



MASTER SOFTWARE LICENSE AND SERVICES AGREEMENT

This Master Software License and Services Agreement is made and entered into this [redacted] day of [redacted], 20__ (“Effective Date”) by and between **GT Software, Inc.**, a Georgia corporation, with a notice address of 6255 Barfield Road NE, Suite 200, Atlanta, Georgia 30328 (“GT Software”) and _____ (“Customer”), a _____, with

a _____ notice _____ address _____ of _____
_____.

Background

GT Software is the developer of a suite of enterprise software solutions and related services designed to optimize business information across mainframe, distribute and cloud platforms. Customer desires to license GT Software’s software products and receive certain services, as provided in this Agreement.

In consideration of the mutual promises, covenants, and representations herein, and upon the terms and conditions set forth below, the parties agree to the following:

This “Agreement” consists of the following:

- this Signature Page
- Schedule A - Order Forms that are either attached to this Agreement or incorporated by reference from time to time
- General Terms and Conditions, attached
- Schedule B - Professional Services Schedule that is either attached to this Agreement or incorporated by reference from time to time
- Schedule C - Statements of Work that are either attached to this Agreement or incorporated by reference from time to time
- any GT Software URL or policy referenced in this Agreement

Nothing contained in any purchase order, purchase order acknowledgement, or similar document shall in any way modify or add any additional terms or conditions to this Agreement. Customer understands and agrees that any additional or conflicting terms in Customer’s current or future purchase orders, which are not included in this Agreement or the applicable Order Form, are deemed rejected and are not part of the Agreement between GT Software and Customer.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives effective on the Effective Date.

GT Software:

Customer:

GT Software, Inc.

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____



This Order Form is subject to and a part of the terms of the Master Software License and Services Agreement (“Agreement”) between GT Software, Inc. (“GT Software”) and the Customer identified below. All terms of the Agreement are incorporated herein by reference. Capitalized terms not defined in this Order Form are defined in the Agreement.

REQUIRED INFORMATION

Order Form
Effective Date:

Contact:	Customer:
1. 1.2. Name:	
Title:	
1. 1.5. Telephone:	
Fax:	
Customer Contact Email:	GT Software Account Executive:

Customer hereby orders the Licensed Products identified in the table below and other and services as described in this Order Form.

Qty	Description of the Licensed Products, License Metrics, and Services	Fees
	Software:	
	Total Due	\$

Ivory

Ivory is provided on a subscription basis, based on the number of API Calls utilized quarterly. Annual Subscription Fees are based on the following quarterly API Call usages:

Tier	Quarterly API Call Volume		Subscription Fees (annual)
	From	To the Maximum of	\$/Yr
1			48,000
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			



Order Form

Schedule A-1

Customer shall pay the Subscription Fees for Customer's applicable Tier annually in advance. If the API Call volume in any quarter exceeds the API Call Maximum for Customer's applicable Tier, then for each quarter remaining in the Term thereafter, Customer will pay annualized Subscription Fees at the applicable higher Tier. For the current year of the Term, GT Software will invoice Customer, and Customer will then pay GT Software, at the higher Tier level, prorated for the remaining quarters in the applicable Term year.



General Terms and Conditions

These General Terms and Conditions are subject to and a part of the terms of the Master Software License and Services Agreement (“Agreement”) between GT Software, Inc. (“GT Software”) and the Customer identified on the Signature Page of the Agreement. All terms of the Agreement are incorporated herein by reference. Capitalized terms not defined in this Order Form are defined in the Agreement.

