City of Portland Contract Number _____
AGREEMENT FOR ENTERPRISE STORAGE AREA NETWORK GOODS AND SERVICES

This Agreement made and entered into this _____ day of _____ 2005, between, **Structured Communication Systems, Inc.** herein called "Contractor" and the **City of Portland,** a municipal corporation of the State of Oregon by and through its duly authorized representatives, herein after called "City".

RECITALS

A.   The City is developing an enterprise Storage Area Network (SAN) capability in support of a variety of Bureau of Technology Services data storage requirements.

B.   The City requires a functioning enterprise SAN to support the combined sewer/water billing system replacement project, the Oracle Collaboration Suite project, the consolidation of various single- and multiple-use data servers, as well as to enhance the City's business continuity/disaster recovery capabilities, and other future projects that require efficient storage of large quantities of data.

C.   The City issued Request for Proposals (RFP) No. 103322 to solicit proposals from qualified firms to provide the SAN System. This Agreement is the result of RFP No. 103322 and Contractor's Proposal in response to the RFP, and is the basis for purchasing the SAN system and related goods and services.

AGREEMENT:

This Agreement and its attachments together form the total Agreement between the parties. Request for Proposal No. 103322 and Contractor's response to the Request for Proposal, submitted October 7, 2004 and Contractor's response to the Modified Request for Proposal, submitted November 10, 2004 are incorporated herein by reference.

The following attachments are incorporated into the Agreement.
a)	Appendix A – ORS Chapter 279 Provisions
b)	Appendix B – General Conditions
c)	Appendix C – Special Conditions
d)	Appendix D – Specifications
e)	Attachment 1 – Definitions
f)	Attachment 2 – SAN Summary Pricing Option B
g)	Attachment 3 – SAN Implementation Schedule
h)	Attachment 4 – SAN Deliverables
i)	Attachment 5 – Environmental Requirements
j)	Attachment 6 – Structured Mainframe Performance Guarantee
k)	Attachment 7 – Warranty
l)	Attachment 8 – License for Licensed Materials
m)	Attachment 9 – Maintenance Agreements

Appendices or Attachments shall be added or deleted as appropriate to the final Agreement.

In the event of conflicts between the documents, the order of precedence shall be as follows:

1. This Agreement including all Appendices, Attachments and Amendments in the order listed above.
2. Request for Proposal No. 103322.
3. The Contractor's Proposal Response and Modified Proposal Response submitted to the City of Portland in response to RFP No. 103322.

1. DEFINITIONS. The Definitions in Attachment 1 apply to this Agreement, and are included herein by this reference.

2. SCOPE OF WORK.

2.1 The Contractor shall provide labor, equipment and materials for a SAN Solution to upgrade and advance disc storage and data retrieval capabilities in the City's Data Center and reduce the overall maintenance costs of disc space management.

2.2 Goods and services to be provided under this Agreement are described in the Attachments hereto. The Contractor shall provide to the City those goods and services described in the attachments in accordance with the prices shown herein.

2.3 The City is not required to purchase any goods and services by this agreement. Payment shall be made only for goods and services actually ordered, delivered, and accepted, whether greater or less than the original estimated quantities.

2.4 The Contractor shall provide the goods and services in accordance with Attachment 3, Initial SAN Implementation Schedule. The parties may modify Attachment 3 from time to time, by mutual written amendment, signed by the duly authorized parties.

2.5 This Agreement does not establish an exclusive arrangement between the City and Contractor, and the City retains the right to purchase the same or similar goods and services from other providers.

3. TERM

3.1 The initial term of this Agreement shall become effective on the date at which every party has signed this contract and shall be for five (5) years unless terminated sooner as provided herein. The parties may agree, by mutual consent, to extend this Agreement for up to five (5) additional one-year terms, taken individually or in multiple year extensions. At least ninety (90) days prior to the expiration of the initial term, or extension, the parties shall commence discussions if they desire to extend the Agreement. The Contractor shall provide a written extension proposal within fifteen (15) calendar days following the City's request for such a proposal. However nothing binds or requires either party to extend this Agreement. The total term of this Agreement shall not exceed ten (10) years.

3.2 If the parties cannot reach agreement on the terms of an extension of this Agreement, the Contractor agrees to provide services on a month to month basis on the same prices, terms, and conditions of this Agreement for a period of up to six (6) months, provided the City gives the Contractor notice at least thirty (30) days before the expiration of the initial term or renewal term.

4.   PRICES AND PRICE CHANGES

4.1   Initial Contract Prices shall be as established in Attachment 2. Unit prices shall remain firm through installation, acceptance, and one year following the date of acceptance. At the end of the one-year period following the date of acceptance, price changes may be allowed as outlined in Sections 4.2 through 4.5 below. Not withstanding the above, all manufacturer price reductions shall be passed on to the City as of the manufacturer's effective date.

4.2   Contractor agrees to provide pricing for all products for which Contractor is an authorized distributor for the duration of this Agreement if and when requested by the City. Should the City decide to purchase offered goods and services, the City may issue an Order for those items.

4.3   Contractor agrees to provide the same pricing for all hardware and software upgrades and enhancements and for goods and services requested by the City that Contractor offers to its other similarly situated customers, for the duration of this Agreement and extensions.

4.4   Normal Price Change Procedure. Following the end of the one year period referenced in Paragraph 4.1 above, City and Contractor acknowledge that prices for goods and services furnished by Contractor under this Agreement may need to be adjusted during the term of the Agreement due to changes in Contractor's list prices, rate plans, or product offerings. Such price changes shall be documented in writing between Contractor and the City's Purchasing Agent as contract amendments. Contractor shall submit any proposed pricing revisions in writing to City's Purchasing Agent for consideration at least thirty (30) days before the proposed effective date. All proposed price adjustments shall be calculated consistent with the methodology used to calculate the prices set forth in the Contractor's Original Proposal (e.g. discount from list price); the Contractor shall certify this in its request for price adjustments.

4.5   Price adjustments shall become effective thirty (30) days from the date of last signature on the price change document or as otherwise stated therein. Except that no increase in price adjustments shall become effective prior to a date one year following the date of acceptance.

4.6   Promotional Pricing Procedure. It is anticipated that the Contractor may introduce promotional pricing during the term of this Contract. In that event, Contractor shall offer and City may take advantage of such promotional pricing if the City satisfies all terms and conditions necessary to qualify. For the purpose of this section, the term "promotional pricing" includes the cost of goods and services as well as the addition of software, features, functionality, or additional usage to the goods and services. The Contractor shall immediately notify the City Project Manager in writing of such promotional pricing.

5. GOODS AND SERVICES

5.1 This Agreement authorizes the Contractor to provide and the City to purchase goods and services. Goods and services to be provided under this Agreement are described in the Attachments.

5.2 The City may order goods and services by issuing an Order. The Contractor shall fill the Order at Contract Prices. Delivery, Operational, or Service dates shall be established either as specified in the Agreement or by mutual agreement. Unique circumstances may result in special situation pricing for an individual order for goods and services. In such cases the Contractor shall notify the City of the reason the Order is unique and its proposed pricing in a timely manner. The City shall then either accept the special situation pricing or cancel its order without prejudice or cost. The Contractor shall not deliver the goods and services, nor bill for them, without an Order as defined herein from the City. Orders submitted by facsimile or other electronic means, including electronic mail, shall be valid as if they were submitted in writing. If requested by the Contractor, original copies of Orders submitted by electronic means shall be provided by the City, however order fulfillment and schedule shall not be conditioned on receipt of the original copy of the Order.

5.3 All goods will be delivered FOB City of Portland.

5.4 City and Contractor acknowledge that in an era of rapidly changing technology, Contractor may enhance the goods and services furnished by the Contractor under this Agreement due to technological improvements, new features and functionality, or in other ways that change their makeup to the extent that they are considered new goods and services. These new goods and services may be added to the Agreement providing they are within the scope of the original Agreement, as described in the RFP and Contractor's Proposal Response. Addition of these goods and services to the Agreement shall follow the same process as outlined for Price Adjustments in Section 4, above.

6. TAXES

The City of Portland is a tax-exempt governmental agency. Prices shall not include federal, state, local, or other taxes howsoever designated now or hereafter, unless the City is responsible therefore.

7. EARLY TERMINATION OF AGREEMENT

7.1 The City and the Contractor, by mutual written agreement, may terminate this Agreement at any time.

7.2 The City, on thirty (30) days written notice to the Contractor, may terminate this Agreement for any reason deemed appropriate in its sole discretion.

7.3. Either the City or the Contractor may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and of the party's intent to terminate. If the party has not entirely cured the breach within thirty (30) days of the notice, then the party giving the notice may terminate the Agreement at any time thereafter by giving a written notice of termination.

8. PAYMENT ON EARLY TERMINATION

8.1 In the event of termination under subsection 7.1 or 7.2 **Early Termination of Agreement** hereof, the City shall pay the Contractor for Work performed in accordance with the Agreement prior to the termination date.

8.2 In the event of termination under subsection 7.3, **Early Termination of Agreement** hereof, by the Contractor due to a breach by the City, then the City shall pay the Contractor for Work performed in accordance with the Agreement prior to the termination date.

8.3. In the event of termination under subsection 7.3, **Early Termination of Agreement** hereof, by the City due to a breach by the Contractor, then the City shall pay the Contractor for goods delivered and services performed in accordance with the Agreement prior to the termination date subject to set off of excess costs, as provided for in section 9.1, **Remedies**.

8.4. In the event of early termination all of the Contractor's Work product shall become and remain property of the City.

8.5. Under no circumstances shall the City be subject to early termination penalties for recurring charges for Services that the City cancels during the term of this Agreement.

9. REMEDIES

9.1 In the event of termination under subsection 7.3, **Early Termination of Agreement**, hereof, by the City due to a breach by the Contractor, then the City may complete the Work either itself, by agreement with another contractor, or by a combination thereof. In the event the cost of completing the Work exceeds Contractor's price for completing the same Work, then the Contractor shall pay to the City the amount of reasonable excess.

9.2 The remedies provided to the City under section 5, **Early Termination of Agreement** and section 7, **Remedies** for a breach by the Contractor shall not be exclusive. The City also shall be entitled to any other equitable and legal remedies that are available.

9.3 In the event of breach of this Agreement by the City, then the Contractor's remedy shall be termination of the Agreement and receipt of payment as provided in section 7.3, **Early Termination of Agreement** and section 8.2, **Payment on Early Termination** hereof.

9.4 Except as expressly contained in this Agreement, the remedies for a breach of this Agreement shall not be exclusive, or construed as a limitation on any other equitable and legal remedies that are available, including without limitation rights or remedies that are or may become available under ORS 72.7010 to 72.7250.

10. CHARGES AND BILLING

10.1 The City shall pay the charges for goods and services rendered in accordance with the provisions of this Agreement. The City shall pay all usual and customary surcharges and all appropriate government imposed fees and charges that relate to the Service, as permitted and required by law.

10.2 BILLING ADDRESS. Invoices for goods and services shall be addressed to the City's Project Manager or such other address as the City shall provide to Contractor.

10.3 BILLING MEDIA. Invoices for goods and services shall be made by paper invoice. Contractor is at all times solely responsible for billing accuracy and timeliness. The City may consider electronic billing methods but reserves the right in its sole discretion to determine acceptable billing format and media.

10.4 BILLING DETAIL. Invoices submitted for payment shall identify the goods and services, the unit price, quantity, extended price, Order number, and invoice total. Additional billing details may be agreed to between the parties.

10.5 TIMELINESS OF BILLING. Invoicing for goods and services shall at all times be in arrears unless otherwise specified in the Agreement. Invoices for payment shall be provided to the City within ninety (90) days of successful delivery of the billed goods and services. No interest charges or late payment charges shall accrue for disputed charges.

10.6 BILLING ADJUSTMENTS. Revised invoices or billing adjustments shall apply only to Goods and Service that can be verified by the City. Requests for such adjustments shall be submitted in writing to the City within six (6) months of acceptance of the goods and services, shall reference the original invoice in which the error was made, and contain the level of detail defined in Section 10.4 (Billing Detail) above. Billing Adjustments shall not be submitted to the City in any form other than a paper document.

10.7 BILLING DISPUTES. Failure by the City to pay any portion of or the entire invoiced amount based on Contractor billing errors, Goods and Services that fail to comply with this Agreement, or disputed charges shall not constitute default under this Agreement. The City shall pay undisputed portions of disputed or incorrect invoices where the City can easily identify the undisputed portion. Payment of an amount less than the total amount due on all unpaid invoices shall be credited as directed by the City. In no event shall the Contractor apply any payment or portion thereof to any particular amount or item, which is subject to any claim of error or dispute between the parties, without prior written City approval.

11. NON-APPROPRIATIONS

11.1 The City intends to continue this Agreement for its entire term and to satisfy its obligations hereunder. For each succeeding fiscal period: a) The City agrees to include in its budget request appropriations sufficient to cover its obligations under this Agreement; b) The City agrees to use all reasonable and lawful means to secure these appropriations; c) The City agrees it shall not use non-appropriations as a means of terminating this Agreement in order to acquire functionally equivalent products or services from a third party. The City reasonably believes that sufficient funds to discharge its obligations can and shall lawfully be appropriated and made available for this purpose.

11.2 In the event that insufficient funds are appropriated to continue payments under this Agreement and the City has no other funding source lawfully available to it for such purpose, the City may terminate this Agreement by giving the Contractor not less than thirty (30) days prior written notice; such notice by the City shall be conclusive. Upon termination and to the extent of lawfully available funds, the City shall remit all amounts due and all costs reasonably incurred by the Contractor through the date of termination.

12. COMPLIANCE WITH APPLICABLE LAW

12.1 In connection with its activities under this Agreement, Contractor shall comply with all applicable federal, state and local laws and regulations.

12.2 All statutory, charter and ordinance provisions applicable to public contracts in the City of Portland and the State of Oregon shall be followed with respect to this contract as evidenced by but not limited to the provisions of Appendix A.

13. INDEMNITY

Contractor shall hold harmless, defend, and indemnify the City of Portland, its officers, agents, and employees, from all claims, demands, suits, or actions of whatsoever nature, including all attorney's fees and costs, resulting from or arising out of the activities of Contractor, including intentional acts, or of its subcontractors, agents or employees under this Agreement.

14. GOVERNING LAW

The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this Agreement shall be brought in the appropriate court in Multnomah County, Oregon.

15. INSURANCE

15.1 Proof of Coverage

Work shall not commence until all insurance requirements have been met and certificates thereof have been filed with the Purchasing Agent or the Auditor.

