

Q-12761

County of Mendocino



QUOTE NUMBER Q-12761

Routeware, Inc.
16525 SW 72nd Ave.
Portland, OR 97224

Order Q-12761
Good Through: Jan 31 2026
Payment Terms: Net 30
Term 36 MONTH

Ship To

Amber Fisette
County of Mendocino
340 Lake Mendocino Dr
Ukiah, California 95482
United States
fisettea@mendocinocounty.gov

Bill To

County of Mendocino
340 Lake Mendocino Dr
Ukiah, California 95482
United States

Salesperson

Phone

Email

James Wilson

james.wilson@routeware.com

Statement of Confidentiality & Non-Disclosure

The parties acknowledge that Mendocino County is a government entity and subject to the Federal Freedom of Information Act and the California Public Records Act. Notwithstanding anything contained herein to the contrary, the County shall not be responsible to Routeware for any disclosure of Confidential Information pursuant to the Act(s) or pursuant to any laws, rules, regulations, instructions or other legal requirement.

Routeware retains all title, ownership and intellectual property rights to the material and trademarks contained herein, including all supporting documentation, files, marketing materials, and multi-media.

BY ACCEPTANCE OF THIS DOCUMENT THE RECIPIENT AGREES TO BE BOUND BY THE AFOREMENTIONED STATEMENT.



QUOTE NUMBER Q-12761

RECURRING SUBSCRIPTIONS

PRODUCT	UNIT	QTY	UNIT PRICE	EXTENDED
Program Tracker	YEAR	1	\$21671.10	\$21671.16

SUBSCRIPTIONS TOTAL (USD): \$21,671.16

Payment Terms -

The Software Fee Effective Service Date for this Order will be 2026-05-01.

Customer will receive an invoice prior to April 1, 2026 for all services listed herein, for the entire thirty-six (36) month term.

When Applicable, invoices for Recurring Subscriptions shall be issued annually in advance, with the initial invoice issued on the Effective Service Date and each subsequent invoice due on the corresponding date of each successive anniversary thereafter. The term of the Recurring Subscription(s) shall commence on the Effective Service Date.

The Recurring Subscription Fee, as detailed herein, represents the annual cost of the first twelve (12) months of the Term. Customer agrees to pay up-front for the entirety of the Subscription Fees for the thirty-six (36) month Term, with an annual Subscription increase not to exceed ten percent (10%) for each year after the first, as follows:

Year 1 (May 1, 2026 to Apr 30, 2027): USD \$21,671.16

Year 2 (May 1, 2027 to Apr 30, 2028): USD \$23,838.28

Year 3 (May 1, 2028 to Apr 30, 2029): USD \$26,222.10

Subscription Total: USD \$71,731.54

Any changes or additions to products or services may require an additional quote or Change Order.

Terms & Conditions Information

This Order and all products and services herein are subject to and limited to the Routeware Master Sales and License Agreement (MSLA), attached, along with any applicable supplemental terms and conditions located at <https://www.routeware.com/Clients>. Any purchase orders issued in response to this Order will be deemed acceptance of such terms.

<https://www.routeware.com/Clients/> Password: RWClient1!

Prices are exclusive of any federal, state, or local taxes. The customer is responsible for all federal, state, and local taxes.

This system requires a specific server to operate Routeware software, which may need to be purchased separately.

This system requires cellular connectivity for each vehicle which may need to be purchased separately.

If route sequencing by Routeware is a requirement, additional professional services fees may apply.

On-Board Computer software is sold as a perpetual license, allowing the license to be activated on replacement hardware.

Any lapse in support voids perpetual license.

Pricing does not include freight cost or travel expenses, which will be invoiced as they are incurred.

IN WITNESS WHEREOF, the Parties to the Order Form has caused it to be executed by their authorized officers as the day and year of the signatories below.

County of Mendocino

Signature: 

Date: 10/17/2025

Name (Print): John Haschak

Title: Chair, Mendocino County Board of Supervisors

Purchase Order Details:

Purchase Order number: _____

Issuance of Purchase Order ("PO") in lieu of signature denotes acceptance of Order Form by Customer. Receipt of complete and accurate PO is required prior to Order execution.