1. **DEFINITIONS.** Defined terms are set forth in Section 12.
2. **LICENSE TO LICENSED PRODUCTS.** Subject to the terms and conditions of this Agreement and the applicable License Metrics and other limitations set forth on the Order Form, GT Software grants to Customer, and Customer accepts, the following non-exclusive, non-assignable, and non-transferable, rights and licenses to the Licensed Products during the License Term:
 - (a) to store, load and run the Licensed Products and Deliverables; and
 - (b) to use a reasonable number of copies of the Documentation in support of the license rights granted in this Agreement.
- 2.2. **Limitations on License and Usage.** The license rights granted in this Agreement are conditioned and limited by the following.
 - (a) The Licensed Products are for use only by Authorized Users.
 - (b) The Licensed Products shall be used only in accordance with the Documentation.
 - (c) Customer shall not use the Licensed Products or any of GT Software’s Confidential Information to create any software, service, or documentation that is in any way similar to the Licensed Products.
 - (d) Customer shall not encumber, transfer, rent, donate, assign, lease, or otherwise use the Licensed Products in any time-sharing or service bureau arrangement.
 - (e) Except as expressly provided in this Agreement, Customer shall not, copy, reproduce, market, sell, distribute, sublicense, manufacture, adapt, create derivative works of, translate, localize, port, or otherwise modify or commercially exploit the Licensed Products.
 - (f) Customer shall not decompile, disassemble, reverse compile, reverse assemble, reverse translate or otherwise reverse engineer the Licensed Products, including use of any similar means to discover the source code of the Licensed Products, to discover the Confidential Information therein, or to otherwise circumvent any technological measures that control access to the Licensed Products.
 - (g) Customer shall not alter or remove any printed or on-screen copyright, trademark, patent, proprietary, or other legal notice contained on or in any Licensed Products and shall cause all such notices to be reproduced on all copies thereof.
- 2.3. **Open Source Software.** Certain components of the Software or Third Party Software may contain certain open source software that is separately licensed or subject to other terms and conditions. The open source software subject to other terms and conditions, including license terms, is set forth at www.GTSoftware.com/OpenSourceThirdPartyTCs.
- 2.4. **Reservation of Rights.** All rights including, without limitation, Intellectual Property Rights, not expressly granted in this Agreement are reserved to GT Software. No rights are granted by implication. The rights granted and Customer’s obligations in this Agreement are not contingent on the development or delivery of any future functionality or features.
3. **MAINTENANCE SERVICES GENERALLY.** During the Maintenance Term, and as long as Customer is not in default, GT Software will provide to Customer maintenance services (“Maintenance Services”) in accordance with the terms of this Section. Maintenance Services will be provided in accordance with GT Software’s maintenance policy that is in effect at the commencement of the Initial Term or the applicable Renewal Term (the “Maintenance Policy”). GT Software’s Maintenance Policy, as it exists from time to time, is set forth at www.GTSoftware.com/MaintenancePolicies. Notwithstanding the foregoing, the Maintenance Services provided to Customer at any time during the Maintenance Term will not be materially less than the Maintenance Services provided under the Maintenance Policy in effect on the Effective Date.
4. **SUBSCRIPTION SERVICES GENERALLY.** During the Subscription Term, and as long as Customer is not in default, GT Software will provide to Customer subscription services (“Subscription Services”). In addition to any other services identified on the applicable Order Form, Subscription Services include the licenses identified on the applicable Order Form and Maintenance Services.
5. **ADDITIONAL TERMS**
 - 5.1. **Cooperation and Access.** Customer acknowledges that Customer’s cooperation and access, including remote access, to certain of Customer’s information, facilities, personnel, and equipment may be reasonably required by GT Software in order to provide the Services. The parties will mutually agree upon and coordinate all security protocols involving remote access. If Customer desires GT Software to adhere to or use a specific security protocol and doing so will require GT Software to incur a material additional cost, Customer shall reimburse GT Software for such cost.

- 5.2. **Additional Services.** Any services requested by Customer that are not within the scope of Maintenance Services or that are outside the scope of the SOW Services (collectively, "Additional Services") may be subject to an additional charge at Time and Materials Rates, at GT Software's discretion.
- 5.3. **Subcontractors.** GT Software may subcontract any work under this Agreement to any third party without Customer's prior written consent. GT Software shall remain responsible for the performance, acts, and omissions of any subcontractors.

6. FEES AND PAYMENTS

- 6.1. **License Fees.** Customer shall pay the License Fees set forth on the applicable Order Form. Unless otherwise stated in the Order Form, License Fees are due and payable within 30 days from execution of the Order Form. License Fees are not contingent under any circumstances upon the performance of any Services, including initial implementation.
- 6.2. **Maintenance Fees.** Unless otherwise specified on the Order Form, Customer shall pay the fees for Maintenance Services ("Maintenance Fees") annually in advance. Any Maintenance Fees payable for less than a 12 month period shall be prorated on a daily basis.
- 6.3. **Subscription Fees.** If the Order Form provides for the payment of Subscription Fees rather than License Fees and Maintenance Fees, then Customer shall pay the fees identified as Subscription Fees on the applicable Order Form ("Subscription Fees"). Unless otherwise specified on the applicable Order Form, Customer shall pay the Subscription Fees annually in advance on or before the anniversary of the effective date of the Subscription Services. Any Subscription Fees payable for less than a full year shall be prorated on a daily basis.
- 6.4. **Adjustments to Fees.** GT Software may adjust the License Fees, Maintenance Fee, or Subscription Fees payable for any License Renewal Term, Maintenance Renewal Term, or Subscription Renewal Term by providing Customer written notice of such change at least 60 days prior to the end of the then License Term, Maintenance Term, or Subscription Term, as the case may be.
- 6.5. **Professional Services Fees.** Fees for Professional Services ("Professional Services Fees") are set forth either on an Order Form or the Statement of Work. Unless otherwise provided on an Order Form or the Statement of Work, Professional Services Fees are payable within 30 days after receipt of the applicable invoice.
- 6.6. **Other Fees.** All other Fees payable under this Agreement are due and payable within 30 days after receipt of an invoice for such Fees.
- 6.7. **Currency.** All Fees under this Agreement shall be payable in U.S. dollars.
- 6.8. **Expenses.** For any Professional Services and on-site Maintenance Services, Customer shall reimburse GT Software for actual, reasonable travel, living, and other incidental expenses incurred.
- 6.9. **Late Payment.** Any amount not paid when due shall bear a late payment charge at the lesser of 1.5% per month or the maximum amount permitted by law until paid. If Customer's

account is in arrears for 30 days or more, GT Software may suspend the provision of Services until such time as Customer's account is brought current. The rights in this Section are in addition to any other rights under this Agreement, at law, or in equity.