15.2 Public Liability and Property Damage

a) The Contractor shall secure and maintain Commercial General Liability Insurance that protects the Contractor and the City and its officers, agents and employees from any and all claims, demands, actions and suits for bodily injury, property damage, products and completed operations, contractual liability, personal injury, fire legal liability, owned and non-owned auto liability, employee-related claims, broad form property damage and any vicarious liability, arising from the Contractor's work under this Agreement, including operations of subcontractors. The insurance shall provide coverage by a single limit policy of not less than $500,000. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon during the term of this Agreement. The insurance shall name as additional insureds the City and its officers, agents and employees. Except with respect to the limits of insurance, the insurance shall apply as if each named insured were the only named insured on the policy. Contractor's insurance shall be primary insurance and not excess insurance. In the event other insurance exists, Contractor's insurance shall be solely liable and contribution by equal shares or other methods of insurance sharing shall not apply. The coverage shall apply as to claims between insureds on the policy. The insurance shall provide

that the insurance shall not terminate or be canceled without thirty (30) days written notice first being given to the City Auditor. If the insurance is canceled or terminated prior to completion of this Agreement, the Contractor shall provide a new policy with the same terms. The Contractor agrees to maintain continuous, uninterrupted coverage for the duration of this Agreement.

b) The Contractor shall maintain on file with the City Auditor a certificate of insurance certifying the coverage required. The adequacy of the insurance shall be subject to the approval of the City Attorney. Failure to maintain liability insurance shall be cause for immediate termination of this Agreement by the City.

15.3   Workers' Compensation Insurance

Prior to the performance of any work under a contract awarded by the City, the Contractor shall comply with the workers' compensation law, ORS Chapter 656, as it may be amended, and if workers' compensation insurance is required by ORS Chapter 656, the Contractor shall maintain coverage for all subject workers as defined by ORS Chapter 656 and shall maintain a current, valid certificate of workers' compensation insurance on file with the City Auditor for the entire period during which work is performed under the contract.

16.   **ASSIGNMENT OF ANTI TRUST RIGHTS**

16.1   By entering into a contract, the Contractor, for consideration paid to the Contractor under the contract, does irrevocably assign to the City of Portland any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future, including, at the City's option, the right to control any such litigation on such claim for relief or cause of action, by reason of violation of 15 USC Sections 1-15, ORS 646.725, ORS 646.730, in connection with any goods and services provided to the Contractor by any person, which goods and services are used, in whole or in part, for the purpose of carrying out the Contractor's obligation under this contract.

16.2   In the event the Contractor hires subcontractors to perform any of the Contractor's duties under the contract, the Contractor shall require the subcontractor to irrevocably assign to the City of Portland, as a third party beneficiary any right, title or interest that has accrued or may accrue to the subcontractor by reasons of any violation of 15 USC Sections 1-15, ORS 646.725, or ORS 646.730, including, at the City's option, the rights to control of any litigation arising thereunder, in connection with any goods and services provided to the subcontractor by any person, in whole or in part, for the purpose of carrying out the subcontractor's obligations as agreed to by the Contractor in pursuance of the completion of the contract.

16.3   In connection with this assignment, it is an express obligation of the Contractor that it will take no action, which will in any way diminish the value of the rights conveyed or assigned hereunder to the City of Portland. It is an express obligation of the Contractor to advise the City Auditor or the Office of the City Attorney of Portland, Oregon:

a) In advance, of its intention to commence any action on its own behalf regarding such claims for relief or causes of action;

b) Immediately, upon becoming aware of the fact that an action has been commenced on its own behalf by some other person or persons, of the pendency of such action; and

c) The date on which it notified the obligor(s) of any such claims for relief or causes of action of the fact of its assignment to the City of Portland.

16.4 Furthermore, it is understood or agreed that in the event that any payment under such claim is made to the Contractor, it shall promptly pay over to the City of Portland its proportionate share thereof, if any, assigned to the state hereunder.

17. SUSPENSION OF THE WORK

17.1 The City may at any time give notice in writing, by electronic mail, or by facsimile to the Contractor to suspend work. The notice of suspension shall specify the date of suspension and the estimated duration of the suspension. The Contractor shall promptly suspend work to the extent specified. During the period of the suspension the Contractor shall properly care for and protect all projects in progress including materials, supplies, and equipment that are on hand for performance of the Work. The City may, at any time, withdraw the suspension of work as to all or part of the suspension by written, or by electronic mail, or facsimile notice to the Contractor specifying the effective date and scope of withdrawal. The Contractor shall then resume diligent performance of the work. In no event shall the Contractor be entitled to any lost or prospective profits or any incidental or consequential damages because of suspension.

17.2 The causes for suspension of work include, but are not be limited to, any of the following Contractor actions: non-standard installation, use of non-standard materials, failure to meet City standards, undue disruption of City staff, work performed without City approval, or any other non-compliance with the Contract.

18. INDEPENDENT CONTRACTOR STATUS

18.1 Contractor is engaged as an independent contractor and shall be responsible for any federal, state, and local taxes and fees applicable to payments hereunder.

18.2 Contractor, its subcontractors, and their employees are not employees of the City and are not eligible for any benefits through the City including, without limitation, federal social security, health benefits, workers' compensation, unemployment compensation, and retirement benefits.

19. ASSIGNMENT AND SUBCONTRACTING

19.1 This Agreement or any interest therein shall not be assigned or subcontracted to any other party/parties without the prior written consent of the other party. In the event of transfer without prior written consent, the other party may refuse to carry out this Agreement with either the transferor or the transferee and yet retain and reserve all rights of action for any breach of contract committed by other party.

19.2 The Contractor shall not subcontract its Work under this Agreement, in whole or in part, without the prior written approval of the City. The Contractor shall require any approved

subcontractor to agree, as to the portion subcontracted, to fulfill all obligations of the Contractor as specified in this Agreement. Notwithstanding City approval of a subcontractor, the Contractor shall remain obligated for full performance hereunder, and the City shall incur no obligation other than its obligations to the Contractor hereunder. The Contractor agrees that if subcontractors are employed in the performance of this Agreement, the Contractor and its subcontractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation.

20. PAYMENT TO SUBCONTRACTORS

Contractor shall pay timely all vendors, subcontractors, and consultants providing Goods or Service and carrying out its obligations under this Agreement. Contractor shall not take or fail to take any action in a manner that causes any goods and services that Contractor provides hereunder to be subject to any claim or lien of any person without the City's prior written consent.

21. COORDINATION WITH OTHER CONTRACTORS AND OTHER SERVICES

The Contractor shall cooperate fully with other Contractors and City employees providing systems or support to the City during installation, operation, or maintenance of the Goods and Service. This includes planning for and integration of the goods and services provided under this Agreement with those provided by others. Further, Contractor shall make every reasonable effort to cooperate with City to minimize and/or prevent any degradation of the other computer and telecommunications systems, equipment, or services of the City by the installation, operation, or maintenance of the Goods and Services. Contractor's failure to cooperate with the City and other Contractors may be grounds for termination as provided by Section 7.3, **Early Termination of Agreement**.

22. NEWS RELEASES AND PUBLIC ANNOUNCEMENTS

Contractor shall not issue any news release or public announcement pertaining to this Agreement or the Project without prior written approval of the City, which may be withheld in the City's sole discretion. A minimum of three (3) business days notice is required for a response to a request for such approval. If approval is not issued within the three business day period, the request shall be deemed denied.

23. **PROPRIETARY AND CONFIDENTIAL INFORMATION**

The Oregon Public Records Law, ORS 192.410 et. seq. strictly governs the City's treatment of requests for public records pertinent to this Agreement.

24. **ACCESS TO RECORDS**

The Contractor shall maintain to professional accounting standards and on a current basis, and the City and its duly authorized representatives shall have access to, the books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three (3) years after final payment. Copies of applicable records shall be made available upon request.

25. **AUDITS**

25.1 The City, either directly or through a designated representative, may conduct financial and performance audits of the billings and services specified in this Agreement at any time in the course of the Agreement and during the three (3) year period established by Section 24, **Access to Records**. Audits shall be conducted in accordance with generally accepted auditing standards.

25.2 If an audit discloses that payments to the Contractor were in excess of the amount to which the Contractor was entitled, then the Contractor shall repay the amount of the excess to the City.

25.3 If any audit shows performance of services is not efficient in accordance with Government Auditing Standards, or that the program is not effective in accordance with Government Auditing Standards, the City may pursue remedies as provided under section 7.3, **Early Termination of Agreement** and section 9, **Remedies**.

26. **BUSINESS LICENSE**

Contractor shall obtain a City of Portland business license as required by Portland City Code Section 7.02.030 prior to providing goods and services under this Agreement. Contractor shall provide its business license number in the space provided at the end of this Agreement.

27. **NONDISCRIMINATION**

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans With Disabilities Act of 1990 (Pub I. No. 101-336) including Title II of that Act, ORS 659.425, and all regulations and administrative rules established pursuant to those laws.

28. SUCCESSORS IN INTEREST

The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and approved assigns.

29. SEVERABILITY

In the event that a court, government agency, or regulatory agency with proper jurisdiction determines that this Agreement, or any provision of this Agreement, is unlawful, this Agreement, or that provision of the Agreement to the extent it is unlawful, shall terminate. If a provision of this Agreement is terminated but the parties can legally, commercially, and practicably continue without the terminated provision, the remainder of this Agreement shall continue in effect.

30. AMENDMENTS

30.1 The City's Purchasing Agent is authorized to execute Amendments to this contract that concern increased prices for goods and services, as outlined in Section 4.4 and 4.6 above without further approval, provided such amendments are in writing.

30.2 All amendments shall be in writing, signed by both parties, and approved by the City Attorney's office. Contractor understands that City employees have no actual or apparent authority to enter into amendments, except as may be specifically granted by the City Council to the Purchasing Agent or Bureau Director.

31. PROHIBITED INTEREST

31.1 No City officer or employee during his or her tenure or for one (1)_year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

31.2 No City officer or employee who participated in the award of this Agreement shall be employed by the Contractor during the period of the Agreement unless specifically authorized in advance by City Council.

32. TIME IS OF THE ESSENCE

Time shall be of the essence in this Agreement. Contractor shall make every reasonable effort to meet established delivery dates and service intervals. Circumstances that may delay the delivery of goods and services from established delivery dates and service intervals, including Excusable Delays and Force Majeure events, shall be reported to the City immediately upon discovery. The City and Contractor shall mutually agree upon any schedule or pricing change due to Excusable Delays or Force Majeure events in writing. In the event Contractor does not meet the established delivery dates or service intervals and Contractor has failed to cure such breach within fifteen (15) days of written notice by the City, the City may cancel the Order and obtain the undelivered goods and/or non-performed service from another source, and no recurring charges, one-time charges, or termination charges or other penalties shall be due the Contractor.

33. FORCE MAJEURE

Neither City nor Contractor shall be held responsible for performance if its performance is prevented by unforeseeable acts or events beyond the party 's reasonable control including, but not limited to: acts of God; fire, flood, earthquakes or other catastrophes; strikes or other labor unrest; power failures, electrical power surges or current fluctuations; nuclear or other civil or military emergencies; or acts of legislative, judicial, executive, or administrative authorities; or any other circumstances which are not within its reasonable control. This provision, as it relates to strikes, shall apply only to failure to perform or delay installation of the goods and services, and does not relieve Contractor from making every reasonable effort to maintain, repair, or restore them.

34. APPLICATION OF UNIFORM COMMERCIAL CODE

The provisions of this Agreement are not to be construed as exclusive remedies or as a limitation upon rights or remedies that may be or may become available under ORS Chapters 71-83 (Uniform Commercial Code).

35. SURVIVAL OF OBLIGATION

The respective obligations of the City and Contractor under these terms and conditions, which by their nature would continue beyond the termination, cancellation, or expiration hereof, shall survive termination, cancellation, or expiration hereof.

36. CERTIFICATIONS BY CONTRACTOR

Contractor hereby certifies, under penalty of perjury, that it is not in violation of any Oregon tax laws; hereby certifies that it is certified as an Equal Employment Opportunity Affirmative Action Employer as prescribed by Chapter 3.100 of Code of the City of Portland; and hereby certifies it is an independent contractor as defined in ORS 670.600.

37. NOTICE

Except as otherwise stated in this Agreement, any notice or demand to be given under this Agreement shall be delivered in person or deposited in United States Certified Mail, Return Receipt Requested. Any notices or other communications shall be addressed as follows:

CONTRACTOR: **CITY:**

_____   City of Portland
_____   Bureau of Technology Services

_____   1120 SW 5th, Room 450
_____   Portland, Oregon 97266
Attn: _____   Attn: Chief Technology Officer

If either party changes its address or if a party's representative changes, the other party shall be advised of such a change in writing, in accordance with this section.

38.   ENTIRE AGREEMENT

This Agreement and its Attachments represent the entire Agreement between the parties. This Agreement is a final, complete exclusive statement of the terms thereof, and supersedes and terminates any prior Agreement, understanding, or representation between the parties with respect thereto, whether written or oral.

39.   NON-WAIVER

No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purposes given. The failure of the either party to enforce any provision of this Agreement shall not constitute a waiver of that or any other provision.

CONTRACTOR, BY THE SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT HE OR SHE HAS READ THIS CONTRACT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

IN WITNESS WHEREOF, Contractor and City execute and authorize this Agreement as of the last date shown below:

CITY OF PORTLAND: **CONTRACTOR:**

_____   _____
Purchasing Agent   Authorized Signature

_____   _____
Name Typed or Printed   Name Typed or Printed

_____   _____
Title   Title

_____   _____
Date   Date

Approved as to form: Business License #: _____

Phil Casting
_____   Federal Tax ID #: _____
City Attorney

Jan. 10, 2005
_____   State Tax ID #: _____
Date

DRAFT

APPENDIX A

Contractor shall observe all applicable state and local laws pertaining to public contracts. ORS Chapter 279 requires every public contract to contain certain provisions. Pursuant to ORS Chapter 279, the following provisions shall be a part of this contract, as applicable.

▪ Pursuant to ORS 279.312, the contractor shall make payments promptly, as due, to all persons supplying to such contractor labor or material for the prosecution of the work provided for in such contract. The contractor shall pay all contributions or amounts due the Industrial Accident Fund from such contractor or subcontractor incurred in the performance of the contract. The contractor shall not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. The contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

▪ Pursuant to ORS 279.313, in every public contract for demolition the contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective. In every public contract for lawn and landscape maintenance the contractor shall compost or mulch yard waste material at an approved site, if feasible and cost-effective.

▪ Pursuant to ORS 279.314, if the contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the contractor or a subcontractor by any person in connection with the public contract as such claim becomes due, the proper officer or officers representing the state, county, school district, municipality, municipal corporation or subdivision thereof, as the case may be, may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the contractor by reason of such contract. The payment of a claim in the manner authorized by ORS 279.314 shall not relieve the contractor or the contractor's surety from obligation with respect to any unpaid claims.

▪ Pursuant to ORS 279.316, no person shall be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as defined in ORS 279.051, the employee shall be paid at least time and a half pay for all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or for all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and for all work performed on Saturday and on any legal holiday specified in ORS 279.334. The contractor shall give notice to employees who work on a public contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. In the case of contracts for personal services as defined in ORS 279.051, an employee shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, except for individuals under these contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime. Persons employed under contracts for services shall receive at least time and a half pay for work performed on the legal holidays specified in a collective bargaining agreement or in ORS 279.334(1)(a)(C)(ii) to (vii) and for all time worked in excess of 10 hours a day or in excess of 40 hours in a week, whichever is greater. The contractor shall give notice to employees who work on a contract for services in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

- Pursuant to ORS 279.320(1), in every public contract, the contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such contractor, of all sums which the contractor agrees to pay for such services and all monies and sums which the contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service. In every public contract, all employers working under the contract are subject employers that shall comply with ORS 656.017.