Routeware, Inc, and Affiliates

Signature: _____

Date: September 12, 2025

Name (Print): ROBERT G NELSON

Title: VP, Finance

Please sign and email to Routeware Customer Success Team at customersuccess@routeware.com

FOR INTERNAL USE ONLY

Reviewed By:

Initial


IN WITNESS WHEREOF

DEPARTMENT FISCAL REVIEW:

By: Howard N. Dashiell
HOWARD N. DASHIELL, Director
TRANSPORTATION

Date: Sep 15, 2025

Budgeted: Yes No

Budget Unit: 4510

Line Item: 862227

Org/Object Code: SW

Grant: Yes No

Grant No.: OWR4-22-0300

COUNTY OF MENDOCINO

By: John Haschak
JOHN HASCHAK, Chair
BOARD OF SUPERVISORS

Date: 10/21/2025

ATTEST:

DARCIE ANTLE, Clerk of said Board

By: Amy
Deputy 10/21/2025

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

DARCIE ANTLE, Clerk of said Board

By: Amy
Deputy 10/21/2025

INSURANCE REVIEW:

By: Darcie Antle
Risk Management

Date: 09/02/2025

CONTRACTOR/COMPANY NAME

By: SIGNATURE Signed by:
ROBERT G NELSON
A41C496AD9FC420...

Date: _____

NAME AND ADDRESS OF CONTRACTOR:

Routeware Inc

16525 SW 72nd Ave

Portland, OR 97224

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

COUNTY COUNSEL REVIEW:

APPROVED AS TO FORM:

By: Geo DN
COUNTY COUNSEL

Date: 09/02/2025

EXECUTIVE OFFICE/FISCAL REVIEW:

By: [Signature]
Deputy CEO or Designee

Date: 09/02/2025

Signatory Authority: \$0-25,000 Department; \$25,001- 50,000 Purchasing Agent; \$50,001+ Board of Supervisors

Exception to Bid Process Required/Completed _____

Mendocino County Business License: Valid

Exempt Pursuant to MCC Section: _____



ROUTEWARE, INC.

MASTER SALES AND LICENSE AGREEMENT

1. DEFINITIONS

The definitions of terms set forth in the Order are incorporated by reference herein. In addition, the following terms shall have the following meanings in the Order and in all Incorporated Agreements.

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity.

"Company" Routeware, Inc. and its subsidiaries.

"Company Content" means any Intellectual Property created, acquired, or licensed by Company and included in the Company Platform and/or the Services, other than Customer Content.

"Company Materials" means the Company Platform, the Company Content, the Company Systems and any and all other information, data, documents, materials, works and other content, devices, methods, processes, hardware, software and other technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans or reports, that are provided or used by Company in connection with the Services or otherwise comprise or relate to the Services, the Company Platform or the Company Systems. For the avoidance of doubt, Company Materials do not include Customer Content.

"Company Platform" means Company's mobile phone applications, web widgets, back-office administration dashboard, APIs and any third-party or other software that Company provides remote access to, or a license to use, as part of the Services, and all new versions, updates, revisions, improvements and modifications of the foregoing.

"Control" for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"Confidential Information" has the meaning set forth in Section 10.

"Data Sets" mean digital data set(s) including, but not limited to, geographic, vector data coordinates, raster, or associated tabular attributes in Software compatible format(s) supplied by Company or as part of Third-Party Products.

"Designated Computer System" means a computer system and/or central processing units with associated network and licensed users, as set forth in the Order.

"Dispute" has the meaning set forth in Section 10.11.

"Documentation" means user guides, user manuals, specifications, and other documentation provided by Company as such documentation may from time to time be amended or modified by Company.

"Effective Date" means the date of Customer Signature or issuance of Purchase Order and Acceptance of the MSLA.

"Fees" means the amounts due for all Products and Services under the Order.

"Hardware" means all items designated in the Order as "Hardware."

"License Period" means the period listed on the Order, and any period of renewal (which shall be automatically renewing periods equivalent in length to the period listed on the Order), or, if no such period is stated on the Order, for automatically renewing periods of one (1) year started from the Effective Date.

"MSLA" means this Master Sales and License Agreement.

"Order" means the order to which this MSLA and any other Incorporated Agreements are incorporated by reference.

"Products" means Hardware and Software.

"RMA" means Return Merchandise Authorization, as described for the evaluation process for malfunctioning equipment in Section 7.3.

"Services" means all items designated in the Order as "Services" and "Support."

"Software" means all items designated in the Order as "Software" or "Company Platform" and includes all Updates.

“Support” means all items designated as “Support” in the Order.

“Taxes” has the meaning set forth in Section 2.3.

“Third-Party Products” means hardware and software sold by Company that is manufactured, developed or made available by other companies and distributed by Company for use in conjunction with the Products, including but not limited to products from Microsoft, Google, and open source or “free” software.

“Third-Party Terms” has the meaning set forth in Section 4.

“Updates” are subsequent releases of Software which Company generally makes available to its customers who have purchased a Support Plan. Updates typically include bug fixes, patches, and feature enhancements. Updates typically do not include any new functionality that constitutes a new product (which is so designated at Company’s sole discretion) for which Company charges a separate fee. Updates are provided as and when available (as determined by Company) and may not include all previously available supported features. Company develops Updates in its discretion and has no obligation to develop any specific feature or functionality.