- 6.10. **Taxes.** All Fees and expenses are net amounts to be received by GT Software, exclusive of (other than taxes on GT Software's income or net worth) all taxes, duties, sales, use, and similar taxes ("Taxes"). Customer shall pay all Taxes or reimburse GT Software for GT Software's payment of such Taxes.

7. PROPRIETARY RIGHTS

7.1. Ownership

- (a) **GT Software.** GT Software and its suppliers retain sole and exclusive ownership of their respective Confidential Information, Licensed Products, Deliverables, and all Intellectual Property Rights in, to, or embodied in or associated with the Licensed Products, Deliverables, and Services, and all copies and Modifications thereof (whether developed by GT Software, Customer, or a third party). Customer shall not take any action inconsistent with such title and ownership.
- (b) **Customer.** Customer retains sole and exclusive ownership of Customer's Confidential Information and all copies and Modifications thereof. GT Software shall not take any action inconsistent with such title and ownership. Notwithstanding anything in this Agreement to the contrary, any suggestions or proposed Modifications to the Licensed Products (in any form) provided by Customer to GT Software may be freely used by GT Software without limitation, and any Modification to the Licensed Products resulting from such suggestions or proposed Modifications shall be exclusively owned by GT Software.

7.2. Indemnification

- (a) GT Software shall indemnify, defend, and hold harmless Customer and its officers and Authorized Users (collectively, "Indemnified Parties") against any third party claim that the Software infringes any patent, copyright, or trademark, or misappropriates any trade secret. If any Software becomes, or in GT Software's opinion is likely to become, the subject of a claim of infringement, GT Software may, at its sole option, (i) obtain for Customer the right to continue using the Software; (ii) replace or modify the affected Software so that it becomes non-infringing while providing substantially equivalent functionality; or (iii) if such remedies are not available on commercially reasonable terms as determined by GT Software, terminate the license for the affected portion of the Software and refund any prepaid Fees. Notwithstanding any other terms in this Section, GT Software shall have no liability for infringement claims and Customer shall defend, indemnify, and hold harmless GT Software if the alleged infringement is based on or arises from (a) the combination or use of the Software with hardware, software, or other materials not provided by GT Software, (b) the modification of the Software by anyone other than GT Software or at GT Software's direction, (c) the use of the Software not in

accordance with the Documentation or this Agreement, or (d) the use of other than the then most current Version of the Software if the use of the most current Version of the Software would have eliminated the infringement. THE FOREGOING STATES GT SOFTWARE'S ENTIRE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY FOR ANY CLAIM OF INFRINGEMENT.

- (b) GT Software shall indemnify, defend, and hold harmless the Indemnified Parties against any third party claim arising from GT Software's or GT Software's Personnel's gross negligence or intentional tortious misconduct.
- (c) The indemnification provided in this Section 7.2 is conditioned on (i) Customer giving GT Software prompt written notice of such claim; (ii) Customer providing its full cooperation in the defense of such claim, if requested by GT Software and at GT Software's expense; and (iii) Customer granting GT Software the sole authority to defend or settle the claim. Customer may engage legal counsel to monitor, but not control, any such claim at Customer's expense.

7.3. Confidentiality. By virtue of this Agreement, the parties may be exposed to or provided with certain Confidential Information of the other party. Each party will protect the other's Confidential Information from unauthorized dissemination and use with the same degree of care that each such party uses to protect its own Confidential Information, but in no event less than a reasonable amount of care. Except as required by law, neither party will use the other's Confidential Information for purposes other than those necessary to directly further the purposes of this Agreement and as may be required to report to its regulators and legal and financial advisors. Except as otherwise expressly set forth in this Agreement, neither party will disclose to third parties the other's Confidential Information without prior written consent of the other party. Customer shall cause Authorized Users and each party shall cause their respective Personnel to be bound in writing by obligations of confidentiality at least as restrictive as set forth in this Agreement. If the receiving party is legally required to disclose any Confidential Information of the disclosing party in connection with any legal or regulatory proceeding, the receiving party shall, if lawfully permitted to do so, endeavor to notify the disclosing party within a reasonable time prior to disclosure and to allow the disclosing party a reasonable opportunity to seek appropriate protective measures or other remedies prior to disclosure and/or waive compliance with the terms of this Agreement. If these protective measures or other remedies are not obtained, or the disclosing party waives compliance with the terms of this Agreement, the receiving party may disclose only that portion of that Confidential Information that it is legally required to disclose and shall exercise reasonable efforts to obtain assurance that confidential treatment shall be accorded to that Confidential Information. The responsibilities under this Section 7.3 shall continue during the term of this Agreement and for five years thereafter for Confidential Information that is not a trade secret under law and for trade secrets shall continue for so long as such Confidential Information remains a trade secret.

7.4. Injunctive Relief. The parties agree that monetary damages are not an adequate remedy if Sections 2, 7.1, or 7.3 of these General Terms and Conditions are breached and that the non-breaching party will suffer irreparable damage, and therefore, either party, in addition to any other legal or equitable remedies, shall be entitled to seek an injunction or similar equitable relief against such breach or threatened breach.