- Pursuant to ORS 279.320(2), as amended effective 5/25/01, "Every public contract also shall contain a clause or condition that all subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.

- Pursuant to ORS 279.352(2), a fee is required to be paid to the Commissioner of the Bureau of Labor and Industries as provided in ORS 279.375(1). The fee shall be paid to the Commissioner pursuant to the administrative rule of the Commissioner.

- Pursuant to ORS 279, and in accordance with 1999 House Bill 2574, Contractor shall demonstrate that an employee drug testing program is in place.

APPENDIX B – GENERAL CONDITIONS

1. PURCHASE PROCEDURES

Goods and Services must be purchased by the City via an Order issued to the Contractor. Modifications to Orders must be made by the City issuing an Order Modification. Orders and Order Modifications shall be priced in accordance with agreed contract rates and are valid only if approved in writing by the City Chief Technology Officer or designee. Order Modifications shall be completed on the same schedule as and invoiced with the original Order to which they refer, unless the Order Modification states they are to be completed and invoiced separately.

2. INVOICING AND PAYMENT

The following are the City's preferred requirements for invoicing and payment. Proposers may propose alternate invoicing and Payment plans. Maintenance may be invoiced in advance annually (more frequent invoicing of maintenance may be considered by the City).

2.1   The Contractor must invoice the City for up to 75% of the cost of hardware and software at the time of shipment for each individual Order. Contractor may also invoice 100% of shipping at this time. The City expects to issue several Orders.

2.2   The Contractor must invoice the City for the balance of the cost of hardware and software following Acceptance for each individual Order.

2.3   The Contractor must invoice the City for the cost of subsequent orders.

2.4   The Contractor must invoice the City for all other system costs (e.g. installation, testing, etc.) following Acceptance.

3. MATERIAL TITLE AND HANDLING

The Contractor is required to install, configure, and test the hardware and software, and the Contractor is responsible for delivering a working system to the City at the time of acceptance. Therefore, the Contractor must maintain ownership of, title to, and risk of loss for, all Contractor-supplied materials until Acceptance. The City may, at its option, allow temporary storage of materials at the installation sites. The Contractor must be responsible for logistics and staging in such a manner as to comply with approved schedules and to minimize warehousing and storage at installation sites. Materials must not be delivered to an installation site until all materials for that site are on hand and ready for installation without prior written approval of the Project Manager.

APPENDIX C – SPECIAL CONDITIONS

PARTNERSHIPS, JOINT VENTURES AND SUBCONTRACTORS

The City recognizes that one firm may not be able to provide all the goods or services required by this RFP, and therefore encourages Partnerships, Joint Ventures, and subcontractors as may be required to provide a complete Proposal. However, one firm shall act as the Prime Contractor, and shall be solely responsible for performance of all activities required by the Contract. Proposals shall name Partners, Joint Venture members, and subcontractors who are responsible for performing ten percent (10%) or more of the proposed activities. The 10% will be measured based on the dollar value of the firm's responsibilities relative to the total value of the Contract. For example, a partner providing equipment or services valued at twelve (12%) of the total value of the Contract must be identified in the Proposal. Other subcontractors meeting this criterion added after award must be pre-approved in writing by the City.

The City encourages the use of subcontractors, in particular to meet the City's M/W/ESB objectives. The City may reject or require removal of any subcontractor at any time; its decision to do so shall be conclusive. All provisions of the Contract related to employee performance, activities, appearance, and professionalism shall apply equally to subcontractors and their personnel. The Contractor shall be held responsible for all Work performed under the Contract, regardless of whether it is performed by Contractor personnel, subcontractors or partners.

APPENDIX D – SPECIFICATIONS

Mandatory Requirements

Functionality and Features

Modified Proposal Request

Fiber Network Diagram

Port Count and Storage

MANDATORY REQUIREMENTS

1.8.1 STORAGE SOLUTION FUNCTIONALITY	
1.8.1.1	Availability of data replication software and point-in-time copy supporting a re-synchronizing capability.
1.8.1.2	Ability to support storage partitioning with open-systems hosts. This includes native Fibre Channel attachment.
1.8.1.3	Ability to support server-free data movement within the SAN.
1.8.1.4	Ability to support network attached servers via NAS gateways/bridges for file storage over the existing Ethernet network.
1.8.1.5	Availability of Automated Capacity Analysis tools that provide an automated summary of data growth, storage capacity growth and free space by attached server, operating system, file system type and file system, and predict when the storage pool will run out of capacity by host, operating system and file system.
1.8.1.6	Availability of Automated Performance Analysis tools.
1.8.1.7	Ability to perform storage administrator functions via WEB interface.
1.8.1.8	Ability to utilize zoning for data security.
1.8.1.9	SAN Solution design shall support attachment of Fibre Channel capable storage. *Attach a list of supported devices.*
1.8.1.10	SAN Solution design shall support attachment of Intel-Based and RISC-based server capable of Fibre Channel attachment. *Attach a list of supported devices.*
1.8.1.11	SAN Solution design shall support both high performance and lower cost disk options for storage within the SAN.
1.8.1.12	SAN Solution design shall be capable of storing back-up tape images from the IBM mainframe to disk ("virtual tape"), supporting both ESCON and FICON channels. The SAN solution shall include any required adapters. The ability to IPL from a "virtual tape" is required. The SAN solution shall be capable of supporting 4 ESCON channels, with 2.5:1 compression. If the virtual tape solution is not capable of compression, the proposer shall increase the disk capacity at BOEC by an additional 3.5 TB of low cost disk to copy tape image on disk at BOEC (total of 7TB for this purpose). The proposer may substitute, as an option, the capability of supporting 1 TB of mainframe disk in the Portland Building (Support an OS/390 environment supporting ESCON channels and be capable of maintaining an IOSQ time of not more than .2 milliseconds for each logical volume) provided that copies of volumes can be made and stored on the back-up quality storage provided in the proposal.
1.8.1.12	SAN Solution shall include a separately priced option to allow archival tapes from the SAN disk with minimal manual intervention.
1.8.2 STORAGE ENVIRONMENT	
1.8.2.1	SAN Solution shall support use of raw file systems.
1.8.2.2	SAN Solution Proposer shall supply all SAN components (i.e., switches, hubs, bridges, host-bus-adapters, Fibre infrastructure, etc.) for initial acquisition.

MANDATORY REQUIREMENTS

1.8.3 CONNECTIVITY

1.8.3.1	Network Attached Storage (NAS) gateway/bridges shall support existing 100 Megabit/1 Gigabit Ethernet environment in the City.
1.8.3.2	SAN Solution shall include two (2) single-port HBAs for each of the twelve (12) servers to be initially attached to the SAN.

1.8.4 MAINTENANCE

1.8.4.1	Proposer shall provide an initial three (3) year warranty for the entire SAN Solution, including both hardware and software. (Proposer does not need to provide a warranty for the City's existing NetApp filers if utilized in the SAN Solution.)
1.8.4.2	Proposer shall provide 7 days x 24 hours x 365 day warranty support for three (3) years of operation, which includes on-site service and parts.
1.8.4.3	Proposer shall provide firm cost estimates for the subsequent years after the initial warranty period for all products and services provided to the City, specifying all services and product costs that are included in a five (5) year maintenance contract.
1.8.4.4	The Terms and Conditions in the above five (5) year maintenance contract shall be extended to any additional SAN Solution hardware and software items purchased via this Contract.
1.8.4.5	Hardware and software maintenance contract levels of support shall be extendable on an annual basis beyond the initial five (5) year Contract period.
1.8.4.6	Maintenance costs for subsequent years shall not exceed the generally accepted standard of five percent (5%) increase per year after the first year.
1.8.4.7	Proposer shall provide a copy of the maintenance and support agreement (contract) that will be used with the proposed SAN Solution.

1.8.5 TRAINING

1.8.5.1	Provide pre-installation training on the proposed SAN Solution for up to five (5) City BTS staff. Training shall cover all relevant hardware and software that must be used during the use, maintenance, and troubleshooting of the SAN Solution being deployed.
1.8.5.2	Provide post-installation and evaluation follow-up training at City BTS location. Training will encompass forty (40) hours total, for up to five (5) City BTS staff, with forty (40) additional hours for the primary storage administrator.
1.8.5.3	Itemize the costs for all training in the Financial Proposal.
1.8.5.4	Complete Training Plan (Attachment 4).

1.8.6 INSTALLATION

1.8.6.1	Proposer shall agree to install the SAN Solution, both during and if necessary, outside regular business hours as determined by the City to lessen possible impacts on existing production environment.
1.8.6.2	Proposer shall perform all installations with City BTS supervision.
1.8.6.3	Proposer shall remove and dispose of all packaging and shipping materials to be collected by the Contractor for reuse and/or recycling. In keeping with the City's sustainability program, effort will also be made to minimize the use of packaging and shipping materials.

MANDATORY REQUIREMENTS

1.8.6.4	Proposer shall specify any environmental requirements including, but not limited to, AC power, physical space, HVAC, etc.
1.8.6.5	Proposer's SAN Solution equipment cannot exceed elevator limitations of the following: o Depth is 8' 10" o Width is 5' 5" o Angle length is 12' o Weight capacity is 4,500 lbs
1.8.6.6	Proposer's SAN Solution equipment cannot exceed floor limitations of the following: o Weight of 70 lbs per sq ft for SYSTEM WEIGHT o Concentrated loads of 1,250 lbs for STATIC LOADS o Bottom surface deflection of 0.100" for STATIC LOADS o Uniform loads of 300 lbs per sq ft for STATIC LOADS o Ultimate loads of 3,800 lbs for STATIC LOADS o 10,000 passes of 500 lbs for ROLLING LOADS o Weight passes of 150 lbs for IMPACT LOADS
1.8.6.7	Proposer shall provide physical space requirements for moving the SAN Solution into the BTS location (e.g. height, width, weight, etc.)
1.8.6.8	Proposer shall conform to and use the City's Change Management process for hardware and software additions, changes and deletions (Definitions, Attachment 1).
1.8.7 ACCEPTANCE TESTING	
1.8.7.1	Proposer shall test all SAN Solution hardware and software after installation and provide certification that all SAN Solution systems are functionally normally after the 45 day Acceptance Period of the Contract.
1.8.7.2	Proposer shall provide SAN Solution hardware and software orientation on-site to City staff to meet the test plan objectives negotiated in the Contract.
1.8.7.3	Proposer shall test the redundancy on the multi-path HBA failover and load balancing for successful operation.
1.8.7.4	Proposer shall provide assistance for the first data migration to SAN storage. The project for this will be the GIS SQL database residing on NetApp storage (iSCSI) in a Windows cluster. Data migration shall assure ability to fallback to the current storage, until completion of performance testing and acceptance of the system. NOTE: If Core Reduction Option No. 3 is taken, the project will be the Licensing SQL Server Database in a Windows cluster. Proposer shall provide any additional costs associated with additional assistance during the first 60 days of data migration.
1.8.7.5	Proposer shall explain how they will maintain and ensure that high levels of performance are delivered in their proposed SAN Solution.
1.8.7.6	Proposer shall provide documentation on City's SAN Solution, including but not limited to, initial setup, configuration, installation, options and other specific site parameters and information.
1.8.8 LICENSING	
1.8.8.1	Proposer shall provide detailed information on all software and associated licensing costs that the City must purchase and maintain in order to effectively and efficiently use its proposed SAN Solution during the life of the Contract.

MANDATORY REQUIREMENTS

1.8.8.2	Proposer shall provide all initial license costs for both hardware and software for the SAN Solution, the type of license (own, perpetual, etc.) and the maintenance costs for each license over the term of the contract.
1.8.8.3	Proposer shall provide detailed information for calculating license costs for each license upgrade to acquire newer versions and functionality.
1.8.8.4	Proposer shall provide all copies of all software and hardware agreements associated with their SAN Solution.

Attachment 6 - System Functionality & Features
SECTION 3.3.4.3

All items in the worksheets include the following designations:

(S) STRONGLY Recommended   Proposer is expected to meet or exceed this requirement. If the Proposer answers "NO", consider the "EXPLANATION REQUIRED" checked.

(H) Highly Desirable   Proposer is expected to meet this requirement.

(D) Desirable   Describe your ability to address this requirement.

Failure to provide a "Strongly Recommended", "Highly Desirable", or "Desirable" functionality and features requirement will not make the Proposal non-responsive. "Strongly Recommended" requirements are of a high priority to the City of Portland.

If the individual features are available they should be proposed and priced in the Financial Proposal. Responses will be scored on a point system in accordance with Section 3.3.3.

TECHNICAL SYSTEM REQUIREMENTS (Strongly Recommended, Highly Desirable & Desirable)

A. Storage Network Topology

1.	(S) Proposed SAN Solution will be 2 Gigabit Fabric.
2.	(S) SAN Topology in Portland Building shall be Director Class switch ports; the Proposer may provide an alternative option to the use of Director Class ports with a justification as to why the alternative option will meet the City of Portland's requirements.
3.	(S) SAN Topology in Emergency Communications Center; modular switch ports are acceptable but Director Class ports are preferred.
4.	(H) The interoperability of the Fibre channel components (switches, hubs, bridges, Host-Bus-Adapters) used in the storage network has been tested in an interoperability lab.

B. Storage Network Server Port Count

1.	(S) Portland Building storage network will initially require (34) director switch ports (number can be higher for better performance and should be increased for the option that provides primary storage for the Mainframe). See Attachment 3 SAN Port Count and Storage Worksheet.
2.	(S) ECC will initially require 22 switch ports (number can be higher for better performance and should be increased for the option that provides storage for the Mainframe tape to disk migration). See Attachment 3 SAN Port Count and Storage Worksheet. The proposer may reduce the provision of fibre channel switch capability at BOEC provided that the solution, after the reduction, supports iSCSI attachment of up to ten (10) servers to the storage fabric at BOEC and interconnection to the storage fabric at the Portland Building. If the iSCSI option is presented, the proposer may reduce the number of servers to be provided with HBAs to nine (9) from twelve (12)..
3.	(S) Storage network design must provide switch and hub components to meet the port count in Attachment 3 regardless of actual number of switch ports required.
4.	(H) Storage network has the capability of expanding by 60% the number of ports for future expansion.
5.	(H) The SAN has SAN-to-SAN and SAN-WAN-SAN connectivity. Explain how this will be accomplished for an 8-mile distance (Portland Building to BOEC) and what would be required additionally to extend this to over 60 miles.
6.	(H) Expansion of the topology has the capability of adding/removing Fibre channel components without the loss of redundancy or performance.
7.	(D) The SAN has the capability of supporting either Fibre Channel, FCIP or ISCSi ports. Explain how ISCSi ports would be supported.