2. GENERAL ORDERING PROCESS AND PAYMENT

2.1 Delivery. Company will use reasonable efforts to meet the delivery dates for Products and Services that are specified in the Order. All Product shipments are delivered F.O.B. to Company’s facility, with title and risk of loss passing at that time. All Products are deemed accepted upon delivery. Delivery delay or default of any installment shall not relieve the Customer of its obligation to pay for Products or Services provided by Company or accept remaining deliveries of Product.

2.2 Payment Terms. Payments are invoiced and paid in accordance with the payment terms described in the Order.

2.3 Taxes and Duties. Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, but not limited to, any sales, value added or goods and services tax, or other governmental charges or tariffs imposed or payable in connection with the rights granted to Customer under this Agreement, or in connection with the payment of Fees (collectively, “Taxes”). Customer is responsible for paying all Taxes associated with its purchases hereunder. If Company has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, Company will invoice Customer and Customer will pay that amount, unless Customer provides Company with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Company is solely responsible for taxes assessable against it based on its income, property and employees.

2.4 Price Adjustment. Annual pricing shall apply pursuant to those amounts listed by year in the Order. Should the Agreement extend beyond year three (3), on the anniversary of the Effective Date, Company may, upon thirty calendar days’ prior notice to Customer, prospectively increase any Fees.

2.5 Suspension of Services. If any amount owed by Customer under this or any other agreement for Products or Services is thirty (30) days or more overdue, Company may, without limiting its other rights and remedies, suspend the Services until such amounts are paid in full.

3. SOFTWARE LICENSES; SUPPORT

3.1 License. Subject to the provisions of the Agreement (including any geographical or location restrictions set forth in the Order), subject to the Customer’s payment of the Fees described in the Order, Company grants a limited, personal, non-transferrable, non-sublicensable, non-exclusive license during the License Period (which can be for a period certain or perpetual) to Customer:

(a) To operate the Software, if any, Data Sets, if any, and Products, and use the Services for Customer’s internal purposes as set forth and subject to the limitations in the Order, in accordance with the Documentation.

(b) To operate the Software, if any, on up to the number of trucks or users authorized on the Order, in accordance with the Documentation. Under no circumstances may Customer load Software on hardware (including computers and peripherals) that is not sold or certified and approved by Company.

- (c) To use the Documentation in connection with the licenses described in this Section 3 subsections (a) and (b).
- (d) The Products and/or Services may contain functionality that uses anonymized customer data. Customer agrees that their anonymized data will be used in the Company's Products and/or Services.

3.2 Period of License. The license described in Section 3.1 will continue in force for the License Period, subject to, in the case of a subscription, either party electing against renewal or requesting reduction of any product by notifying the other party in writing at least ninety (90) days prior to the end of the then-current License Period. Such notice must be provided on Customer's company letterhead, include the date of the notice, applicable products and quantity, signed by an authorized party, and may be submitted electronically.

3.3 Restrictions; Reservation of Rights. Customer agrees not to (and to not enable any third party to):

- (a) reverse engineer or otherwise attempt to discover the source code of or trade secrets embodied in the Software (except to the extent required by law or as necessary for interoperability purposes as required under terms and conditions required by the providers of Third-Party Products);
- (b) distribute, transfer, grant sublicenses to, or otherwise make available the Software or Documentation to third parties, including making the Software or Documentation available
 - (i) through resellers or other distributors, or
 - (ii) as an application service provider, service bureau, or rental source;
- (c) embed or incorporate in any manner all or part of the Software into other applications of Customer or third parties other than as authorized in applicable Documentation;
- (d) create modifications to or derivative works of the Software;
- (e) reproduce the Software;
- (f) attempt to modify, alter, or circumvent any license control and protection mechanisms within the Software;
- (g) use or transmit the Software in violation of any applicable law, rule or regulation, including any export/import laws;
- (h) if the Order sets forth a Designated Computer System, use the Software on a computer system other than a Designated Computer System; remove, obscure or alter any copyright notices or any name, trademark, service mark, tagline, hyperlink or other designation included on any display screen within the Software;
- (i) create any software that competes with the Software or provides substantially the same functions as the Software; or
- (j) use the Software in a country other than as indicated in the Order. All Software is a "commercial item," as that term is defined at 48 C.F.R. 2.101 (OCT 1995), and more specifically is "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R.12.212 (SEPT 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (JUNE 1995), Software is provided to U.S. Government End Users
 - (i) only as a commercial end item; and
 - (ii) with only those rights as are granted to all other end users pursuant to the terms and conditions herein.

Other than as stated in this Agreement, Company grants Customer no other right, title or interest in any Software.