8. WARRANTIES

8.1. Software Warranty. For a period of 90 days from the date of first delivery of the Software, GT Software warrants that the Software will conform in all material respects to the Documentation, provided the Software is installed and used according to the Documentation. Customer shall promptly notify GT Software in writing if the Software fails to perform in accordance with this warranty. GT Software shall, within 30 days of its receipt of Customer's notice, (i) correct such Error; (ii) provide Customer with a plan reasonably acceptable to Customer for correcting the Error; or (iii) if neither (i) nor (ii) can be accomplished with reasonable commercial efforts from GT Software, then GT Software or Customer may terminate the license, and Customer will be entitled to a refund of the applicable License Fees.

8.2. Sole Remedy. The warranty in Section 8.1 constitutes GT Software's sole and entire liability and Customer's exclusive remedies with respect to such warranty. GT Software shall not be obligated to correct any breach of the above warranty if Customer has not notified GT Software of the specific existence and nature of such breach promptly during the applicable warranty period. Without limiting the foregoing, GT Software does not warrant and is not responsible for (i) any third-party products or (ii) services not provided solely by GT Software Personnel.

8.3. Disclaimer. EXCEPT AS SET FORTH IN THIS SECTION 8 AND ANY WARRANTY IN THE PROFESSIONAL SERVICES SCHEDULE, NEITHER GT SOFTWARE NOR ITS LICENSORS MAKES ANY EXPRESS OR IMPLIED WARRANTY, REPRESENTATION, CONDITION, OR AGREEMENT WITH RESPECT TO THE LICENSED PRODUCTS OR THE SERVICES. GT SOFTWARE AND ITS LICENSORS EXPRESSLY DISCLAIM AND EXCLUDE TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY AND ALL WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR ARISING FROM USAGE, CONDUCT, OR COURSE OF TRADE. GT SOFTWARE DOES NOT REPRESENT THAT THE OPERATION OF THE LICENSED PRODUCTS AND DOCUMENTATION THEREOF WILL BE UNINTERRUPTED OR ERROR FREE, THAT ALL ERRORS WILL BE CORRECTED, THAT THE LICENSED PRODUCTS WILL OPERATE WITH CUSTOMER'S OTHER SOFTWARE OR COMPUTING SYSTEMS, OR THAT THE USE OF THE LICENSED PRODUCTS WILL MEET CUSTOMER'S REQUIREMENTS.

9. LIMITATION OF LIABILITY, REMEDY

9.1. Limitation of Remedy. EXCEPT AS PROHIBITED BY LAW OR FOR CLAIMS ARISING UNDER SECTION 7.3, GT SOFTWARE, ITS LICENSORS, AND OTHER SUPPLIERS SHALL NOT BE LIABLE TO CUSTOMER, CUSTOMER

AFFILIATES, AUTHORIZED USERS, OR ANY THIRD PARTY, FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT, EXEMPLARY, OR PUNITIVE DAMAGES OR LIABILITIES FOR ANY CAUSE WHATSOEVER ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ALL EXHIBITS OR AMENDMENTS, WHETHER IN CONTRACT OR TORT OR BY WAY OF INDEMNITY OR OTHERWISE, INCLUDING A BREACH, FOR DAMAGES OR LIABILITIES FOR LOST PROFIT, LOST REVENUE, LOSS OF USE, LOSS OF GOODWILL, LOSS OF REPUTATION, LOSS OF DATA, COSTS OF RECREATING LOST DATA, THE COST OF ANY SUBSTITUTE EQUIPMENT, PROGRAM, OR DATA, OR CLAIMS BY ANY THIRD PARTY REGARDLESS OF WHETHER SUCH DAMAGES OR LIABILITIES HAVE BEEN COMMUNICATED TO GT SOFTWARE AND REGARDLESS OF WHETHER GT SOFTWARE HAS OR GAINS KNOWLEDGE OF THE EXISTENCE OF SUCH DAMAGES OR LIABILITIES.

9.2. Limitation of Liability. EXCEPT AS PROHIBITED BY LAW OR FOR CLAIMS ARISING UNDER SECTIONS 7.2 OR 7.3, THE CUMULATIVE, AGGREGATE LIABILITY (INCLUDING ATTORNEYS FEES AWARDED UNDER THIS AGREEMENT) OF GT SOFTWARE, ITS LICENSORS, AND OTHER SUPPLIERS TO CUSTOMER, AUTHORIZED USERS, OR ANY THIRD PARTY FOR ALL CLAIMS, LIABILITIES AND DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ALL EXHIBITS OR AMENDMENTS THERETO, WHETHER IN CONTRACT, TORT, OR OTHERWISE, SHALL NOT EXCEED THE FEES CUSTOMER PAID TO GT SOFTWARE IN THE TWELVE MONTHS IMMEDIATELY PRIOR TO THE DATE THAT THE CLAIM AROSE.