TECHNICAL SYSTEM REQUIREMENTS
(Strongly Recommended, Highly Desirable & Desirable)

C. Storage Network Redundancy

1.	(S) SAN Solution shall provide full redundancy so no single path or Fibre channel component (switch, hub, bridge, HBA) failure can prevent access to a storage pool. Equipment does not need to be provided to assure that the NAS gateways and the connection between the Portland Building and BOEC are fully redundant.
2.	(S) Each attached server on the storage network can be configured with a minimum of two (2) Fibre Channel paths. Describe how path management is accomplished.
3.	(H) Those applications (e.g. video) having specific performance requirements can be configured with sufficient paths to maintain performance in the case of path or switch failure.

D. SAN Management

1.	(S) SAN Solution systems administrator must have the ability to view, monitor and manage the storage pools.
2.	(S) SAN Solution systems administrator must have the ability to allocate logical units (LUNs) to the host systems on the storage network.
3.	(S) SAN Solution must have automated capacity planning and performance analysis tools. Describe the extent to which these tools are integrated.
4.	The following items are highly desirable and desirable requirements for the SAN Manager:
a.	(H) The storage consolidation includes a SAN management element. SAN management element can be either a separate appliance attached to the SAN or software running on a server attached to the SAN. Proposers must describe the implementation methodology they are proposing.
b.	(H) SAN management element has redundancy.
c.	(H) In the case of an appliance (computing element attached to the SAN), the appliance is clustered.
d.	(H) If the SAN management is running on an attached server, the server control has failover capabilities to another server.
e.	(H) SAN management element provides a common method for both in-band (preferred) and out-of-band monitoring and management.
f.	(H) The common discovery agent performs in-band (preferred) and out-of-band monitoring, and management of systems, storage, and the SAN fabric elements.
g.	(H) The SAN management element supports the SNMP MIBs via an out-of-band connection and the Fibre Channel management MIB (switch link tables and zoning) via in-band paths.
h.	(H) SAN management element provides topology mapping (switch zones, host-to-storage and storage-to-host mappings).
i.	(H) SAN management element provides Event Monitoring (the collection and consolidation of events, fault-isolation and problem determination in the SAN).
j.	(H) Event management element has drill-down capability to view configuration information, alert and failure information.
k.	(H) Event monitoring has remote capabilities. Describe method of remote access.
l.	(H) All the administrator functions are accessible with a WEB based interface.

E. Other Storage Network Features

1.	(S) The Proposer shall provide back-up and recovery management solution compatible with the proposed SAN. **NOTE: Although this is required for the proposal the actual purchase of this will be taken under consideration at the time of the contract award.**
2.	(S) SAN Solution shall support LAN-Free Backup function. At the direction of a server, tape, optical, or disk storage, pools can be dynamically allocated to clients allowing backup, archive, or hierarchical space management information to be sent across the SAN directly to storage pools.
3.	(H) SAN Solution provides for the synchronous remote copy of LUNs or files across the SAN infrastructure.
4.	(H) SAN Solution provides point-in time copy capability to support the attached application servers.
5.	(D) SAN Solution shall provide the ability to IPL the mainframe from the "virtual tape". Describe how the solution accommodates this ability.

TECHNICAL SYSTEM REQUIREMENTS
(Strongly Recommended, Highly Desirable & Desirable)

F. Storage Environment Requirements

1.	(S) SAN Solution Proposer shall insure compatibility of all components during the life of the contract with the City.
2.	(S) Should the SAN Solution Proposer recommend a component be installed within a server that is not provided by the server manufacturer, such component must not void the existing maintenance contract or hardware warranty and such component must be serviceable by manufacturer's technicians, with any additional cost the responsibility of the Proposer.
3.	(S) Proposers shall configure the initial capacity of the SAN Solution for 24 Terabytes of usable RAID-5 or equivalent storage. (11 TB Portland Building, 13 TB BOEC) For the major application servers the storage should be high performance, for other applications (i.e. mainframe tape to disk copy, replicated copy, etc.) the storage should provide good performance and be at a lower price point. (Attachment 3). Proposers may provide, as part of the initial capacity, 12 TB of disk suitable for replication as a recovery source. The proposer may price an option to eliminate five (5) TB of back-up quality storage from BOEC and a NAS gateway device at BOEC with the city retaining the use of the two (2) NetApp 820s at BOEC; this option cannot be combined with the switch port reduction option described in B2.
4.	(S) Proposer's SAN Solution shall be upgradeable to 44 Terabytes of usable RAID-5 or equivalent storage. (20 TB Portland Building, 24 TB BOEC)
5.	(S) Redundant components or redundancy for its major component groups is a requirement. This includes the following:
	.1 N+1 power
	.2 N+1 cooling
	.3 Dual-Active controllers with failover (failover may be host-based)
	.4 redundant protected write-caches
	.5 Redundant host interfaces
6.	(S) SAN Solution shall have RAID protected storage. Subsystems must support RAID-5 or equivalent, with the option of active spare disk drives.
7.	(S) SAN Solution shall have native Fibre Channel host interface with support of Fibre Channel fabric attachments, Class-2 service.
8.	(S) SAN Solution shall have the ability to be dynamically configured when the subsystems are pre-configured with specified RAID Groups, RAID levels and LUN sizes when installed on the storage network.
9.	(S) SAN Solution shall have the capability of dynamically changing its configuration under the control of the SAN system administrator. Describe the degree which the reconfiguration of an existing volume can be accomplished without disruption.
10.	(S) SAN Solution shall have remote maintenance failure notification with "call home" feature.
11.	(S) SAN Solution shall have secure remote management access as a function of its design.
12.	(S) SAN Solution shall include efficient hot swap disk capacity.
13.	(H) SAN Solution shall support Concurrent Maintenance capabilities (all maintenance activity will be done concurrently while the subsystem is active on the storage pool. This includes dynamic replacement of the major component groups, capacity upgrades and microcode updates). Proposer must describe how this is accomplished.
14.	(H) The storage subsystems support Variable LUN sizes up to 400GB LUNs (The importance is the LUN presented to the application server. If the storage network management controls the presentation of logical LUNs to the attached servers transparent to the physical LUNs on the subsystems, this is fully acceptable).
15.	(H) Provides LAN attached interface to storage sub-systems for Windows NT 4.0, 2000, 2003, and Linux servers, including support for Windows server clustering and Linux server clustering.

G. Connectivity Requirements

1.	(S) SAN Solution shall support direct/native connection to a tape back-up solution for archiving purposes. (*NOTE:* The tape device will be a separately priced, optional element of the proposed SAN Solution.)
2.	(H) SAN Solution provides initial connections for 5 Unix and/or Linux servers, and 10 Windows NT4.0/2000 servers via NAS gateway or use of the Network Appliance boxes.
3.	(H) SAN Solution connectivity scales to thirty (30) Fibre attached servers without additional connectivity equipment.

4.	(H) Proposer shall include a list of necessary costs for attaching any support for additional servers via redundant connections.
5.	(H) Proposer shall specify and including dual PCI-HBA adapters for each of six (6) initial Windows servers.
6.	(D) Proposer shall specify and include dual PCI-HBA adapters for six (6) UNIX-based servers (LINUX, etc).
7.	(H) Solution capable of supporting an additional 100 network attached Windows NT4.0/Win2000 servers through the NAS gateway. Include a list of necessary costs to achieve this level of connection.
8.	(D) Support for servers up to 100 meters from SAN Solution.

H. Operating System and Application Certification Requirements

1.	(S) The SAN Solution proposed shall be certified by the Proposer for the following operating systems for individual servers and in cluster operation, and provide support for multipath (fail over, load balance) of the HBA for any of the operating systems listed below:
.1	Microsoft Windows NT4.0/2000/2003 servers.
.2	AIX 5,1 and 5.2, RS/6000 5.1L and AIX 5.2
.3	Linux servers (Red Hat Enterprise 3 and above, SUSE 8 and above)
2.	(D) Describe the extent and to which versions, if any, the SAN Solution proposed is certified by the Proposer for the following operating systems for individual servers and in cluster operation, and provide support for multipath (fail over, load balance) of the HBA:
.1	HP-UX servers
.2	SUN Microsystems servers
.3	Tru-64 servers
.4	Open VMS servers
3.	(S) The SAN Solution proposed shall be certified by the Proposer for the following applications:
.1	Oracle
.2	Oracle RAC
.3	MS SQL
.4	Oracle collaboration suite
4.	(D) The SAN Solution proposed has Citrix MetaFrame server certification.

I. Storage Management Requirements

1.	(S) SAN Solution shall support allocating volumes/logical units [LUNs] "on-the-fly". Describe the degree to which an existing volume may be reconfigured without disruption.
2.	(S) SAN Solution shall support "snapshot" volume copying.
3.	(S) SAN Solution shall support providing LUN security.
4.	(S) SAN Solution shall support performance analysis and storage use (reporting).
5.	(S) Proposer shall provide copies of sample reports for performance analysis and storage use as part of this RFP.
6.	(H) SAN Solution should support telephone paging functionality.
7.	(H Proposer should indicate with which network management systems SAN Solution is compatible with.
8.	(H) SAN Solution should have Browser-based GUI management interface, and this interface should support all management functions for the SAN Solution.
9.	(H) SAN Solution should support local and remote replication/mirroring capability but must not be used initially.

J. Storage Area Network Performance

1.	(S) Customer site references shall be from sites with multiple Oracle databases in a minimum of 5 Terabytes or higher storage serviced by their SAN Solution.
2.	(S) Customer site references shall be from sites with a minimum of ten (10) independent AIX or other UNIX-type RISC servers each operating an Oracle database with multiple instances.

3.	(S) Proposer shall provide architecture with five 9's data availability built into the product design in order to support redundant fabrics and high availability.

K. SAN Solution (Hardware and Software) Features

1.	(H) All components in the SAN Solution shall be redundant. Indicate which, if any, components are not redundant. Equipment does not need to be provided to assure that the NAS gateways and the connection between the Portland Building and BOEC are fully redundant.
2.	(H) SAN Solution internally uses Fibre channel-connected or comparable disks for the high performance disks. Discuss performance capability and future roadmap if system does not use Fibre channel-connected disks.
3.	(H) SAN Solution is scalable in-place to minimum of 24 TB within initial hardware footprint.
4.	(H) SAN Solution allows for the addition of extra disks while the system is online and in production.
5.	(H) Does any other vendor's sub-system work with your proposal?

L. Back-up Tape Solution

1.	(S) Proposer shall provide, as a separately priced option, a tape back-up solution compatible with the SAN Solution to provide archive tapes of selected systems on a weekly basis. Tapes will be written from the back-up storage or a flash copy of storage if a SAN copy does not otherwise exist. The tape solution shall require minimal manual intervention outside of regular business hours. Describe the process proposed to implement the Tape Back-up system with the SAN, including any additional required equipment (HBAs, Servers, etc.)

M. Mainframe Disk Requirements (Optional Submittals)

1.	(H) Proposed SAN Solution design may include, as a separately priced option, a solution for the primary disk storage for the IBM mainframe in a z/OS environment supporting FICON channels and be capable of maintaining an IOSQ time of not more than .2 milliseconds for each logical volume and with a minimum of 1TB mainframe capable storage (Attachment 3, Line 19, Options 1A, 1B).
2.	(D) Proposed SAN Solution design may include, as a separately priced option, a solution for the primary disk storage for the IBM mainframe described in 1. above to also support a OS/390 environment supporting ESCON channels and be capable of maintaining an IOSQ time of not more than .2 milliseconds (refer to for each logical volume and with a minimum of 1TB mainframe capable storage (Attachment 3, Line 19, Options 1A, 1B).
3.	(D) Proposer may provide, as a separately priced option, a solution for mainframe storage replicated from Portland Building to BOEC to storage which does not have to directly attach to the mainframe, but can support the following DR scenario: At DR time City of Portland will drop ship a mainframe and mainframe storage at the BOEC site. They will then copy data from replication storage to drop shipped mainframe storage. (Attachment 3, Line 39, Option 1B)
4.	(D) For mainframe disk, support for a mixed 3380 or 3390 environment is required.

November 4, 2004   **VIA FAX**

RE: RFP #103322 – Storage Area Network Solution
       Modified Proposal

Per paragraph 3.2.2.5 of the above noted RFP, the City is requesting modified proposals and revised pricing to address the modifications, based upon the oral presentations by all short-listed proposers. This modification shall become a part of the proposal and, when closing the contract, will be considered a part thereof. Any changes made by this modified proposal to said specifications offset only the portion of the words or paragraphs specifically mentioned herein, and the balance of the specifications remain in full force. It is the responsibility of all respondents to conform to this addendum.

Modified proposals shall be submitted via e-mail to bgibson@ci.portland.or.us or fax at 503-823-6865 with the signed original to follow in the mail. **The deadline for receipt of Modified Proposals is 12:00 p.m. November 10, 2004.** Any price adjustment must be submitted using the attached spreadsheet, which is a duplicate of the original Attachment 7 - Financial Proposal, in the RFP. Any modified proposals received after the stated deadline or using a format other than the attached spreadsheet may not be accepted or considered.

Please note that this request is not a vehicle to change the nature of your proposal other than any modifications to your proposal based upon the discussions held during the oral presentations as represented in specifications listed herein. Rather, this request is intended to provide each short-listed proposer with a final opportunity to provide the City with their best price for the various elements specified in the RFP. The City reserves the right to award this contract without further proposer discussions or further requests for clarification. Accordingly, you should provide your best price proposal in this response to the Modified Proposal.

Clarification:

For the purposes of the modified proposal, which is to be based on the materials discussed in the oral presentation, the following adjustments are made to the specifications:

1.8.3.2   SAN Solution shall include two (2) single-port HBAs for each of the twelve (12) servers to be initially attached to the SAN.

1.8.1.12 SAN Solution design shall be capable of storing back-up tape images from the IBM mainframe to disk ("virtual tape"), supporting both ESCON and FICON channels. The SAN solution shall include any required adapters. The ability to IPL from a "virtual tape" is required. The SAN solution shall be capable of supporting 4 ESCON channels, with 2.5:1 compression. If the virtual tape solution is not capable of compression, the proposer shall increase the disk capacity at BOEC by an additional 3.5 TB of low cost disk to copy tape image on disk at BOEC (total of 7TB for this purpose). The proposer may substitute, as an option, the capability of supporting 1 TB of mainframe disk in the Portland Building (Support an OS/390 environment supporting ESCON channels and be capable of maintaining an IOSQ time of not more than .2 milliseconds for each logical volume) provided that copies of volumes can be made and stored on the back-up quality storage provided in the proposal.

B. Storage Network Server Port Count
(S) Portland Building storage network will initially require (34) director switch ports (number can be higher for better performance and should be increased for the option that provides primary storage for the Mainframe). See Attachment 3 SAN Port Count and Storage Worksheet.

2.   (S) ECC will initially require 22 switch ports (number can be higher for better performance and should be increased for the option that provides storage for the Mainframe tape to disk migration). See Attachment 3 SAN Port Count and Storage Worksheet. The proposer may reduce the provision of fibre channel switch capability at BOEC provided that the solution, after the reduction, supports iSCSI attachment of up to ten (10) servers to the storage fabric at BOEC and interconnection to the storage fabric at the Portland Building. If the iSCSI option is presented, the proposer may reduce the number of servers to be provided with HBAs to nine (9) from twelve (12).