4. THIRD PARTY PRODUCTS. Third-Party Products may be subject to additional license terms and restrictions ("Third-Party Terms"), which Company will make available to Customer as required by the suppliers of such Third-Party Products. In the event of a conflict between the terms of this Agreement and any Third-Party Terms, the Third-Party Terms shall control to the extent of the conflict. Company hereby assigns to Customer (to the extent assignable) all warranties given by the supplier(s) of Third-Party Products; provided, however, that Customer agrees to look to the supplier(s) for any Third-Party Products warranty, service and other post-purchase issues. Customer is solely responsible for obtaining any and all components, updates, new versions, and releases for any Third-Party Products

necessary for use in connection with the Products.

5. AUDITS. During the term of the Agreement and for a period of one (1) year thereafter, Company will have the right to perform an audit not more than once each year to verify that Customer is using the Products in compliance with the Agreement. The audit will include at a minimum Company having access to all Software, Hardware, Documentation and related Customer equipment (including all servers and personal computers that contain Software, and any hardware that contains Software). The audit will be performed from Monday through Friday, between 8:00 a.m. and 5:00 p.m. local time, and upon not less than fifteen (15) days' prior written notice to Customer. The audit will be conducted virtually or onsite at the Customer's premises, at Company's sole cost and expense, subject to reasonable security and access restrictions. Customer will be permitted to have Customer personnel present during the audit. If an audit conducted under this section discloses that Customer has underpaid by more than 3% any amounts payable under this Agreement during the period covered by the audit, Customer will pay Company the amount of that underpayment and, in addition, will:

- (1) reimburse Company's reasonable and actual costs for that audit and
- (2) be subject to legal remedies available to Company for Customer's breach of the Agreement.

6. INTELLECTUAL PROPERTY RIGHTS. Title to the Company Materials (excluding any Customer Content incorporated therein) shall at all times remain with Company or its third-party licensors as applicable. Customer acknowledges that the Services and the Company Materials are proprietary to Company and that all rights thereto are owned by Company or its third-party licensors as applicable. The Customer further acknowledges that the Company Materials contain trade secrets of Company and that the Company Materials are protected by U.S., Canadian and international copyright and other Intellectual Property Laws and treaties. Under no circumstances will a copy of any software comprising the Company Platform be provided to the Customer. The Customer shall not reverse engineer or directly or indirectly allow or cause a third party to reverse engineer the whole or any part of the Company Platform.

7. REPRESENTATIONS AND WARRANTIES; DISCLAIMER

7.1 Mutual. Each party represents and warrants to the other party that:

- (a) it has the full corporate right, power and authority to enter into this Agreement and to perform the acts this Agreement requires of it;
- (b) the execution of this Agreement and performance of its obligations under this Agreement do not and shall not violate any other agreement to which it is a party;
- (c) when executed and delivered this Agreement constitutes the legal, valid and binding obligation of such party; and
- (d) any and all activities it undertakes in connection with this Agreement shall be performed in compliance with all applicable laws, rules and regulations.

7.2 Hardware and Software Warranties.

- (a) Subject to the exceptions listed below in part (b), Company warrants:
 - (i) that the Hardware, if applicable, will be free from material defects in materials and workmanship and will operate in all material respects in accordance with its applicable Documentation (the "Hardware Warranty") for one (1) year from the date of initial shipment (the "Hardware Warranty Period"). Customer may purchase renewals of the Hardware Warranty Period, if applicable, through extended service plans made available by Company in its discretion. Following the end of the Hardware Warranty Period, if applicable, Company will have no further obligation to repair or support the applicable Hardware; and
 - (ii) that the Software will be free from material defects and workmanship and will operate in all material respects in substantial conformance with the Documentation (the "Software Warranty") for a period of ninety (90) days from the date of delivery of the Software (the "Software Warranty Period"). Following the ninety (90) day Software Warranty Period all software performance issues are governed by the Service Level Agreement.
- (b) Company's entire liability and Customer's exclusive remedy for any reported breach of the Hardware Warranty, if applicable, or Software Warranty will be repair or replacement of the defective

Product within thirty (30) days of the written notice of the defective Product by the Customer, including, for Hardware, within 30 days after the receipt of the Hardware by Company from Customer and verification of the defect. If Company cannot repair or replace the defective Software during the Software Warranty Period, Company will refund all amounts paid by Customer for the defective Software and Company can terminate the Agreement. All claims must be received by Company promptly upon discovery of any defect, and in no event after expiration of the applicable Warranty Period. The foregoing Hardware, if applicable, and Software Warranties do not apply to any defect or failure to operate that is attributable to:

- (i) Customer's misuse or abuse of or failure to maintain the Product;
- (ii) Customer's failure to operate the Product in accordance with the Documentation;
- (iii) input errors, data conversion errors or other such errors, such as Customer's failure to sequence route stops independently or through a Company professional services agreement;
- (iv) any change made to the Product by Customer without Company's written approval;
- (v) any defect, limitation or incompatibility in any equipment or other component installed by Customer;
- (vi) any accident, catastrophe, act of God, or interruption or fluctuation in electrical power supplies;
- (vii) any material change in Customer's business or in the operating conditions under which the Product is used;
- (viii) translations; or
- (ix) Third-Party Products.