10. TERM AND TERMINATION

10.1. Initial Terms. Unless otherwise stated on the applicable Order Form, or unless earlier terminated as provided in this Agreement:

- (a) the initial term of the licenses granted under this Agreement and the applicable Order Form ("Initial License Term") commences on the effective date of the applicable Order Form ("Order Form Effective Date") and continues for the period described on the applicable Order Form;
- (b) the initial term for Maintenance Services ("Initial Maintenance Term") commences on the Order Form Effective Date and continues for the period described on the applicable Order Form; and
- (c) the initial term for Subscription Services ("Initial Subscription Term") commences on the Order Form Effective Date and continues for the period described on the applicable Order Form.

10.2. Renewal Terms. Unless otherwise stated on the applicable Order Form, or unless earlier terminated as provided in this Agreement:

- (a) the License Term shall be renewed for additional periods of twelve months (each, a "Renewal License Term") unless either party provides notice to the other party of its intention

to not renew at least 30 days in advance of the expiration date of the then License Term;

- (b) the Maintenance Term shall be renewed for additional periods of twelve months (each, a "Renewal Maintenance Term") unless either party provides notice to the other party of its intention to not renew at least 30 days in advance of the expiration date of the then Maintenance Term; and
- (c) the Subscription Term shall be renewed for additional periods of twelve months (each, a "Renewal Subscription Term") unless either party provides notice to the other party of its intention to not renew at least 30 days in advance of the expiration date of the then Subscription Term.

10.3. Term Licenses. Unless earlier terminated as provided in this Agreement, for any licenses that are not perpetual, the License Term and Maintenance Term shall be co-extensive. Any termination or expiration of the Maintenance Term shall terminate the License Term and vice versa.

10.4. Termination. This Agreement may be terminated by a party:

- (a) if the other party materially breaches a provision of this Agreement and fails to cure such breach within 30 days of the receipt of written notice of such breach, except that Customer shall not be entitled to a 30 day cure period for any non-remediable breach of this Agreement; or
- (b) if any assignment is made by the other party for the benefit of creditors, or if a receiver, trustee in bankruptcy or similar officer shall be appointed to take charge of any or all of the other party's property, or if the other party files a voluntary petition under federal bankruptcy laws or similar state statutes or such a petition is filed against the other party and is not dismissed within 60 days.

10.5. Effects of Termination. Upon termination of this Agreement for any reason, all rights and obligations of the parties hereunder and all licenses and Services shall cease, except as follows:

- (a) Customer's liability for any Fees, charges, payments, or expenses due to GT Software that accrued prior to the termination date shall not be extinguished by termination, and such amounts shall be immediately due and payable.
- (b) Customer shall deliver to GT Software, at Customer's expense, all originals and copies of the Licensed Products and all Confidential Information of GT Software in the Customer's possession or control. Customer shall certify in writing to GT Software within ten days following termination that it has complied with this Section 10.5(b).
- (c) GT Software shall return to Customer any Confidential Information of Customer in the possession or under the control of GT Software.
- (d) The provisions of the Signature Page, Sections 2.4, 6 (for accrued but unpaid Fees and expenses), 7, 8.3, 9, 10.5, 11, and 12 of these General Terms and Conditions and Section 4 of the Professional Services Schedule (for accrued but unpaid Fees and expenses) shall survive any termination of this Agreement. Unless otherwise expressly set forth in this Agreement, any termination of this

Agreement is without prejudice to any other rights that a party may have under this Agreement, at law, in equity, or otherwise.

11. GENERAL PROVISIONS

11.1. Authorized Users. Customer shall cause all Authorized Users to be bound by the terms and conditions of this Agreement that are applicable to Customer, and any default by any Authorized User of the terms and conditions of this Agreement shall be a default of Customer.

11.2. Delivery. Delivery of each Licensed Product shall be deemed to occur upon the earlier to occur of (i) initial delivery of the Licensed Product by GT Software to a third party shipper addressed to Customer; or (ii) the initial date the Licensed Product or license keys are made available by GT Software for download by Customer.

11.3. Governing Law. The validity, construction, and performance of the Agreement and the legal relations among the parties to the Agreement shall be governed by and construed in accordance with the laws of the State of Georgia, USA, excluding that body of law applicable to choice of law. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Agreement.

11.4. Order of Precedence. In the event of a direct conflict between the General Terms and Conditions and the Exhibits, such document shall take priority in the following order (first priority to last): General Terms and Conditions, Order Forms, Statements of Work, and other Exhibits.

11.5. Assignment. Except in connection with a merger or sale involving a majority of the stock or assets of a party, this Agreement and the rights and obligations hereunder, may not be assigned in whole or in part by either party without the prior written consent of the other party. In the case of any permitted assignment or transfer of or under this Agreement, this Agreement or the relevant provisions shall be binding upon, and inure to the benefit of, the successors, executors, heirs, representatives, administrators, and assigns of the parties hereto. Any attempt at assignment without such consent shall be null and void and of no force and effect. Any applicable fees resulting from any assignment will be based on GT Software's then current pricing, terms, and conditions.

11.6. Export. Customer shall not, directly or indirectly, without prior written consent, if required, of the office of Export Administration of the US Department of Commerce, Washington D.C. 20230, export or transmit any of the Licensed Products or the source code of the Licensed Products to, or use the Licensed Products in, any country, person or entity to which such transmission or use is restricted by applicable regulations or statutes, including all laws and regulations regarding re-export and deemed export.