C. Storage Network Redundancy
1.   (S) SAN Solution shall provide full redundancy so no single path or Fibre channel component (switch, hub, bridge, HBA) failure can prevent access to a storage pool. Equipment does not need to be provided to assure that the NAS gateways and the connection between the Portland Building and BOEC are fully redundant.

F. Storage Environment Requirements
(S) Proposers shall configure the initial capacity of the SAN Solution for 24 Terabytes of usable RAID-5 or equivalent storage. (11 TB Portland Building, 13 TB BOEC) For the major application servers the storage should be high performance, for other applications (i.e. mainframe tape to disk copy, replicated copy, etc.) the storage should provide good performance and be at a lower price point. (Attachment 3). Proposers may provide, as part of the initial capacity, 12 TB of disk suitable for replication as a recovery source. The proposer may price an option to eliminate five (5) TB of back-up quality storage from BOEC and a NAS gateway device at BOEC with the city retaining the use of the two (2) NetApp 820s at BOEC; this option cannot be combined with the switch port reduction option described in B2.

G. Connectivity Requirements

3.   (H) SAN Solution connectivity scales to thirty (30) fibre attached servers without additional connectivity equipment.
4.   (H) Proposer shall include a list of necessary costs for attaching any support for additional servers via redundant connections.
5.   (H) Proposer shall specify and including dual PCI-HBA adapters for each of six (6) initial Windows servers.
6.   (D) Proposer shall specify and include dual PCI-HBA adapters for each of six (6) UNIX-based servers (LINUX, etc).

K. SAN Solution (Hardware and Software) Features
1.   (H) All components in the SAN Solution shall be redundant. Indicate which, if any, components are not redundant. Equipment does not need to be provided to assure that the NAS gateways and the connection between the Portland Building and BOEC are fully redundant.

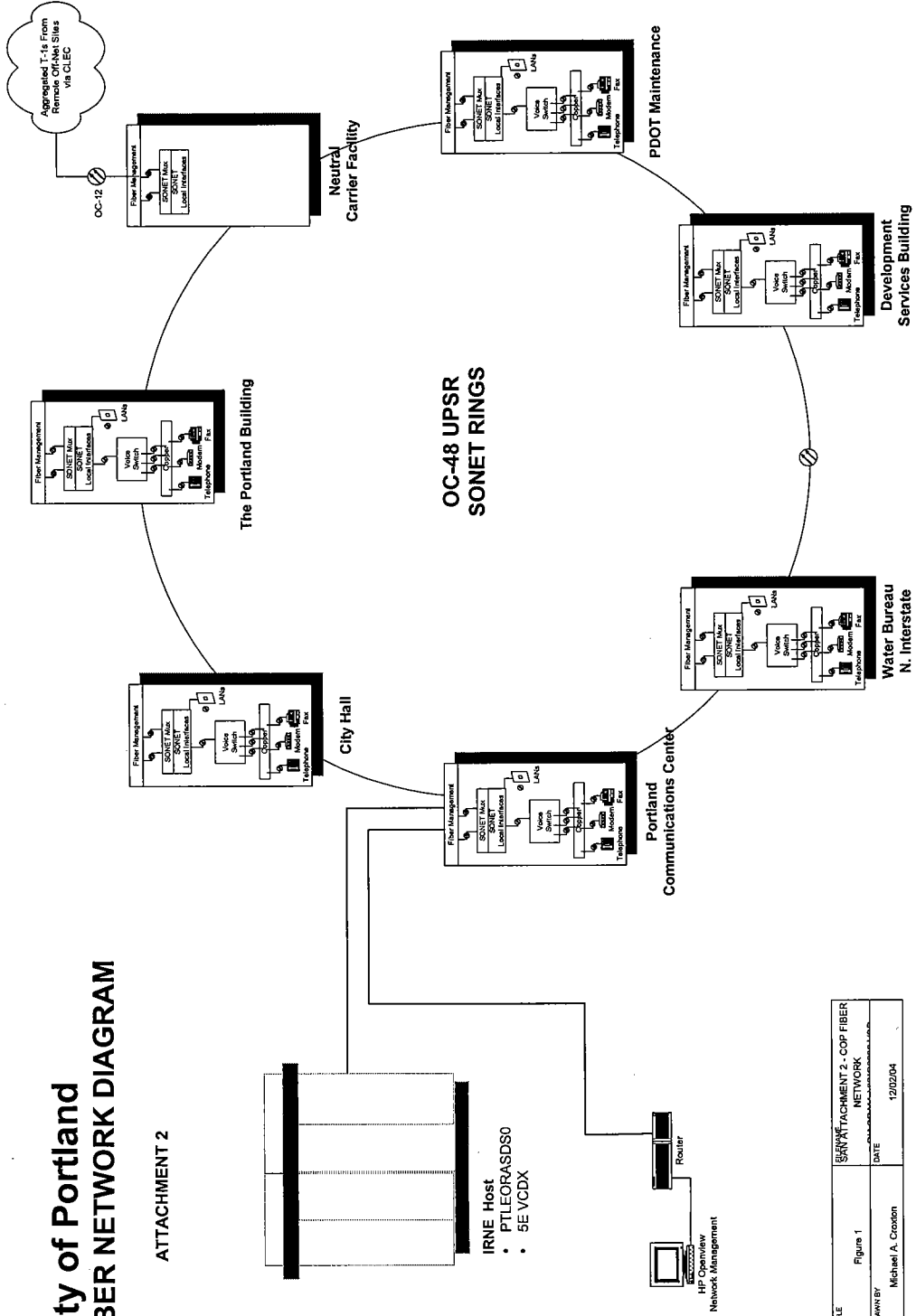Please direct all questions and concerns to B. J. Gibson, CPPO, Procurement Supervisor at (503) 823-7665.

Sincerely,

B. J. Gibson, CPPO
Procurement Supervisor

BG
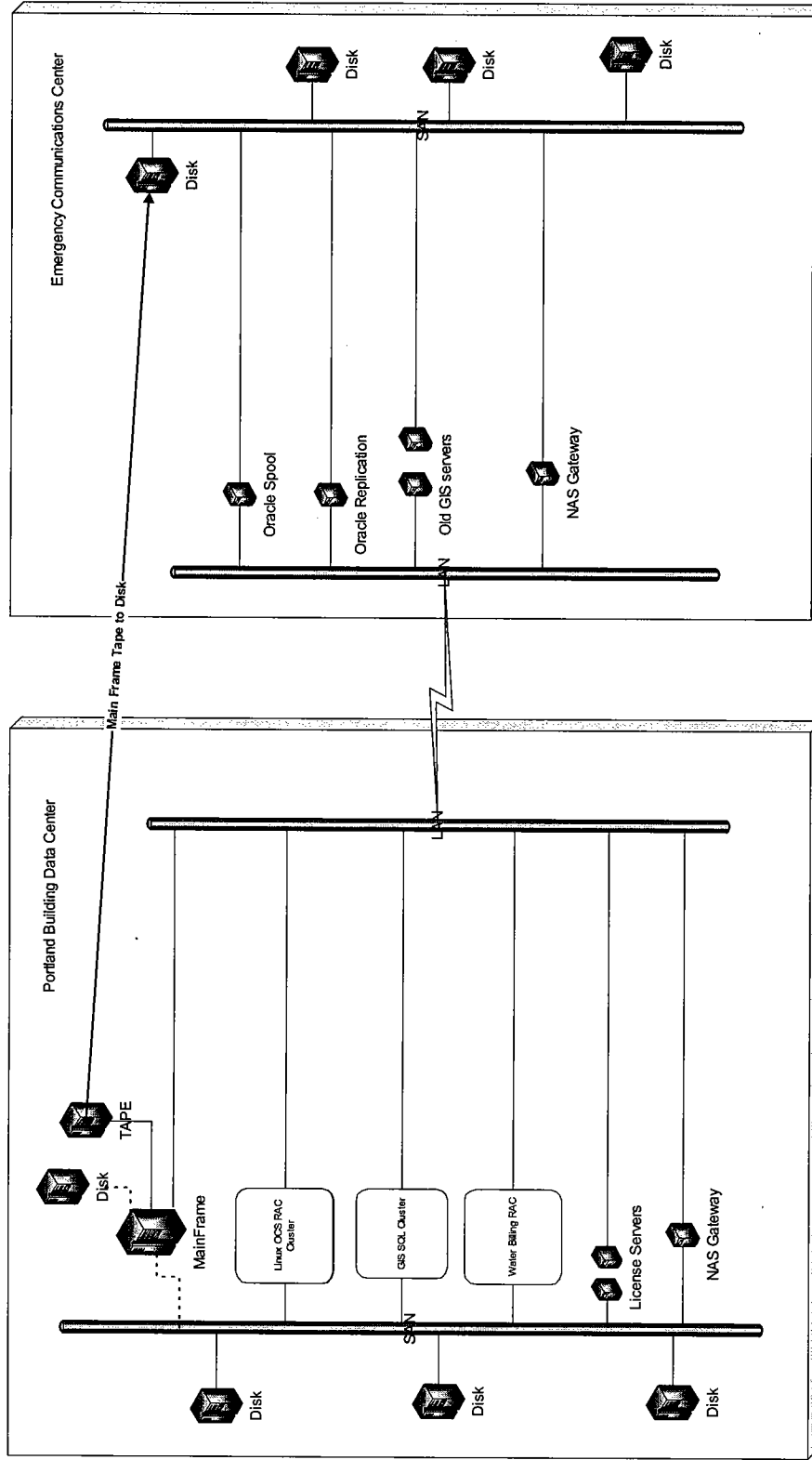attach.

City of Portland
FIBER NETWORK DIAGRAM

ATTACHMENT 2

Aggregated T-1s From Remote Off-Net Sites via CLEC

OC-12

Neutral Carrier Facility

The Portland Building

City Hall

OC-48 UPSR SONET RINGS

Portland Communications Center

PDOT Maintenance

Development Services Building

Water Bureau N. Interstate

IRNE Host
- PTLEORASDS0
- 5E VCDX

Router

HP Openview
Network Management

TITLE	BIPNAF ATTACHMENT 2 - COP FIBER NETWORK
Figure 1	
DRAWN BY	DATE
Michael A. Croxton	12/02/04

31

Appendix D

SAN RFP No. 103322

Initial SAN Logical Diagram (Draft)
Thursday, December 02, 2004

Emergency Communications Center

Disk

Disk

Disk

SAN

Disk

Oracle Spool

Oracle Replication

Old GIS servers

NAS Gateway

LAN

Main Frame Tape to Disk

Portland Building Data Center

LAN

LAN

TAPE

Disk

MainFrame

Linux OCS RAC Cluster

GIS SQL Cluster

Water Billing RAC

License Servers

NAS Gateway

SAN

Disk

Disk

Disk

SAN Attachment 3 – Port Count and Storage

Server Use	Location	Address	SAN Ports			Number of Servers & HBA's		Initial Acquisition Storage transactional	Initial Acquisition Storage back-up quality	Future Growth Storage transactional	Future Growth Storage back-up quality
			Server	Storage[1]	Total	Server	HBA	Server (GB)	Server (GB)	Server (GB)	Server (GB)
Portland Building											
Water Billing (Oracle RAC)	Portland Building	1120 SW 5th Ave	6	4	10	3	6	1000		500	
Oracle Collaboration Suite (RAC)	Portland Building	1120 SW 5th Ave	4	2	6	2	4	2000		4000	
GIS (Move from NetApp iSCSI)	Portland Building	1120 SW 5th Ave	4	2	6	2	4	3000		1000	
Mainframe Tape to Disk	Communications Center	3732 SE 99th Ave	0	2	2	0	0		3600	0	
NAS GateWay	Portland Building	1120 SW 5th Ave	0	2	2	0	2	500		1000	
License Servers	Portland Building	1120 SW 5th Ave	4	2	6	2	4	500		500	
Portland Building Subtotals			18	14	32	9	20	7000	3600	7000	0
Mainframe Storage (OPTION 1A, 1B)	Portland Building	1120 SW 5th Ave	2	2	4	1	2	1000		500	
Portland Building Totals (with Mainframe)			20	16	36	10	22	8000	3600	7500	0

Emergency Communications Center (BOEC)												
Oracle Server	Communications Center	3732 SE 99th Ave	2	2	4	1	2	2000	5000	0		2000
Mainframe Tape to Disk	Communications Center	3732 SE 99th Ave	0	2	2	0	0		3600	0		
NAS Gateway	Communications Center	3732 SE 99th Ave	0	2	2	0	2	1000		1000		
Moving Old GIS Servers	Communications Center	3732 SE 99th Ave	2	2	4	1	4		0			
GIS (Move from NetApp) Remote backupserver	Communications Center	3732 SE 99th Ave	2	2	4	1	4	1000		1000		
Communications Center Subtotals			6	10	16	3	12	4000	8600	2000		2000
Core Proposal Totals			**24**	**24**	**48**	**12**	**32**	**11000**	**12200**	**9000**		**2000**
Totals with Mainframe Option 1A			**26**	**26**	**52**	**13**	**34**	**12000**	**12200**	**9500**		**2000**

Notes:
1. Storage ports will be based off of the number of storage array controllers, so these numbers are for estimates only.
2. The purple represents the reductions associated the option described in revised F3. The total reduction of the storage is 5 TB with this option.
3. Port and HBA count for Mainframe disk is described in requirements grid

H:..\Glenn RFP\SAN Ex 1 - Port count and Storage MLv5

Appendix D

Attachment 1 - Definitions

The following general definitions apply to both the RFP and the Contract. More specific definitions of or additional information about terms defined below may be included in the text of the RFP; in the event of conflicts between the two the information in the text of the RFP shall prevail. This exhibit will be made an Attachment to the Contract at the time of execution.

1. **Business Days.** Monday through Friday except for City observed holidays.

2. **Business Hours.** The City's normal business hours are 7:00 am to 6:00 pm, Monday through Friday, except for City observed holidays. Several City Bureaus operate 7x24, and that shall be considered their normal business hours. Typically these Bureaus include those involved in public safety (e.g., Police, Fire, 9-1-1) and those providing vital City services (e.g., Water, Environmental Services). The City may request the Contractor to adjust its employees' normal hours to accommodate the Work outside it's the City's normal business hours or on a weekend at the normal rates. For example, if a cutover is scheduled for between 6:00 pm and 7:00 am, the next morning, or on a weekend, the City may request the Contractor to shifts its employees' normal hours to cover the hours necessary to accommodate the cutover. Additionally, maintenance support is required on a 7x24 basis as described in the RFP.

3. **City.** The City of Portland, Oregon. The City is the Contracting Agency.

4. **City Project Manager.** An individual designated by the City to oversee the Work of the Contractor on a day-to-day basis, and to act on its behalf in the day-to-day administration of the Contract. The City Project Manager may designate other City employees or its contractors to perform detailed project management, acceptance testing, and other tasks.

5. **Change Management Process.** The City Project Manager will manage changes to project scope, defined tasks, and/or scheduled milestones. The execution of changes will begin when the Contractor and the City both agree to the revised terms and costs and upon City Chief Technology Officer approval.

6. **Contract.** The City's Standard Agreement for Goods and Services (Attachment 9 to the RFP). The Standard Agreement is the basis for the final Contract between the City and the Contractor.