7.3 Return Merchandise Authorization. If Customer experiences the failure of any Customer-owned Hardware no longer covered under the Hardware Warranty, Customer may notify Technical Support to attempt to diagnose and resolve any issues via online and/or phone communication with the Customer. If the issue is not resolved, Customer will be forwarded an RMA Request Form with full instructions to complete and return the hardware to the Company's RMA Department for evaluation and verification of any malfunction. If hardware is not received by the RMA Department, or if Customer fails to respond to any subsequent questions or communications regarding the RMA within thirty (30) days, the RMA will be closed. A new RMA Request Form will be required should the Customer wish to pursue RMA evaluation in the future.

Once the hardware covered by the RMA is received by the RMA Department, the hardware will be evaluated, and Customer will be provided one or more of the following options:

- (a) No malfunction or issue detected. Device performed correctly and will be returned to Customer.
- (b) Issue confirmed. Cost estimate to repair will be provided to Customer. Upon Customer approval, device will be repaired, tested and returned to Customer.
- (c) Issue confirmed. Beyond repair, recommendation to replace at Customer cost will be provided. Device will be recycled by Company or returned unrepairs to Customer upon Customer decision.

7.4 Disclaimer. THE WARRANTIES OF SECTION 7.2 ARE THE EXCLUSIVE WARRANTIES OFFERED BY COMPANY AND COMPANY MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. ALL OTHER CONDITIONS AND WARRANTIES, INCLUDING ANY CONDITIONS OR WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, MERCHANTABILITY, SUITABILITY AND THOSE THAT ARISE FROM ANY COURSE OF DEALING OR COURSE OF PERFORMANCE, ARE HEREBY DISCLAIMED.

8. INDEMNIFICATION AND LIMITATION OF LIABILITY

8.1 Company, at its sole expense, agrees to defend and indemnify Customer against any third party claim that Customer's use of the Products, as delivered by Company to Customer and used in accordance with this Agreement and the Documentation, directly infringes a third party copyright, patent issued by the U.S. Patent and Trademark Office, or misappropriates a trade secret, provided that: (i) Customer notifies Company in writing within thirty (30) days of the claim; (ii) Company has sole control of the defense and all related settlement

negotiations, as long as such settlement shall not include a financial obligation on Customer; and (iii) Customer provides Company with the information, assistance and authority to enable Company to perform Company's obligations under this Section. In any action based on claim of infringement, Company may, at its option and own expense and as its entire obligation to Customer with respect to such claims, either: (1) procure the right for Customer to continue using the Products in accordance with the provisions of this Agreement; (2) make such alterations, modifications or adjustments to the Products so that the infringing Product becomes non-infringing without incurring a material diminution in performance or function; (3) replace the Product with a non-infringing substantially similar substitute; or (4) if neither (1), (2), nor (3) can be achieved after the exercise of commercially reasonable efforts, either Party may terminate the Agreement for the affected Product and Company shall issue a refund to Customer for any prepaid but unused fees. Company shall have no liability or obligations for an infringement claim pursuant to this Section to the extent that it results from: (a) modifications to the Products made by a party other than Company, if the claim would not have occurred but for such modifications; (b) the combination, operation or use of the Products with non-Company equipment, devices, products or data, unless the claim would not have occurred but for the use of the Product in the combination, operation or use; (c) the use of an unsupported version of the Product; (d) use of the Product outside the scope of this Agreement or the documentation; (e) Company's use of any designs, plans, instructions, specifications, diagrams or the like, provided by Customer; or (f) Customer's failure to use all applicable enhancements and upgrades to the Products made available to Customer by Company, if the claim would not have occurred but for such failure. Nothing in this provision shall be construed as a limitation on Customer's ability to retain legal counsel at its own expense to monitor the proceedings.

8.2 Customer, at its sole expense, agrees to defend and indemnify Company against any third-party claim that the data provided by Customer to Company, directly infringes a third-party copyright, patent issued by the U.S. Patent and Trademark Office, or misappropriates a trade secret.