11.7. License to the Government. If any Licensed Product is acquired by or on behalf of a unit or agency of the United States Government, the Government agrees that such Licensed Product is "commercial computer software" or "commercial computer software documentation" and that, absent a written agreement with GT Software to the contrary, the Government's rights with respect to such Licensed Products are, in the case of civilian agency use, Restricted Rights, as defined in FAR §52.227.19, and if for Department

of Defense use, limited by the terms of this Agreement, pursuant to DFARS §227.7202.

11.8. Force Majeure. If either party is prevented from performing, or is unable to perform, any of its obligations under this Agreement due to any cause beyond the reasonable control of the party invoking this provision, including, acts of any governmental body, war, insurrection, sabotage, armed conflict, embargo, fire, flood, strike or other labor disturbance, interruption of or delay in transportation, unavailability of or interruption or delay in telecommunications or third party services, virus attacks or hackers, failure of third party software (including ecommerce software, payment gateways, chat, statistics or free scripts) or inability to obtain raw materials, supplies, or power used in or equipment ("Force Majeure Event"), the affected party's performance shall be extended for the period of delay or inability to perform due to such occurrence, and provided further that the other party may terminate this Agreement if such condition continues for a period of 180 days. This provision shall not apply to payment obligations.

11.9. Notices. Any notice or communication from one party to the other shall be in writing and either personally delivered or sent via nationally recognized overnight service, or certified mail, postage prepaid and return receipt requested, addressed to the attention of Legal at the address of the other party as specified in the first paragraph of the Signature Page of this Agreement or at such other address as such party may from time to time designate in a notice to the other party. All notices shall be in English and shall be effective upon receipt.

11.10. Compliance. During the term of this Agreement and for a period of one year following its expiration or termination, Customer shall maintain and make available to GT Software, upon ten days advance written notice, records sufficient to permit GT Software or an independent auditor retained by GT Software to verify Customer's compliance with the terms of this Agreement; provided, that such audit shall be performed during regular business hours and subject to Customer's reasonable confidentiality requirements. If such verification process reveals any noncompliance by Customer, Customer shall pay the applicable Fees and shall reimburse GT Software for the reasonable costs and expenses of such verification process (including, but not limited to the fees of an independent auditor) incurred by GT Software, and Customer shall promptly cure any such noncompliance; provided, however, that the obligations under this Section are not a waiver of GT Software's termination rights or other rights under this Agreement, at law, in equity, or otherwise.

11.11. Miscellaneous. The waiver by either party of a breach or a default of any provision of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor, except as otherwise expressly provided otherwise in this Agreement, shall any delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has, or may have hereunder, operate as a waiver of any right, power, or privilege by such party. If any provision in this Agreement is invalid or unenforceable, that provision shall be construed, limited, modified, or severed to the extent

necessary to eliminate its invalidity or unenforceability, and the other provisions of this Agreement shall remain in full force and effect. Nothing contained in this Agreement shall be deemed to constitute either party as the agent or representative of the other party, or both parties as joint ventures or partners for any purpose. There are no express or implied third party beneficiaries of this Agreement. The parties and each individual executing this Agreement on behalf of a party represent and warrant that such individual is duly authorized to execute and deliver this Agreement on behalf of his or her party. This Agreement, including all the Exhibits attached hereto, constitute the entire agreement between the parties with regard to the subject matter hereof. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing signed by both parties, and then such waiver, consent, modification, or change shall be effective only in the specific instance and for the specific purpose given.

11.12. Construction. In the interpretation of this Agreement, words importing the singular or plural number shall include the plural and singular number respectively, words denoting gender shall include all genders and references to persons shall include corporations or other entities and vice versa. The word “including” and its derivatives, (such as “include” and “includes”) means including, without limitation, whether or not capitalized and whether or not “without limitation” or words of similar meaning are included in other provisions of this Agreement. Captions and headings contained in this Agreement have been included for ease of reference and convenience and shall not be considered in interpreting or construing this Agreement. Should any provision of this Agreement require judicial interpretation, the parties agree that the court interpreting or construing the same shall not apply a presumption that the terms of this Agreement shall be more strictly construed against one party than against another, because the parties participated equally in preparing this Agreement. Unless the context otherwise specifically requires, all references to sections of this Agreement shall refer to all subsections thereof.

12. DEFINITION OF TERMS. In addition to any other terms set forth in this Agreement, including all Exhibits, the following terms shall have the following meanings:

- (a) “Affiliate” means those entities that are controlled by, controlling, or under common control with Customer. The term “control” as used in this definition means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of an entity, whether through the ownership of voting securities, by contract, or otherwise.
- (b) “API Call” means a single communication with the Licensed Product used to invoke the functionality of the Licensed Product.
- (c) “Authorized User” means a Customer Personnel who both has a need to access and use the Licensed Product solely for Customer’s benefit and as authorized in this Agreement.
- (d) “Confidential Information” means any information that is of value to its owner, or is required to be kept confidential by

contract or otherwise, and is treated as confidential, that is disclosed by or on behalf of the discloser or otherwise directly or indirectly obtained from the discloser. Confidential Information includes, but is not limited to, the following: trade secrets, proprietary information, technical processes and formulas, the Licensed Products in source code, Object Code, and any other form, Documentation, benchmark and performance test results, product designs, any sales, cost, and other unpublished financial information, product and business plans, projections and marketing data, and the terms and conditions (but not the existence) of this Agreement. Confidential Information does not include information (i) generally known to the public through no act or omission of recipient; (ii) independently developed by the recipient without use of or reference to the discloser’s Confidential Information; and (iii) obtained by recipient from any third party not owing any confidentiality obligation to the discloser.