7. **Contractor.** The firm, individual, or entity with which the City enters into the Contract. A successful Proposer becomes a Contractor upon execution of the Contract.

8. **Contractor's Account Manager.** An individual designated by the Contractor to provide overall administrative management of Contractor activities under the Contract. The Account Manager will be the City's first contact for performance issues, escalation, billing/invoice issues, and other matters concerning the administration and management of the Contract.

9. **Contractor's Project Manager.** An individual designated by the Contractor to oversee the day-to-day management of the Contractor's technical activities related to the Contract. The Contractor's Project Manager shall be the City's first contact for installation, testing, acceptance, cutover, maintenance and other matters concerning the installation and activation of the SAN Solution.

10. Day. A calendar day of twenty-four (24) hours, unless otherwise stated in the RFP, and Order, or the Contract.

11. Goods. Hardware and software and other items required by the Specifications to carry out the intent of the Contract.

12. Excusable Delays. Delays in the project schedule caused by actions of the City of Portland, or third parties or for any other delay not caused by Contractor or its subcontractor(s).

13. Initial System. The Goods and Services described in this RFP and as Ordered by the City.

14. Mandatory Priced Option. Features and functionality that must be available, offered, and priced in the Proposal for it to be responsive, but which the City may or may not purchase at the time the initial order is released. The City may purchase a Mandatory Priced Option by issuing an Order at any time during the Contract term. (e.g., the added functionality that the City desires to implement but for which it cannot make a decision until cost is known and funding is available). The quoted price of Mandatory Priced Options shall remain effective for one-year following acceptance, and may be adjusted per the Contract for subsequent years.

15. Non-Mandatory Priced Option. Features and functionality that are desirable but not mandatory. If available, they should be proposed and priced. Failure to provide a Non-Mandatory Priced Option will not make the Proposal non-responsive. (e.g., the feature the City desires, but not to the degree that it would disqualify a product or Proposer for failure to offer that feature. The ability to provide Non-Mandatory Priced Option may result in a Proposal receiving a higher score than it otherwise would receive during evaluation.)

16. Optional Items. Mandatory and Non-Mandatory Priced Options as defined above and listed in the RFP. Optional items may be purchased either as part of or subsequent to the initial installation.

17. Order. A document issued by the City to the Contractor for the purpose of purchasing goods and services from this Contract. The City Project Manager or designee shall sign all Orders. Contractor may specify information that is required from City as part of the Order. The Order shall specify the Goods and Services to be delivered or performed, the cost per the Contract, the schedule of events, other deliverables, and other pertinent information. A unique number shall be assigned to each Order to allow tracking a project from Order through invoicing. Work shall not be performed without a valid written Order.

18. Order Modification. A modification, either increase or decrease, to an existing Order. The terms "Change" and "Change Order" shall mean the same as "Order Modification" in this Contract. As a minimum an Order Modification shall include a description of the modification, the Good and Services added to or deleted from the original Order, quantities, unit and extended prices, and total price. Prices shall be as provided by the Contract. Other information relevant to the Order Modification, such as schedule, shall also be included when appropriate. Once issued, Order Modifications shall be treated as part of the original Order.

19. Party or Parties. The City of Portland, and the Contractor.

20. Proposal. A document that was submitted by Contractor containing its response to the City's RFP No. 103322. The Proposal includes all clarifications, Best and Final Offer(s), and other documents submitted by the Contractor from the time of submission of the Proposal to Notice of Award.

21. Proposer. An individual, firm, or other entity that submitted the Proposal.

22. SAN Solution. Storage Area Network solution to upgrade and advance City's disk storage and data retrieval capabilities at its Data Center and reduce City's overall maintenance costs for disk space management.

23. Service. The installation, testing, project management, and maintenance set forth in this Contract and required to meet the requirements stated in the Specifications.

24. Service Interval. The period of time, usually stated in business days, between the receipt of an Order for Goods and Services until they are delivered and operational.

25. Specifications. Generally refers to the specifications for goods and services as stated in this RFP and Contract. It also includes by reference any Manufacturer Specifications or Standards for materials, as well as those established and de facto Standards and references cited herein.

26. Standard Agreement. The City's Standard Agreement for Goods and Services (Attachment 9 to the RFP). The Standard Agreement is the basis for the final Contract between the City and the Contractor.

27. Work. The sum of the Contractor's effort, including Goods, Services, labor, materials, and other effort or items required to provide a complete and working system in accordance with the Specifications, Order(s), and other requirements of this RFP and Contract.

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Attachment 2 – SAN Pricing Summary Option B

Quote # City of Portland Hitachi SAN Pricing Oct 2004 9500V Option B R2		12/2/2004

For: *B.J. Gibson, CPPO*
Procurement Supervisor
Bureau of Purchases
City of Portland
1120 SW Fifth Avenue, Room 750
Portland, OR 97204

Phone: (503)823-7665
FAX: (503)823-6865
E-mail: bgibson@ci.portland.or.us

From: Andrew Edgar - VP Storage & Systems Division
4382 SE International Wy - Ste C - Portland OR 97222
Direct: 503-513-4580 Fax: 503-513-4600 Cell: 503-887-5570

Line Item	Description	Qty.	Unit List Price	Unit Sale Price	Ext. Sale Price
	REQUEST FOR PROPOSALS **for** **Storage Area Network (SAN) Solution** **Proposal Due: October 7, 2004 by 4:00 p.m.** **RFP No. 103322, Issue Date: Sept. 13th, 2004** **Attachment 7 - Financial Proposal - Section 3.3.4.6** **Payment Remit To Address, Please have on the City's PO to Structured:** Structured Communications Systems, Inc./GE Access 75 Remittance Drive, Suite 1559 Chicago, IL 60675-1559				
	## City of Portland SAN Pricing Summary Option B: (Structured/HDS Teired Storage Enterprise Solution 2) ### 3.3.4.6.1 Initial Acquisition:				
1	**24TB of Usable RAID-5 (11TB for the Portland Building, 13TB at the BOEC)**				**$618,990**

- Includes complete upgradability in performance levels
- Includes removal of current/existing Network Appliance Devices at the City of Portland

-Proposal Includes HDS Arrays at both the Portland Bldg and the BOEC and the Diligent Virtual Tape Mainframe Solution.

2	*WAN Routers if Required: (This will not be required)*	*$0*
3	*SAN Fabric with a minimum of 68 Switch Ports (42 Portland Bldg., & 26 BOEC)*	*$199,066*
4	*All Switches, Hubs, Bridges, HBA's etc..*	*$44,050*
5	*Data Duplication, Replication and Point-in-time software:*	*$140,788*
6	*All Associated Cables and Fibre Links: (Included)*	*No Charge*
7	*Adapters for the Servers: (Included)*	*No Charge*
8	*3 Year 7 x 24 x 365 x 4Hr Warranty for Proposed Hitachi SAN Solution: (Included)*	*No Charge*
9	*Maintenance Charges, During Warranty Period: (Included in Cost of Hardware)*	*No Charge*
10	*All Training Associated with this RFP:*	*$39,975*
11	*Installation Activity Charges:*	*$104,500*
12	*Acceptance Testing Activities as Outlined in Section 1.8.7: (Included)*	*No Charge*
13	*All Licensing for Software: (Storage Resource Management Software)*	*$149,000*
14	*First Existing Storage to SAN Conversion Assistance: (Included)*	*No Charge*
15	*Costs, Itemized for All Services Not Identified in the RFP: (Included)*	*No Charge*

Total Initial Accuistion Price 3.3.4.6.1:   *$1,296,369*

Less Core Reduction from NetApps Takeout: *($50,998)*

Net Total Acquistion Price After Core Reductions: *$1,245,371*

	Term	Lease Rate	Quarterly Cost
Leasing Option: 60 Month $1 Buyout:	*60*	*0.07212*	*$ 89,816*
(Terms per Addendum 4, Question 9)			
		Monthly:	*$ 29,939*

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3.3.4.6.4 Cost Reductions

16	*Core Cost Reductions No. 1: (Portland Bldg Netapps F840 3TB Raw Takeout)*			*($16,126)*

(Netapp product will be returned to Structured based on customer acceptance of new solution)

17	*Core Cost Reductions No. 2: (BOEC NetApps Takeout: 2 x Netapps F820's w/ 3TB Raw/ea - and 1/ea F840 w/ 1TB Raw)*			*($34,872)*

Total Cost Reductions Options 3.3.4.6.4:   *($50,998)*

Portland Building Site, Primary Core:

HDS 9570V: 4 2Gb/s Fibre Ports, 4GB Cache, 6.424TB Raw FC, 3.750TB Raw SATA: Three years of 24X7X4 hour on-site support: (Also, Includes NAS Gateway)

HDS NAS Gateway:

18	HDS-SG-110E NAS Gateway System	1	$0	$0	$0

Includes: 1/ea 10/100 E-Net Port, 8/ea 2Gbps Fibre, 8/ea Copper -
Gigabit E-Net Communication Ports. Supports SnapShots, Cluster Option,
Supports Unix, Windows, HTTP, FTP, File and Print. (Includes 3 Year 7 x 24 Support)
Part Number: SG110E-WSS

18	9500 Product Documentation Library	1	$0	$0	$0

Part Number: 043-100089-01.P

19	9500 HiTrack CD	1	$0	$0	$0

Part Number: 043-100090-01.P

20	9500V USA Service Pack	1	$0	$0	$0

Part Number: 043-100099-01.P

21	9580 Microcode Kit	1	$0	$0	$0

Part Number: 043-100091-01.P

22	9500V Svc RK Warranty/Weekday Basic 1mo	12	$0	$0	$0

Part Number: 043-990055-01.P

23	9500V Svc RK Standard 1Mo Upg Yr 1	12	$0	$0	$0

Part Number: 043-990064-01.P

24	9500V Svc RK Standard 1Mo Upg Yr 2+	24	$0	$0	$0

Part Number: 043-990065-01.P

25	9570V Svc RKA Warranty/Weekday Basic 1mo	12	$0	$0	$0

Part Number: 043-990056-01.P

26	9570V Svc RKA Standard 1Mo Upg Yr 1 Part Number: 043-990069-01.P	24	$0	$0	$0
27	9570V Svc RKA Standard 1Mo Upg Yr 2+ Part Number: 043-990070-01.P	48	$0	$0	$0
28	9570V Service Acceptance Part Number: 043-990054-01.P	1	$0	$0	$0
29	9500V Svc RKAAT Warranty/Weekday Basic 1mo Part Number: 043-990152-01.P	12	$0	$0	$0
30	9500V Svc RKAAT Standard 1Mo Upg Yr 1 Part Number: 043-990154-01.P	12	$0	$0	$0
31	9500V Svc RKAAT Standard 1Mo Upg Yr 2+ Part Number: 043-990155-01.P	24	$0	$0	$0
32	19inch Rack for HDS-US Part Number: 7846400.P	1	$0	$0	$0
33	9500V 146GB FC 10K RPM HDD Part Number: DF-F600-AEF146.P	44	$0	$0	$0
34	9500V 250GB SATA 7.2K RPM HDD Part Number: DF-F600-ATE250.P	15	$0	$0	$0
35	9580V 2GB Cache Memory Module 2x1024MB Part Number: DF-F600-C1GX2.P	2	$0	$0	$0
36	9500V 125V AC 15A Power Cord Part Number: DF-F600-J1H.P	8	$0	$0	$0
37	9500V Storage Expansion Unit (RKA) Part Number: DF600-RKA.P	2	$0	$0	$0
38	9500V SATA Storage Expansion Unit (RKAAT) Part Number: DF600-RKAAT.P	1	$0	$0	$0
39	9570V Controller Base Unit Inlcudes 2/ea FC ports Part Number: DF600-F1H.P	1	$95,000	$95,000	$95,000
40	9570V Contoller Unit w/ 2 FC Ports Part Number: DF600-F1H.P	1	$0	$0	$0
40	LAN Crossover Cable 14' Part Number: IP0663-15.P	1	$0	$0	$0
41	Null Modem Cable Part Number: IP0814-1.P	1	$0	$0	$0

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Enterprise Storage Solution - w/ 36 Month HW & SW Software Support - 21GB Cache and 5.840TB RAW
HDS TagmaStore -Enterprise Storage w/ Mainframe Support - PDX BLDG Core SAN

42	USP Product Documentation Library-HDS Part Number: 041-100043-01.P	1	$0	$0	$0
43	USP Microcode Kit Part Number: 041-100044-01.P	1	$0	$0	$0
44	TagmaStore Logo Part Number: 041-100045-01.P	1	$0	$0	$0
45	USP Geen Logo Part Number: 041-100046-01.P	3	$0	$0	$0
46	Power Cable Kit for 3 Phase/30A Part Number: DKC-F460I-3UCD.P	1	$0	$0	$0
	Open Systems Fibre Channel Adapters -				
47	Fibre 16-Port High Performance Adapter (2Gbps) Part Number: DKC-F510I-16HS.P	1	$0	$0	$0
48	Escon 16 Port Serial Adapter - Mainframe Connectivity - Part Number: DKC-F510I-16S.P	1	$0	$0	$0
49	AC Box Kit for 3 Phase/30A Part Number: DKC-F510I-3PS.P	1	$0	$0	$0
50	Basic Backend Director Part Number: DKC-F510I-400.P	1	$0	$0	$0
51	Additional Cache Memory Module (4GB) Part Number: DKC-F510I-C4G.P	4	$0	$0	$0
52	DKC Door Kit for HDS Part Number: DKC-F510I-DH.P	1	$0	$0	$0
53	Modem Card for Remote Maintenance Part Number: DKC-F510I-MDM.P	1	$0	$0	$0
54	Maintenance PC Breaker Box Part Number: DKC-F510I-PCBR.P	1	$0	$0	$0
55	Additional Shared Memory Module (1GB) Part Number: DKC-F510I-S1G.P	5	$0	$0	$0
56	Disk Control Frame TagmaStor Part Number: DKC510I-5.P	1	$285,000	$285,000	$285,000

#	Description	Qty			
57	1 HDD Canister (DKS2C-J146FC) *Part Number: DKU-F505I-146JS.P*	40	$0	$0	$0
58	Lan Cable 14ft *Part Number: IP0662-14.P*	1	$0	$0	$0
59	Phone Cable 12ft *Part Number: IP0664-12.P*	1	$0	$0	$0
60	RJ-11 Modular In-Line Coupler 4 Conductor *Part Number: IP0665-11.P*	1	$0	$0	$0
61	RJ-45 Modular In-Line Coupler 6 Conductor *Part Number: IP0665-45.P*	1	$0	$0	$0
62	1 HDD Canister (DKS2C-J146FC) *Part Number: DKU-F505I-146JS.P*	1	$0	$0	$0

Sub Total Primary Site Core Storage (9570V and TagmaStor): <u>$380,000</u>

BOEC DR Site:

HDS 9585V: 8 2Gb/s Fibre Ports, 8GB Cache, 6.424TB Raw FC + 11.25TB Raw SATA: <u>Three years of 24X7X4 hour on-site support: Total Storage Provided = 17.674TB Raw</u>

HDS NAS Gateway:

#	Description	Qty			
63	HDS-SG-110E NAS Gateway System Includes: 1/ea 10/100 E-Net Port, 8/ea 2Gbps Fibre, 8/ea Copper - Gigabit E-Net Communication Ports. Supports SnapShots, Cluster Option, Supports Unix, Windows, HTTP, FTP, File and Print. (Includes 3 Year 7 x 24 Support) *Part Number: SG110E-WSS*	1	$0	$0	$0
64	9500 Product Documentation Library *Part Number: 043-100089-01.P*	1	$0	$0	$0
65	9500 HiTrack CD *Part Number: 043-100090-01.P*	1	$0	$0	$0
66	9500V USA Service Pack *Part Number: 043-100099-01.P*	1	$0	$0	$0
67	9580 Microcode Kit *Part Number: 043-100102-01.P*	1	$0	$0	$0
68	9500V Svc RKA Warranty/Weekday Basic 1mo *Part Number: 043-990056-01.P*	36	$0	$0	$0

69	9500V Svc RKA Standard 1Mo Upg Yr 1 *Part Number: 043-990069-01.P*	36	$0	$0	$0
70	9500V Svc RKA Standard 1Mo Upg Yr 2+ *Part Number: 043-990070-01.P*	72	$0	$0	$0
71	9585V Svc RKHE Warranty/Weekday Basic 1mo *Part Number: 043-990142-01.P*	12	$0	$0	$0
72	9585V Svc RKHE Standard 1Mo Upg Yr 1 *Part Number: 043-990146-01.P*	12	$0	$0	$0
73	9585V Svc RKHE Standard 1Mo Upg Yr 2+ *Part Number: 043-990147-01.P*	24	$0	$0	$0
74	9585V Service Acceptance *Part Number: 043-990150-01.P*	1	$0	$0	$0
75	9500V Svc RKAAT Warranty/Weekday Basic 1mo *Part Number: 043-990152-01.P*	36	$0	$0	$0
76	9500V Svc RKAAT Standard 1Mo Upg Yr 1 *Part Number: 043-990154-01.P*	36	$0	$0	$0
77	9500V Svc RKAAT Standard 1Mo Upg Yr 2+ *Part Number: 043-990155-01.P*	72	$0	$0	$0
78	19inch Rack for HDS-US *Part Number: 7846400.P*	1	$0	$0	$0
79	9500V 146GB FC 10K RPM HDD *Part Number: DF-F600-AEF146.P*	44	$0	$0	$0
80	9500V 250GB SATA 7.2K RPM HDD *Part Number: DF-F600-ATE250.P*	45	$0	$0	$0
81	9580V 2GB Cache Memory Module 2x1024MB *Part Number: DF-F600-C1GX2H.P*	4	$0	$0	$0
82	9580V Fibre Channel Intfc 2Gbps w/2 FC ports *Part Number: DF-F600-DH2G2.P*	2	$0	$0	$0
83	9500V 125V AC 15A Power Cord *Part Number: DF-F600-J1H.P*	14	$0	$0	$0
84	9500V Storage Expansion Unit (RKA) *Part Number: DF600-RKA.P*	3	$0	$0	$0
85	9500V SATA Storage Expansion Unit (RKAAT)	3	$0	$0	$0

Part Number: DF600-RKAAT.P

86	9585V Base Unit(RKHE) w/2 controllers 4 FC po Part Number: DF600-RKHE.P	1	$165,000	$165,000	$165,000
87	LAN Crossover Cable 14' Part Number: IP0663-15.P	1	$0	$0	$0
88	Null Modem Cable Part Number: IP0814-1.P	1	$0	$0	$0

Sub Total BOEC DR Storage:	**$165,000**

HDS Software: Resource Manager, HiCommand Device Manager, Point Time Copy Software, SAN to SAN Replication, 3 years of 24X7X4 hour on-site support:

89	9580/85V HiCommand Device Manager SP v3.5 License Part Number: 044-210059-03.P	2	$6,995	$6,995	$13,990
90	SVC Prem 9580V HDvM v3 License Part Number: 304-002453-01.P	72	$0	$0	$0
91	9570V/80V/85V Resource Manager Part Number: 044-200186-01.P	2	$0	$0	$0
92	9570V Performance Monitor Part Number: 044-201037-01.P	2	$0	$0	$0
93	SVC Std 9570V/80V/85V Resource Mgr Part Number: 304-000675-01.P	72	$0	$0	$0
94	SVC Std 9570V Performance Monitor Part Number: 304-002110-01.P	72	$0	$0	$0

TagmaStore Software Portland Building SAN Core:

95	USP Resource Manager Complete Upgrade Base Kit Part Number: 044-210006-01.P	1	$0	$0	$0
96	USP Res Mgr Complete Upgrade 1TB Lic Part Number: 044-210006-03A.P	1	$0	$0	$0
97	USP Res Manager Complete Upgrade 1TB Lic (2nd - 6th) Part Number: 044-210006-03B	5	$0	$0	$0
98	USP V3.5 HiCommand Devise Manager SP v3.5 (HDI) Part Number: 044-210060-03.P	1	$0	$0	$0
99	HiCommand Storage Services Mgr. v3.5 Mgr v3.1 Base Kit	1	$126,798	$126,798	$126,798

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	Part Number: 044-210108-01.P				
100	USP ShadowImage Base *Part Number:* 044-210003-01.P	1	$0	$0	$0
101	USP ShadowImage 1st TB Lic *Part Number:* 044-210003-03A.P	1	$0	$0	$0
102	USP ShadowImage 1TB (2nd - 6th) Lic *Part Number:* 044-210003-03B.P	1	$0	$0	$0
103	USP Universal Volume Manager Base Kit *Part Number:* 044-210098-01.P	1	$0	$0	$0
104	USP Universal Volume Manager 1st TB Lic *Part Number:* 044-210098-01.P	1	$0	$0	$0
105	USP Universal Volume Manager 1st (2nd to 6th) Lic *Part Number:* 044-210098-03B.P	5	$0	$0	$0
106	USP Universal Volume Manager 1st (7th to 15th) Lic *Part Number:* 044-210098-03C.P	7	$0	$0	$0
107	SVC USP Res Mgr Complete Upgrade 1TB Lic *Part Number:* 304-2100006-13A.P	36	$0	$0	$0
108	SVC USP Res Manager Complete Upgrade 1TB Lic (2nd - 6th) *Part Number:* 304-2100006-13B.P	180	$0	$0	$0
109	SVC Prem USP v3.5 HDvM *Part Number:* 304-002454-01.P	36	$0	$0	$0
110	SVC 1-36Mo USP Shadow Image 1st TB *Part Number:* 304-210003-23A.P	36	$0	$0	$0
111	SVC 1-36Mo USP Shadow Image 1st TB (2-6) *Part Number:* 304-210003-23B.P	36	$0	$0	$0
112	SVC 1-36Mo USP Universal Volume Manager 1st TB *Part Number:* 304-210098-23A.P	36	$0	$0	$0
113	SVC 1-36Mo USP Universal Volume Manager 1st TB (2-6th) *Part Number:* 304-210098-23B.P	180	$0	$0	$0

114	SVC 1-36Mo USP Universal Volume Manager 1st TB (2-6th)	252	$0	$0	$0
	Part Number: 304-210098-23C.P				

Sub Total HDS Management Software, Replication Etc.: $140,788

Cisco 9509 Director SAN Fabric Core Switch:

1/ea Cisco 9509: 224 Port SAN Director and 2/ea 20 Port Switches at DR Site:

9 Expansion Slots Chasis 99.999 Availability

Director Price Includes the Follow:

2/ea Chasis Supervisor Card For Basic Analysis, SAN Management Etc..

0/ea 16 Port Fibre Channel FC Module (Non-Subscribed 16 ASIC's)

2/ea 32 Port Fibre Channel FC Module (3:1 Subscription Rate 8 ASIC's)

Redundant Power N+1, with Dual 208 3-Phase Power Requirement (9509)

3 Year 7x24x365x4Hour Onsite

Switch Price Includes:

2/ea 20 Port 9120 SAN Switches for BOEC

115	SVC STD MDS9509 Chassis-Supervisor cards	36	$0	$0	$0
	Part Number: 301-000379-01.P				
116	SVC INST MDS9509 Chassis-Supervisor cards	1	$0	$0	$0
	Part Number: 301-000381-01.P				
117	SVC STD 32port Line Card (DS-X9032=)	72	$0	$0	$0
	Part Number: 301-000395-01.P				
118	SVC INST 32port Line Card (DS-X9032=)	2	$0	$0	$0
	Part Number: 301-000397-01.P				
119	SVC INST MDS9120 Switch	2	$0	$0	$0
	Part Number: 301-000531-01.P				
120	SVC STD MDS9120 Switch	72	$0	$0	$0
	Part Number: 301-000529-01.P				
121	2500W AC Power Cable US: 9509	2	$0	$0	$0
	Part Number: CAB-2500W-US1.P				
122	US Power cord- 9100/9200 switch	4	$0	$0	$0
	Part Number: CAB-7KAC.P				
123	SVC Cisco 3rdLvlSpt 32port LC (DS-X9032=)-US	6	$0	$0	$0
	Part Number: CON-ETSPR-9032F.P				

124	SVC Cisco SWmaint Spt MDS9120 switch - US *Part Number:* **CON-ETSPR-9120K.P**	6	$0	$0	$0
125	SVC Cisco3rdLvlSpt Sprvsr(DS-X9530-SF1-K9)-US *Part Number:* **CON-ETSPR-9530S.P**	6	$0	$0	$0
126	SVC Cisco 3rdLvlSpt MDS9509 Chassis - US *Part Number:* **CON-ETSPR-C9509.P**	3	$0	$0	$0
127	Accessory Kit for 9140 *Part Number:* **DS-9140-KIT-HDS.P**	2	$0	$0	$0
128	HDS Accessory Kit-9509 with Wrnty Cards etc *Part Number:* **DS-9509-KIT-HDS.P**	1	$0	$0	$0
129	MDS 9120 20port 2Gbps FCswitch 2Pwr sup & OS *Part Number:* **DS-C9120-K9.P**	2	$18,000	$18,000	$36,000
130	MDS9509Chassis+2Sprvsrs+2Pwr Sup+EnterpriseSW *Part Number:* **DS-C9509-HDS.P**	1	$99,000	$99,000	$99,000
131	2Gbps Fibre Channel-SW SFP LC (FC GBIC) *Part Number:* **DS-SFP-FC-2G-SW=.P**	104	$0	$0	$0
132	MDS 9500 and 9200 32port 1 / 2Gbps FC Module *Part Number:* **DS-X9032=.P**	2	$0	$0	$0
133	MDS 9500 Sup Compact Flash Disk 512MB *Part Number:* **MEM-MDS-FLD512M=.P**	1	$0	$0	$0
	Additional Items for DR to BOEC				
134	MDS 9500 and 9200 16port 1 / 2Gbps FC Module *Part Number:* **DS-X9016=.P**	1	$21,000	$21,000	$21,000
135	SVC STD 16port Line Card (DS-X9016=) *Part Number:* **301-000391-01.P**	36	$0	$0	$0
136	SVC INST 16port Line Card (DS-X9016=) *Part Number:* **301-000393-01.P**	1	$0	$0	$0
137	SVC Cisco SWmaint 16port LC (DS-X9016=)-US *Part Number:* **CON-ETSPR-9016F-1.P**	3	$0	$0	$0
138	2Gbps Fibre Channel-SW SFP LC (FC GBIC) *Part Number:* **DS-SFP-FC-2G-SW=.P**	16	$0	$0	$0
	Cisco CWDM Version 1.0 (Required for DR to BOEC)				
139	CWDN 1470 NM SFP Gigabit Ethernet and 1G/2G FC *Part Number:* **CWDM-SFP-1470=**	3	$4,995	$4,246	$12,737

140	CWDN 1490 NM SFP Gigabit Ethernet and 1G/2G FC Part Number: CWDM-SFP-1490=	3	$4,995	$4,246	$12,737
141	4 Wavelength Add/Drop MUX for CWDM-CHASSIS-2= Part Number: CWDM-MUX-4=	2	$9,000	$7,650	$15,300
142	2 Slot Chassis for CWDM Mux Plug in Modules Part Number: CWDM-CHASSIS-2=	2	$995	$846	$1,692
143	10 dB Fixed Attenuator (SC Term) Part Number: AT-10DB-SC=	2	$300	$300	$600

Total For SAN Fabric: **$199,066**

Qlogic 2Gb/s Single and Dual PCI-X Host Bus Adapters, and Cables:
Three years of 24X7X4 hour on-site support:

144	Qlogic 64bit HBA 133mhz full hgt single PCI-X Part Number: QLA2340-HDS-SP.P	24	$1,500	$1,500	$36,000
145	SVC STD HBA 64bitPCIX 133M Full 1port QLGC Mo Part Number: 301-000454-01.P	864	$0	$0	$0
146	LC/LC Duplex FibreOptic Plenum Cable 25M Part Number: F1222214214-025 (actual lengths will be confirmed)	70	$115	$115	$8,050
147	LC/LC Duplex FibreOptic Plenum Cable 10M Part Number: F1222214214-010 (actual lengths will be confirmed)	4	$89	$89	$356

Sub Total: **$44,050**

Hicommand Storage Services Management Software (HSSM)

147	HiCommand Storage Services Mgr. v3.5 Mgr v3.1 Base Kit Part Number: 044-210108-01.P	1	$149,000	$149,000	$149,000
148	HiCommand Storage Services Mgr. v3.5- 50MAP Lic Part Number: 044-210109-03.P	2	$0	$0	$0
149	HiCommand Path Provisioning v3.1 Mgr v3.1 50MAP Lic Part Number: 044-210110-03.P	2	$0	$0	$0
150	HiCommand Chargeback v3.5 50MAP Lic Part Number: 044-210111-03.P	2	$0	$0	$0
151	HiCommand Global Reporter v3.5 50MAP Lic Part Number: 044-210112-03.P	2	$0	$0	$0
152	HiCommand QoS for Oracle v3.5 1MAL Lic	6	$0	$0	$0

Part Number: 044-210113-03.P

153	SVC Prem HiCom Storage Svs Mgr v3.5- 50 MAP Part Number: 304-002455-01.P	72	$0	$0	$0
154	SVC Prem HiCom Path Provisioning v3.5- 50 MAP Part Number: 304-002456-01.P	72	$0	$0	$0
155	SVC Prem HiCom Chargeback v3.5- 50 MAP Part Number: 304-002457-01.P	72	$0	$0	$0
156	SVC Prem HiCom Global Reporter v3.5- 50 MAP Part Number: 304-002458-01.P	72	$0	$0	$0
157	SVC Prem HiCom QoS for Oracle v3.5-1 MAL Part Number: 304-002459-01.P	216	$0	$0	$0

HBA Path Failover Software (Hitachi Data Systems HDLM):