8.3 INDIRECT DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY LAW AND EXCEPT WITH RESPECT TO THE FAILURE TO PAY AMOUNTS PROPERLY OWED, BREACHES OF CONFIDENTIALITY, INDEMNITY OBLIGATIONS OR VIOLATIONS OF COMPANY'S INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY, WHETHER UNDER THEORY OF CONTRACT, TORT OR OTHERWISE, FOR ANY INDIRECT DAMAGES THAT ARISE FROM OR RELATE TO THIS AGREEMENT (INCLUDING LOST PROFITS, LOST DATA AND ANY OTHER INCIDENTAL, PUNITIVE, CONSEQUENTIAL, OR SPECIAL DAMAGES), WHETHER FORESEEABLE OR NOT AND WHETHER ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.4 TOTAL LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY LAW AND EXCEPT WITH RESPECT TO THE FAILURE TO PAY AMOUNTS PROPERLY OWED, BREACHES OF CONFIDENTIALITY, INDEMNITY OBLIGATIONS OR VIOLATIONS OF COMPANY'S INTELLECTUAL PROPERTY RIGHTS, EACH PARTY'S AGGREGATE CUMULATIVE LIABILITY TO THE OTHER IN CONNECTION WITH THIS AGREEMENT (INCLUDING ANY WARRANTY CLAIMS) WILL NOT EXCEED, IN THE AGGREGATE AND REGARDLESS OF WHETHER UNDER THEORY OF CONTRACT, TORT OR OTHERWISE, THE TOTAL AMOUNT PAID OR PAYABLE BY CUSTOMER TO COMPANY IN THE 12 MONTHS PRIOR TO THE EVENT THAT GAVE RISE TO LIABILITY. EXCEPT WITH RESPECT TO THE FAILURE TO PAY AMOUNTS PROPERLY OWED, BREACHES OF CONFIDENTIALITY, INDEMNITY OBLIGATIONS OR VIOLATIONS OF COMPANY'S INTELLECTUAL PROPERTY RIGHTS, NO ACTION, REGARDLESS OF FORM, ARISING OUT OF THE TRANSACTIONS UNDER THIS AGREEMENT MAY BE BROUGHT BY EITHER PARTY HERETO MORE THAN TWO YEARS AFTER THE CAUSE OF ACTION HAS OCCURRED.

8.5 ALLOCATION OF RISK. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE RISK BETWEEN THE PARTIES. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT, AND EACH OF THESE PROVISIONS WILL APPLY EVEN IF THE REMEDIES IN THIS AGREEMENT HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

9. TERM AND TERMINATION

9.1 Term of Agreement. The Agreement begins on the Effective Date and continues until April 30, 2029, or terminated pursuant to this Section 9 and Section 3.2.

9.2 Termination Rights. The Agreement (including any of the Incorporated Agreements) may only be terminated as follows:

- (a) by mutual, written agreement of the parties;
- (b) by either party if the other party materially breaches the Agreement, and does not cure the breach within 30 days after receiving written notice from the non-breaching party;
- (c) at the end of the last active License Period pursuant to Section 3.2;
- (d) by either party if the other party makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or avails itself of or becomes subject to any proceeding under the U.S. Federal Bankruptcy Act or any other foreign or domestic statute, law, rule or regulation relating to insolvency or the protection of rights of creditors, which proceeding is not dismissed within sixty (60) days.

9.3 Effect of Termination. Upon any termination of this Agreement, without prejudice to any other rights or remedies which the parties may have, the following applies:

- (a) Customer shall immediately cease all use of all Hardware and all Software and delete or return to Company all copies of Software in Customer's possession;
- (b) all other rights and obligations immediately cease, except that Sections 2.2, 3.3, 5, 7.3, 8, 9.3, and 10 of the MSLA, and Sections 5.1, 6, 7, 8, 9, and 10 of the Professional Services Agreement (if the PSA is an Incorporated Agreement) shall survive termination;
- (c) upon written demand, each party as a receiving party will return or destroy all of the other party's Confidential Information; and
- (d) Customer will immediately pay Company any undisputed amounts still outstanding. For clarity, undisputed amounts include all payments owed by Customer during the entire term of the Agreement.

10. CONFIDENTIAL INFORMATION; PUBLICITY

10.1 Confidential Information. Both parties recognize that they may each receive (as a "Recipient") from the other (as a "Discloser") certain confidential and valuable proprietary information that is identified pursuant to the terms of this Section 10 as confidential (collectively, the "Confidential Information"). Both parties agree to identify any Confidential Information as follows: if written, with a written legend that says "confidential" or a similar term; or if verbal, by identifying the information as confidential when disclosed, and then sending the Recipient a written confirmation of that confidential status within thirty (30) days after disclosure. Notwithstanding the foregoing, all pricing, Documentation and Software are Company Confidential Information. A Recipient will not, without the Discloser's prior written consent, disclose Confidential Information to any person other than those of its employees, independent contractors or consultants who need to know it for the purposes of this Agreement and who are bound by confidentiality agreements with the Recipient that are at least as protective as this section. A Recipient may only use Confidential Information for the purpose of this Agreement. A Recipient will handle any Confidential Information with the same care as it does its own confidential information, but in any event no less than reasonable care. None of the provisions of this section, however, apply to any Confidential Information that meets any one of the following criteria:

- (a) information possessed by the Recipient without restriction prior to receiving it from the Discloser, provided that the Recipient can demonstrate such possession was obtained lawfully;
- (b) information that the Recipient developed independently and without use of or reference to the Confidential Information, as documented by its written records;
- (c) information that the Recipient receives from another party who is not in breach of any of that party's obligations as a result of that disclosure; or
- (d) information that the Discloser intentionally discloses to any other party without any restriction on confidentiality.

