1.01. Licensor may, from time to time during the term of this Agreement, provide Licensee with Updates of the Licensed Programs. Any such Updates shall be included under and covered by the terms of this Agreement.

   ii) "New Version" shall mean a new commercially available release of any of the Licensed Programs other than an Update. New Versions are represented by a change in the version number of the Licensed Program to the left of the decimal point, e.g. from version 1.0 to version 2.0. Licensor may, from time to time, offer New Versions. Any New Version licensed by Licensee shall be governed by a separate agreement.

b)   Training and Support Services. During the Term of this Agreement, Licensor shall be responsible for providing training and support services to Licensee and Licensee's end users as specified in a support services agreement to be negotiated by the parties.

c)   NO WARRANTIES. LICENSOR AND OUR AFFILIATES, RESELLERS, DISTRIBUTORS, AND VENDORS, MAKE NO WARRANTIES, EXPRESS OR IMPLIED, GUARANTEES OR CONDITIONS WITH RESPECT TO USE OF THE LICENSED PROGRAMS UPDATES, SUPPORT SERVICES AND TRAINING. LICENSEE ACKNOWLEDGES AND UNDERSTANDS THAT USE OF ALL SUCH PROGRAMS AND SERVICES ARE AT LICENSEE'S AND CUSTOMERS' OWN RISK AND THAT LICENSOR PROVIDES THE SERVICES ON AN "AS IS" BASIS "WITH ALL FAULTS" AND "AS AVAILABLE." LICENSOR DOES NOT GUARANTEE THE ACCURACY OR TIMELINESS OF INFORMATION AVAILABLE FROM THE LICENSED PROGRAMS AND SERVICES. TO THE EXTENT PERMITTED UNDER LAW, LICENSOR EXCLUDES ANY IMPLIED WARRANTIES, INCLUDING FOR MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, WORKMANLIKE EFFORT, AND NON-INFRINGEMENT.

d) LICENSEE ACKNOWLEDGES THAT COMPUTER, SOFTWARE AND TELECOMMUNICATIONS SYSTEMS, INCLUDING THE LICENSED PROGRAMS, ARE NOT FAULT-FREE AND OCCASIONAL PERIODS OF DOWNTIME OCCUR. WE DON'T GUARANTEE THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE OR THAT LOSSES OF DATA WON'T OCCUR.

Section 5   Confidentiality.

a)   As used in this Agreement, "**Confidential Information**" shall mean any and all technical or business information furnished or disclosed, in whatever form or medium, by or on behalf of one party to the other party including, but not limited to, product or service specifications, designs, drawings, prototypes, software programs, models, business plans, marketing plans, financial data, financial statements, financial forecasts and statistical information. Confidential Information disclosed by either party to the other hereunder may be in written form or it may be electronically, orally or visually presented. If in written form, it shall be identified as Confidential Information by an appropriate legend indicating its proprietary or confidential nature. If disclosed orally or visually, it shall be identified by the disclosing party as Confidential Information at the time of disclosure and shall be confirmed as such by written summary mailed to the receiving party within thirty (30) days after the original disclosure.

b)   Confidential Information disclosed by either party to the other hereunder shall be used by the receiving party solely for performance of this Agreement. The parties agree

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for a period of five (5) years after termination or expiration of this Agreement:

i) To exercise the same degree of care with regard to the protection of Confidential Information as it uses in protecting and preserving its own confidential and proprietary information; and

ii) To restrict the dissemination of Confidential Information to only those employees, contractors, consultants, affiliates, and subsidiaries who have a need to know such information in the performance of their duties related to the purpose of this Agreement and who are subject to an obligation to keep such information confidential, except to the extent necessary to sub-license the Licensed Programs pursuant to this Agreement..

c) The obligations of each party as set forth in this Agreement shall not apply to any information which:

i) Has become generally available in the public domain without breach of this Agreement;

ii) The receiving party can establish by written documentation was in its possession prior to disclosure pursuant to this Agreement;

iii) The receiving party can establish by written documentation was independently developed;

iv) The disclosing party has disclosed to a third party without restriction;

v) The receiving party has received from a third party who is properly in possession thereof and who has not received the same through an agreement with the other party to maintain such information in confidence;

vi) Is disclosed by the receiving party pursuant to the disclosing party's written approval; or

vii) The receiving party is compelled to release by law or in the course of litigation by a third party, provided that the receiving party provides the disclosing party with notice of such compulsion sufficiently in advance of disclosure so as to provide the disclosing party a reasonable time period to seek a protective order.

Section 6   Support Services

The scope of the support services and training and any prices therefor shall be mutually agreed by the parties.