- (e) “Computing Device” means any physical object that has the capacity to process instructions in executable code form, including personal computers, servers, mobile devices, tablets, routers, switches, wireless access points, and card readers.
- (f) “Core” means the basic computation unit of a CPU.
- (g) “CPU” means a microprocessor that performs the general processing of data for a Computing Device. A CPU may contain more than one Core.
- (h) “Deliverable” means documents, material, and computer software, including interfaces, delivered or made accessible to Customer by GT Software in the provision of Professional Services, except that the Licensed Products, Documentation, and source code of the Licensed Products are not included in the definition of Deliverables.
- (i) “Dev/Test” means the use of the Licensed Product to process data for the purposes of developing or testing the Licensed Product or a system that uses the Licensed Product, but not for Production.
- (j) “Documentation” means the user guide(s), installation instructions, user instructions, release notes, manuals, and on-line help files in the form generally made available by GT Software to its customers regarding the use of the applicable Licensed Products, including the minimum hardware, software, operating system, and other system and configuration requirements for the proper use of the Licensed Products, as Modified and provided to Customer from time to time.
- (k) “DR” means the storage of copies of the Licensed Product for use solely for the purposes of recovering data and restoring the Production version of the Licensed Product, as a result of a Force Majeure Event.
- (l) “Error” means a material failure of the Licensed Product to conform to the functional specifications described in its Documentation.
- (m) “Error Correction” means any Modification, workaround, or routine intended to correct the practical adverse effect of an Error.

- (n) "Exhibit" means any Schedule, Order Form, Attachment, Exhibit, or Statement of Work attached to this Agreement or incorporated by reference from time to time.
- (o) "Fees" means License Fees, Maintenance Fees, Subscription Fees, Professional Services Fees, and all other fees payable to GT Software under this Agreement.
- (p) "Intellectual Property Rights" means any and all rights existing from time to time in any jurisdiction under copyright law, patent law, trade secret law, confidential information law, trademark law, unfair competition law, or other similar rights.
- (q) "License Fee" means the fee payable by Customer for the license of the Licensed Products, as described on the applicable Order Form.
- (r) "License Metrics" means the limitations on the usage of the Licensed Products as designated on the applicable Order Form. Among other metrics that may be used, certain defined terms are identified as potential License Metrics.
- (s) "License Term" means the Initial License Term and all Renewal License Terms.
- (t) "Licensed Products" means the Software, Third Party Software, Documentation, and Deliverables, together with any new Versions thereof provided by GT Software as a part of Maintenance Services from time to time.
- (u) "Location" means the physical location identified on an Order Form where the Licensed Product is licensed to operate.
- (v) "Maintenance Term" means the Initial Maintenance Term and all Renewal Maintenance Terms.
- (w) "MIPS" means a million instructions per second, as measured by the applicable hardware provider or, if not so measured, by IBM.
- (x) "Modification" means any enhancement, new Version, Error Correction, derivative work, or other change.
- (y) "MSUs" means million service units, as measured by IBM.
- (z) "Object Code" means machine-readable computer software code generated from source code by a compiler, interpreter, assembler, or similar technology.
- (aa) "Operating System" means the operating system that is used by the Licensed Product in order to function. Operating Systems include Windows, Linux, UNIX, OSX, and Android.
- (bb) "Order Form" means the document executed by the parties or attached to this Agreement that specifies the Licensed Products and/or Services that GT Software agrees to license or provide to Customer in accordance with this Agreement.
- (cc) "Personnel" means an employee, contractor, agent, or consultant who is employed by or provides services to an entity.
- (dd) "Production" means the use of the Licensed Product to process data in the ongoing operations of Customer.
- (ee) "Professional Services" means the SOW Services and Additional Services to be provided to Customer, if such Services are attached or incorporated into this Agreement.
- (ff) "Server" means a Computing Device that normally provides processing or data to persons who access such software and data through another Computing Device.
- (gg) "Services" means the Maintenance Services, Professional Services, and Additional Services to be provided in accordance with the terms of this Agreement.
- (hh) "Software" means the Object Code version of the software identified on the Order Form (other than Third Party Software), including all Modifications provided by GT Software to Customer from time to time.
- (ii) "SOW Services" means those installation, implementation, training, consulting and other services provided by GT Software in accordance with any Statement of Work, if attached or incorporated into this Agreement.
- (jj) "Subscription Fees" means the fees for Subscription Services as more particularly described on an applicable Order Form.
- (kk) "Subscription Term" means the Initial Subscription Term and all Renewal Subscription Terms.
- (ll) "Third Party Software" means either (i) software that is provided to Customer but not owned by GT Software as identified on the Order Form or (ii) open source software that is separately licensed to Customer.
- (mm) "Time and Materials Rates" means, unless otherwise provided on an Order Form or Statement of Work, GT Software's standard quoted rates for time and materials at the time the Professional Services are performed.
- (nn) "Version" means software as it exists or is used at a point in time. Versions of software are normally identified by number. Software identified by Version includes all iterations of such software that are identified by a number that is not included in the licensed Version. For example, versions identified as 2.1.1 and 2.1.2 are included within the meaning of Version 2.1.