Additionally, a Recipient may disclose Discloser's Confidential Information to the extent that a court or other governmental body orders such Confidential Information disclosed by the Recipient, provided that the Recipient promptly notifies the Discloser of such order and provides the Discloser with notice and opportunity to contest it, if possible. These obligations shall survive the termination of this Agreement for a period of five (5) years, except with respect to any source code, which will remain protected until it is no longer Confidential Information. This section does not intend to grant a Recipient any ownership interest or license or right to any intellectual property rights of the Discloser.

10.2 Notwithstanding anything contained herein to the contrary, the parties acknowledge that if the Customer is a government entity and subject to the Federal Freedom of Information Act, the Customer shall not be responsible to the Vendor for any disclosure of Confidential Information pursuant to the Act or pursuant to official public records act laws, rules, regulations, instructions or other legal requirement.

10.3 Terms; Publicity. The parties will keep the terms and conditions of this Agreement confidential and will not divulge any of this information to any third party except as follows:

- (a) with the prior written consent of the other party;
- (b) as otherwise may be required by law or legal process;
- (c) during the course of litigation, so long as the disclosure is restricted in the same manner as is the confidential information of other litigating parties; and
- (d) in confidence to its legal counsel, accountants, banks, and financing sources and their advisors solely in connection with complying with or administering its obligations with respect to this Agreement; provided that, in (b) and (c) above, to the extent permitted by law, the disclosing party will use all legitimate and legal means available to minimize the disclosure to third parties, including seeking a confidential treatment request or protective order whenever appropriate or available, and the disclosing party will provide the other party with at least ten (10) days' prior written notice of such disclosure.

Neither party may use the other party's trade names, trademarks or service marks, or engage in any publicity regarding this Agreement or its subject matter, without the other party's express written consent, which will not be unreasonably withheld or delayed.

10.4 Independent Contractors. The parties are independent contractors with respect to each other, and nothing in this Agreement shall be construed as creating an employer-employee relationship, a partnership, agency relationship or a joint venture between the parties.

10.5 Insurance. Each party will maintain, at its own expense during the term of this Agreement, insurance appropriate to its obligations under this Agreement, including as applicable general commercial liability, errors and omissions, employer liability, automobile insurance, and worker's compensation insurance as required by applicable law.

10.6 Customer Responsibility. Customer is solely responsible under the Agreement for all actions of its officers, directors, employees and contractors. Customer is solely responsible for the use of the Software, including but not limited to: assuring proper installation and configuration (if not installed and configured by Company); audit controls and methods; establishing adequate backup plans; converting data to and from the data structures used by the Software; assuring adequate data input and retrieval; and using the Software as set forth in the Documentation. Company is not responsible for any loss of data by Customer resulting from improper conversion Customer's data to or from the data formats and data structures used by the Software. Customer has sole responsibility for the accuracy, quality, integrity, reliability and appropriateness of all Customer data. Customer is solely responsible to prevent unauthorized access to, or use of, Products or Services hereunder, and will notify Company promptly of any such unauthorized access or use. Customer will comply with all applicable laws in its use of Products and Services hereunder.

10.7 Force Majeure. Each party will be excused from any delay or failure in performance hereunder, other than

the payment of money, caused by reason of any occurrence or contingency beyond its reasonable control, including but not limited to acts of God, earthquake, flood, labor disputes and strikes, riots, war, pandemics, telecommunications failures (including any systemic Internet failures and any interruptions in services of internet service providers), and governmental requirements. The obligations and rights of the party so excused will be extended on a day-to-day basis for the period of time equal to that of the underlying cause of the delay.

10.8 Assignment. Neither party may assign its rights or obligations under this Agreement to any other person or entity, except for assignment and transfer of all of a party's rights and obligations under the following circumstances:

- (a) with the express written consent of the other party, which may not be unreasonably delayed or withheld;
- (b) as part of a re-organization or restructuring;
- (c) to the surviving entity of a merger transaction; or
- (d) to the purchaser of a Controlling Interest in, or more than 50% of, the assets of the assigning party. A "Controlling Interest" means more than 50% of the total outstanding voting stock of the assigning party. Any attempted assignment or delegation in violation of this section is void. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties and their respective successors and assigns.