Section 7   Limitation of Liability

LIABILITY ARISING UNDER THIS AGREEMENT, WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), SHALL BE LIMITED TO DIRECT, OBJECTIVELY MEASURABLE DAMAGES. NEITHER PARTY OR THEIR SUPPLIERS, INCLUDING SUPPLIERS OF TELECOMUNICATIONS SERVICES, SHALL HAVE ANY LIABILITY TO THE OTHER PARTY OR TO ANY THIRD PARTY, FOR ANY INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST REVENUES OR PROFITS, FAILURE TO REALIZE ANTICIPATED REVENUES, PROFITS OR SAVINGS LOSS OF DATA, INTERRUPTION OF BUSINESS, COST OF CAPITAL, OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR DOWNTIME COSTS, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE) STRICT LIABILITY OR OTHERWISE. LICENSOR LICENSES CERTAIN SOFTWARE FROM THIRD PARTIES FOR USE WITH THE SERVICES. THE LIABILITY OF SUCH THIRD PARTY SUPPLIERS FOR DAMAGES, WHETHER DIRECT, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL ARISING FROM USE OF THE SOFTWARE, IS EXPLICILTLY DISCLAIMED AND LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

Notwithstanding anything to the contrary, the aggregate liability of Licensor and its suppliers under this Agreement shall not exceed the lesser of (a) the total amounts paid by Licensee to Licensor hereunder during the one-year period immediately preceding the event which gave rise to the claims or (b) Two Hundred and Fifty Thousand dollars ($250,000.00).

Section 8   Termination.

a)   Termination by Licensor or Licensee for Breach. If either party should fail to perform any of its material obligations under this Agreement, the other party may give written notice to the defaulting party calling attention to the default. Unless such material default is corrected within sixty (60) days after receipt of such notice, said other party shall thereafter have the right to terminate this Agreement upon thirty (30) days prior written notice to said defaulting party. Except as otherwise provided in this Agreement, said right to terminate for material default shall be in addition to, and without prejudice to the exercise of any other remedies available in law.

b)   Effect of Termination. Expiration or termination of this Agreement shall not impair or affect any liability or obligation of Licensor or Licensee, which has accrued on or before the date of expiration or termination of this Agreement. Furthermore, Licensee shall be fully entitled to fulfill any outstanding sub-license or sub-license support

obligation undertaken prior to the date of expiration or termination of this Agreement. Therefore any sub-license by Licensee to a third party prior to the date of expiration or termination shall not be affected by such expiration or termination of this Agreement and shall remain in full effect. Notwithstanding any provisions herein to the contrary, following any expiration or termination of this Agreement and for so long thereafter as is necessary for Licensee to satisfy its then existing contractual obligations to those parties to whom Licensee directly or indirectly markets and distributes the Licensed Programs ("End Users"), Licensee shall be entitled to exercise the licenses granted under 2 (License) solely for such purposes.

c) **Survival**. Upon expiration or termination of this Agreement for any reason, the provisions of Section 4, 5, 7, 8, 10, 12, 13, 14 and any sections that, by their nature are intended to survive, will survive in accordance with their provisions. The expiration or termination of this Agreement for any reason shall not in any way affect any of the perpetual licenses pursuant to this Agreement, or the licenses of any customer of Licensee, all of which shall continue in effect and in accordance with their terms as though this Agreement had not expired or been terminated.

Section 9 **Export Control.** Licensor hereby certifies that the Licensed Programs are export compliant under United States laws and shall provide to Licensee upon request the proper Export Control Classification Number ("**ECCN**") or any other applicable other for such item or confirmation that such item qualifies for a particular license exception. When applicable, such confirmation shall include information about the Licensed Programs, which enables it to qualify for the particular license exception.

Section 10 **Force Majeure.** Neither party shall be liable for any failure or delay in performance caused by or due to acts of God, war, riot, terrorism, sabotage, accident or casualty.

Section 11 **Assignment.** This Agreement may not be assigned or transferred without the prior consent of the other Party, provided however that Licensor may at any time assign this Agreement to any affiliate or subsidiary company or pursuant to any merger, consolidation or other reorganization involving Licensor without the consent of Licensee. This Agreement shall be binding on the successors and assigns of the parties hereto.

Section 12 **Applicable Law.** The Agreement shall in all respects be governed by and interpreted in accordance with the substantive law of the State of New York, U.S.A., excluding its conflicts of law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply. Litigation may be brought only in the US District Court for the Southern District of New York or, if such court lacks subject matter jurisdiction, in the Supreme Court of the State of New York in and for New York County. The parties submit to the jurisdiction of said courts, and waive any defense of *forum non conveniens*.

Section 13 **Entire Agreement.** This Agreement constitutes the entire agreement with respect to the subject matter hereof and supersedes all proposals, oral or written, all previous negotiations and all other communications between the Parties with respect to the subject matter hereof. These terms and conditions shall prevail, notwithstanding any different, conflicting, or additional terms and conditions that may appear in the Licensed Programs or other instrument submitted by either Party. Deviation from these terms and conditions is not valid unless confirmed in writing by authorized representatives of both Parties.

Section 14 **Notices.** Any notice given by either party shall be in writing and shall be addressed to the other party at the following address:

TO LICENSOR:
Software Center of Excellence
General Electric Company
2623 Camino Ramon,
San Ramon, CA
94583

TO LICENSEE:
_____
_____
Either party may change its foregoing address upon giving ten (10) days' written notice to the other party.

IN WITNESS WHEREOF, the parties have respectively caused this Agreement to be executed on the dates hereinafter indicated.

UNDERSTOOD AND AGREED: UNDERSTOOD AND AGREED:

For: _____   For: _____

LICENSOR   LICENSEE

_____   _____

Date: _____   Date: _____

EXHIBIT A
LICENSED PROGRAMS

Licensed Program Component	Version No.	Corresponding Documentation
[...]		

EXHIBIT B
BUSINESS FIELD OF USE

Solution/project name	Domain/industry	Purpose of solution/project
[…]		