Professional Services Schedule B

This Professional Services Schedule is subject to and a part of the terms of the Master Software License and Services Agreement ("Agreement") between GT Software, Inc. ("GT Software") and the Customer identified on the Signature Page of the Agreement. All terms of the Agreement are incorporated herein by reference. Capitalized terms not defined in this Order Form are defined in the Agreement.

1. SOW SERVICES

- (a) GT Software shall provide SOW Services to Customer as mutually agreed on a Statement of Work ("Statement of Work" or "SOW"). All Professional Services are provided on a time and materials basis, at Time and Materials Rates, and are subject to availability of GT Software Personnel. GT Software does not guarantee that SOW Services performed on a time and materials basis can be fully performed for any "not to exceed" or maximum price set forth in the Statement of Work. GT Software shall assign an adequate number of Personnel to perform the SOW Services. GT Software will charge a premium of one and one half (1.5) times the relevant contracted rate for any SOW Services work that is performed on weekends or during a GT Software published holiday. Should Customer cancel or delay previously scheduled work less than seven calendar days prior to its start date, Customer shall be responsible for the fees for any resources that GT Software is unable to fully redeploy as well as any non-refundable travel expenses that GT Software incurs.
- (b) GT Software shall report to Customer as soon as practicable if GT Software discovers that the time or cost of performance of the SOW Services will exceed the estimated time or cost authorized in the Statement of Work. GT Software shall describe the reasons for the anticipated time or cost overrun and shall estimate the revision in the original estimated time or costs necessary to complete the work. GT Software shall not perform work in excess of any maximum identified in the Statement of Work, unless the parties have executed a Change Order pursuant to Section 2(a).
- (c) For SOW Services related to the initial installation of any Licensed Products ("Initial Implementation"), each party shall designate a project manager who shall be responsible for coordinating the activities of each party. GT Software will make commercially reasonable efforts to maintain the same project manager throughout the project. During Initial Implementation, if the number of GT Software's Personnel assigned to perform the Initial Implementation is reduced because of death, permanent termination of employment, or extended illness, GT Software shall use commercially reasonable efforts to replace such Personnel as soon as practicable with equivalent ability and experience.

2. CHANGES TO SOW SERVICES

- (a) Either party may propose a change order to add to, reduce, or change the work specified in the Statement of Work (upon execution by both parties, a "Change Order"). Each proposed Change Order shall specify the changes to the SOW Services or Deliverables, and the effect, if any, on the Statement of Work, including GT Software's compensation, due to the change. Once executed by both parties, a Change Order shall become a part of the Statement of Work.
- (b) In the event of any delay in Customer's performance of any of the obligations set forth in this Agreement, including any Statement of Work, or any other delays caused by Customer, the milestones, fees and date(s) set forth in the Statement of Work shall be adjusted as reasonably necessary to account for such delays.

3. **TERM.** Unless earlier terminated as set forth in the General Terms and Conditions, the Statement of Work shall terminate when all SOW Services are completed.
4. **FEES FOR SOW SERVICES.** Customer shall pay for all Professional Services ("Professional Services Fees") within 30 days after receipt of the applicable invoice. Fees for Professional Services shall be billed monthly in arrears, unless otherwise expressly set forth in the applicable Statement of Work.
5. **SOW SERVICES WARRANTY.** For a period of 90 days from the date of final delivery of any Deliverable, GT Software warrants that the Deliverable will conform in all material respects to the functional specifications thereof, provided the Deliverable is installed and used according to the applicable Documentation. Customer shall promptly notify GT Software in writing if the Deliverable fails to perform in accordance with this warranty. GT Software shall, within 30 days of its receipt of Customer's notice, (i) correct such Error; (ii) provide Customer with a plan reasonably acceptable to Customer for correcting the Error; or (iii) if neither (i) nor (ii) can



Professional Services
Schedule B

be accomplished with reasonable commercial efforts from GT Software, then GT Software or Customer may terminate the applicable SOW, and Customer will be entitled to a refund of the applicable Professional Services Fees.

6. **SOLE REMEDY.** The warranty in Section 5 above constitutes GT Software's sole and entire liability and Customer's exclusive remedies with respect to such warranty. GT Software shall not be obligated to correct any breach of the above warranty if Customer has not notified GT Software of the specific existence and nature of such breach promptly during the applicable warranty period. Without limiting the foregoing, GT Software does not warrant and is not responsible for (i) any third-party products or (ii) services not provided solely by GT Software Personnel.