A license transfer fee may be assessed by Company in the event of Customer acquisition/change in control.

10.9 Changes & Waivers. Company reserves the right to change the terms and conditions of this Agreement at any time. It is Customer's responsibility to check these terms and conditions periodically for changes. No waiver of any breach of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach, and no waiver is effective unless made in writing and signed by an authorized representative of the waiving party.

10.10 Governing Law. The laws of the State of California, without regard to conflict of laws rules, govern the interpretation and enforcement of this Agreement. Notwithstanding anything to the contrary in this Section 10.10, no disputes between the parties shall be brought by either party in the state's small claims courts.

10.11 Dispute Resolution.

- (a) The parties desire to resolve certain disputes, controversies and claims arising out of this Agreement without litigation. Accordingly, the parties agree to use the following alternative dispute procedure as their initial recourse with respect to any dispute, controversy or claim arising out of or relating to this Agreement or its breach. The term "Dispute" means any dispute, controversy or claim to be resolved in accordance with this dispute resolution procedure.
- (b) At the written request of a party, each party shall appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any Dispute. These negotiations shall be conducted by non-lawyer, business representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures, such as mediation, to assist in the negotiations.
- (c) If the negotiations do not resolve the Dispute within thirty (30) business days of their commencement, then either party shall be free to pursue all legal and/or equitable rights and remedies as set forth in this Section 10.11 or by law.
- (d) Upon the written consent of both parties, the parties may elect to have any and all controversies, claims, or disputes arising out of this Agreement, including any breach of this Agreement, subject to binding arbitration under the Arbitration Rules set forth by the American Arbitration Association (the "Rules") and pursuant to California law. If the parties elect to proceed by way of arbitration, the place of arbitration shall be California, and California State law shall apply. The arbitrator shall have no authority to award any punitive, exemplary, special or consequential damages of any kind. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The number of arbitrators shall be one (1). The arbitrator shall have the power to decide any motions brought by any party to the arbitration, including motions for summary judgment and/or adjudication and motions to

dismiss and demurrers, prior to any arbitration hearing. The arbitrator shall issue a written decision including findings of fact and conclusions of law on the merits of its award. The arbitrator shall have the power to award any remedies, including attorneys' fees and costs, available under applicable law.

(e) If one or more party does not consent to binding arbitration, the parties agree that any legal and/or equitable action pursued in relation to this Agreement shall be filed in the Mendocino County Superior Court, and shall be decided according to California law. Any such legal and/or equitable action may not be removed to any United States District Court.

10.12 Attorney Fees. The prevailing party in any arbitration or litigation between the parties regarding this Agreement shall be entitled to recover reasonable attorney's fees and other costs from the other party. These fees and other costs are in addition to any other relief to which the prevailing party may be entitled.

10.13 Conflicts. In the event that any term of this Agreement conflicts with governing law or is held to be ineffective or invalid by a court of competent jurisdiction, such term will be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law, and the remaining terms of this Agreement shall remain in full force and effect.

10.14 Notices. Unless stated otherwise, all notices, consents and approvals under this Agreement must be delivered in writing by courier, by facsimile, by email or by certified or registered mail (postage prepaid and return receipt requested) to the other party at the address set forth on at the beginning of this Agreement, and are deemed delivered when received. Either party may change its address for notices by notice to the other party given in accordance with this Section 10.14. Customer is responsible for providing Company with its complete and accurate billing and contact information and notifying Company of any changes to such information.

10.15 Counterparts. The Agreement may be executed in counterparts, each of which will be deemed to be an original and together will constitute one and the same agreement. This Agreement may also be executed and delivered by electronic signature or facsimile and such execution and delivery will have the same force and effect of an original document with original signatures.

10.16 Headings; Interpretation. Headings are used in the Agreement for reference only and will not be considered when interpreting this Agreement. As used in this Agreement, "includes" (or "including") means without limitation.

10.17 Export Compliance. The Products may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied- party list. Neither party will access or use any Products or Confidential Information provided to it hereunder in a U.S.-embargoed country or region (currently the Crimea region, Cuba, Iran, North Korea, Sudan or Syria) or in violation of any U.S. export law or governmental regulation.

10.18 Anti-Corruption. Neither party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.

10.19 No Third-Party Beneficiaries. There are no third-party beneficiaries under this Agreement.

10.20 Integration. This Agreement and the Orders together constitute the entire agreement between the parties with respect to the Products and Services and supersede all prior and contemporaneous discussions, negotiations, communications or agreements regarding the same subject matter. The terms on any purchase order, invoice, or other ordering document that conflict with the terms of the Agreement or the Order will have no effect and are hereby rejected.