158	HDLM v5.4 RAID WIN - Base Kit Part Number: 044-210034-01.P	1	$0	$0	$0
159	HDLM v5.4 RAID WIN - 1 Server Lic (1st-20th) Part Number: 044-210034- 03A.P	6	$0	$0	$0
160	HDLM v5.4 RAID AIX - Base Kit Part Number: 044-210035-01.P	1	$0	$0	$0
161	HDLM v5.4 RAID AIX - 1 Server Lic (1st-20th) Part Number: 044-210035- 03A.P	4	$0	$0	$0
162	HDLM v5.4 RAID Linux - 1 Server Lic (1st-10th) Part Number: 044-210075- 03A.P	2	$0	$0	$0
163	SVC Basic HDLM v5.4 RAID WIN - 1 Server Lic (1st-20th) Part Number: 304-002317-01.P	216	$0	$0	$0
164	SVC Prem HDLM v5.4 RAID AIX - 1 Server Lic (1st-20th) Part Number: 304-002323-01.P	144	$0	$0	$0
165	SVC Prem HDLM v5.4 RAID Linux - 1 Server Lic (1st-10th) Part Number: 304-002200-01.P	72	$0	$0	$0

Sub Total 9500V HDS - HiCommand HSSM: **_$149,000_**

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Diligent Virtual Tape Mainframe

(There are lots of Large References available. Diligent has a minimum of 80 Mainframe Customers that have -
standardized on Diligent's Mainframe Virtual Tape Solution.)
Diligent has 3 levels of Data Compression, but this will take CPU Cycles, so it wll need to be carefully reviewed

166	Diligent Virtual Tape Mainframe (MTFM) 4-25 MSU Part Number:	1	$22,100	$22,100	$22,100
167	Installation, Training, and T&E (Complete Install) Part Number:	1	$32,000	$32,000	$32,000
168	Diligent Maintenance 3 Years Part Number:	3	$6,630	$6,630	$19,890

Sub Total Diligent Vitural Tape Solution: **$73,990**

Structured and Hitachi Data Systems Pro-Services and Training: (Formal SOW TBD)

169	Design, Installation, Configurations, Training, Docs, PM etc.. Part Number: Structured-Pro-Serv-HDS-SAN	1	$30,000	$30,000	$30,000
170	SVC HSSM QuickStart Implementation (s50) 1-500 MAP Part Number: 051-000125-01.P	1	$15,000	$15,000	$15,000
171	SVC HiCommand Devise Mgr QuickStart Implementation (s60) Part Number: 051-000125-01.P	1	$11,000	$11,000	$11,000
172	TagmaStore Installation Part Number: 051-000343-01.P	1	$28,000	$28,000	$28,000
173	SVC ShadowImage QuickStart Implementation 9900V (s57) Part Number: 051-000125-01.P	1	$10,000	$10,000	$10,000
174	Other HDS Misc Services Part Number: 051-000157-01.P	1	$10,500	$10,500	$10,500
175	Hitachi Data Systems Individual HiCard Corp Training Pass (unlimited training per person) Part Number: PDP-003	5	$7,995	$7,995	$39,975

Sub Total Implementation and Training: **$144,475**

Grand Total for Complete Solution 9500V Option 1:   **$1,296,369**

Prepared by: Andrew Edgar   *Client Authorization:*

Please contact the person listed above at Structured Communication Systems for any questions regarding this quotation.

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Attachment 3 – SAN Implementation Schedule

Section 8: Implementation Approach

3.3.4.7 Implementation Approach   (15 points)

Proposer shall:

Provide an implementation plan with a detailed agenda. The implementation plan shall cover the entire implementation from the initial engineering of the project, delivery of materials through acceptance of the goods and materials, the installation and testing as well as the punch list and final acceptance; include the number of workdays required for the installation, testing and acceptance phases. The implementation plan must include a description of the Proposer's project management and quality assurance methodology.

Describe your approach to the implementation by addressing your approach to the following areas:

- o System Installation.
- o System Testing. Identify the process through which the system is evaluated in order to ensure that appropriate functionality has been implemented.
- o System Acceptance. Identify the criteria and metrics used to determine whether or not the system has been adequately tested and certified ready for use by the City.
- o System Production Support. Identify and describe the approach to the level and type of training and support that will be provided to BTS staff.
- o Project Management and Quality Assurance. Describe your methodology for project management and quality assurance throughout the engagement.

Provide an organizational chart that depicts Proposer's team organization and the anticipated relationships between Proposer's team and BTS.

Detail staff requirements and tasks of City staff as well as the staff of the Proposer in their plan. This detail must include the type and hourly rate associated with the assigned staff. All costs must be included in the Financial Proposal. Use the Project Staffing Requirements Table (Attachment 8 from City's RFP No. 103322) to indicate the tasks, roles, and estimated number of hours required by your staff to implement your proposed SAN Solution.

Response:

Structured's Implementation Approach:

Structured uses a team approach for delivering services. We assign a project manager that coordinates with the customer, the vendors and the Structured team to complete all tasks. We deploy subject mater experts to design, deliver and manage the technologies we recommend. We utilize a methodology of assessing the customer needs, designing a solution, implementing

the designed solution and then managing the solution. Throughout the lifecycle of a project we validate our design taking in to account changing variables, changes in the environment or changes in the requirements. If necessary, we implement our change control, which initiates an assessment phase; a possible redesign and an adjusted implementation plan to accommodate the change. Our implementation of complex technology infrastructures will involve a combination of on site implementation engineers to establish base line functionality followed by remote access engineers to manage changes and on going functionality. Our engineers are always available to respond to on site support requirements.

System Installation:

Hardware Installation:

The Installation of the Thunder 9500V Distributed Enterprise Array consists of the following:

- Pre-Delivery Site Survey to confirm power availability, location, special access and requirements.
- Physical placement by Transportation Company if requested.
- Physical unpacking of 9500 subsystem and assembly/integration of any loose-pack options.
- Physical inspection of equipment after it is unpacked to ensure that no damage has occurred in shipping.
- Physical connection of power, Fibre cable interfaces to switches and host systems.
- Preparatory consultation (Systems Assurance) to determine optimum configuration using pre-tested and/or preinstalled configurations.
- Connectivity test:
  - o Setup RAID Groups and LUNs
  - o Format the LUNs
  - o Setup Host Groups and map LUNs
  - o Configure Zoning on switches
  - o Using Host system diagnostic tools, verify that hosts can access LUNs.
- Install and configure HiCommand Device Manger.
- FULL CONFIGURATION: System parameters, raid groups and logical units.
- Format all logical units.
- Connect Hosts, configure LUNs and install file systems.
- Confirm each host can write to and read from the Storage Array
- Confirm each host's startup and shutdown procedures complete normally.
- Hi-Track Monitor installation and configuration.

The Installation of the Cisco MDS 9000 switches consists of the following:

- Pre-Delivery Site Survey to confirm power availability, location, and requirements.
- Physical unpacking of each Cisco MDS 9000 switch.
- Physical inspection of equipment after it is unpacked to ensure that no damage has occurred in shipping.
- Rack mount each Cisco MDS 9000 switch.
- Physical connection of power, Fibre cables to arrays and host systems.

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- Preparatory consultation (Systems Assurance) to determine optimum configuration using pre-tested and/or preinstalled configurations.
- Connectivity test:
  - Setup Zones
  - Setup VSANs
  - Confirm each host can connect to the appropriate Storage Ports.
- Configure Hi-Track to monitor each switch.

The Installation of the SSG110E NAS Gateway consists of the following:

- Pre-Delivery Site Survey to confirm power availability, location, and requirements.
- Physical unpacking of each SSG110E NAS Gateway.
- Physical inspection of equipment after it is unpacked to ensure that no damage has occurred in shipping.
- Rack mount each SSG110E NAS Gateway.
- Physical connection of power, Fibre cables to switches and Ethernet cables to the LAN.
- Preparatory consultation (Systems Assurance) to determine optimum configuration using pre-tested and/or preinstalled configurations.
- Connectivity test:
  - Setup Host Groups and map LUNs on the array
  - Configure Zoning on switches
  - Using Host system diagnostic tools, verify that each Gateway can access LUNs.
  - Setup Shares on each Gateway.
  - Confirm clients can access shares.
- Configure Hi-Track to monitor each Gateway.

The Installation of the StorageTek SL500 consists of the following:

- Pre-Delivery Site Survey to confirm power availability, location, special access and requirements.
- Physical placement by Transportation Company if requested.
- Physical unpacking of SL500 subsystem and assembly/integration of any loose-pack options.
- Physical inspection of equipment after it is unpacked to ensure that no damage has occurred in shipping.
- Rack mount each SL500 Tape Library.
- Physical connection of power, Fibre cable interfaces to switches.
- Preparatory consultation (Systems Assurance) to determine optimum configuration using pre-tested and/or preinstalled configurations.
- Connectivity test:
  - Present Robot to the Backup Master
  - Present Tape drives to Media servers
  - Initiate Library Inventory from Backup Master
  - Initiate a test Backup.
- Confirm each host's startup and shutdown procedures complete normally.

The Installation of the Mainframe Virtual tape consists of the following:

- Pre-Delivery Site Survey to confirm power availability, location, and requirements.
- Physical unpacking of each Mainframe Virtual Tape device.
- Physical inspection of equipment after it is unpacked to ensure that no damage has occurred in shipping.
- Rack mount each Mainframe Virtual Tape device.
- Physical connection of power, Fibre cables to switches and ESCON or FICON cables to the Mainframe.
- Preparatory consultation (Systems Assurance) to determine optimum configuration using pre-tested and/or preinstalled configurations.
- Connectivity test:
  - o Setup Host Groups and map LUNs on the array
  - o Configure Zoning on switches
  - o Using Host system diagnostic tools, verify each Virtual Tape device can access its LUNs.
  - o Confirm Mainframe can perform backups to the Virtual Tape device.

The Installation of Host Bus Adapter (HBA) into New or Existing Servers consists of the following:

- Physical unpacking of Host Bus Adapters and physical inspection of equipment after it is unpacked to ensure that no damage has occurred in shipping.
- Coordinate a downtime window for existing servers to insert HBAs
- Insert HBA's into hosts and confirm required patches and drivers are installed.
- Physical connection of Fibre cable interfaces to switches.
- Connectivity test:
  - o Setup RAID Groups and LUNs
  - o Format the LUNs
  - o Setup Host Groups and map LUNs
  - o Configure Zoning on switches
  - o Using Host system diagnostic tools, verify that hosts can access LUNs.
- Configure at the Host level LUNs and install file systems.
- Confirm each host can write to and read from the Storage Array
- Confirm each host's startup and shutdown procedures complete normally.

Sofware Installation:

HiCommnad Storage Services Manager (HSSM) QuickStart (1-500 MAPS) Service

The HDS Global Solutions Services HSSM Quick Start Implementation service provides installation and configuration of the HDS HiCommand Storage Services Manager (HSSM) software and configuration for supported SAN devices and an associated Business Application using the following steps:

- Installation of base HSSM product
- Installation of HiCommand Device Manager in a manner necessary to support HSSM
- Discovery of all supported devices
- Configuration of up to ten (10) supported Servers

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- Configuration of up to three (3) HDS Storage Subsystems
- Configuration of one (1) non HDS Storage
- Limited to one (1) Datacenter
- Configuration of (two) 2 switch types, and a total of four (4) switches
- Configuration of one (1) QOS application to spindle on one server
- Setup one (1) organization with associated users and their roles
- Setup up to five (5) policies
- Setup sample Email forwarding and SNMP Forwarding
- Demonstrate functionality of Provisioning
- Demonstrate functionality of Asset Management
- Demonstrate functionality of Capacity Management
- Create two (2) customized report deliveries

These high-level phases will be followed during the project:

Phase 1
Planning: HDS will provide planning service that shall be complete within one week of onsite activities. As part of the planning phase, HDS will deploy HDS' automated device discovery and data collection tool that will collect site equipment information to help us validate HSSM support for site equipment product types and levels.

After the automated device discovery and data collection has been completed, the HDS consultant, HDS local team and Customer shall review the result of the equipment list provided by the HDS tool to verify supported levels, and discuss methods to handle any equipment that is not currently supported by HSSM.

The HDS consultant and Customer will also confirm the onsite project start date, and discuss other pre-requisite information.

Phase 2
The HDS consultant will conduct a project Kickoff meeting. During the meeting, the following will be discussed:

- Review SOW Scope, Project Approach, and Deliverables
- Review Site information and requirements
- Discuss and assign HDS and client responsibilities

Phase 3
The HDS consultant will install, configure and provide knowledge transfer according to the specification listed in the project scope above.

Phase 4
The HDS consultant will conduct a Project Close meeting, discuss the results of the HSSM Quick Start service, and present a final document that will contain information collected during the project, maintenance and support details, as well as recommendations for follow-up activities or services.

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QuickShadow QuickStart Service

HDS will provide Customer with the Open Systems QuickShadow™ Quick Start Service (the "Service"), as more fully described herein. The Service provides Customer with a basic QuickShadow production installation and informal coaching on the basics of installation, setup, and use of QuickShadow software that has been licensed by Customer from HDS for data replication within a single HDS storage product.

HDS will enable and configure QuickShadow and the host-based controlling software (RAID Manager/Command Controll Interface, CCI) on Customer equipment at the Service Location. The Service is limited to four days, one host platform type, five servers, one sub-system, one site (Service Location), 75 storage volumes or 1TB of data, and one HDS consultant.

The only tasks and deliverables HDS will undertake or deliver in providing the Service are those specifically set forth in this SOW. Should Customer want to add or change any task or deliverable set forth in the SOW, the HDS Project Coordinator will follow the change control procedures described in the Change Control section of this SOW.

The Services will be delivered in the following phases:

Project Kickoff Meeting Phase
HDS consultant(s) will hold a kickoff meeting with key Customer staff to review the project scope, approach, deliverables, and responsibilities of the parties.

Technical Product Overview Phase
Informal presentation outlining the technical capabilities of QuickShadow.

Solution Design Phase
Document Customer's storage configuration, develop functional test plan, prepare configuration diagrams.

Configuration Phase
Confirm storage configuration, review microcode version, apply mode settings, allocate command device, install RAID Manager/CCI, verify command device visibility, verify RAID Manager/CCI functionality, complete test Hitachi Online Remote Copy Manager (HORCM) configuration, create test pair, verify mirroring functionality, delete test pair.

Implementation Phase
Initialize HORCM production configuration, map production volumes to port, TID, LUN format, complete HORCM production configuration. Create production pairs, execute functional test plan, produce engagement documentation.

Project Closeout Phase
Post-installation knowledge transfer, documentation review and turnover; troubleshooting, support, and escalation procedures. HDS will provide an acceptance certificate for Customer's signature upon Project Completion.

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ShadowImage QuickStart Service for Universal Storage Platform (USP)

HDS will enable and configure ShadowImage™ and the host-based controlling software (RAID Manager/CCI) on Customer equipment at the Service Location (the "Service"). The Service will provide Customer with a basic ShadowImage production installation and informal coaching on the basics of installation, setup and use of ShadowImage software for data replication within a single HDS storage product.

This Service assists you with the project planning, installation, and configuration of ShadowImage necessary to achieve the Business Continuity benefits that an initial production deployment of ShadowImage Software provides for your Hitachi Freedom Storage environment.

- Mandatory, fixed price implementation service
- Provides support for up to 1TB of storage for the primary volume
- Provides support for up to 5 servers
- Support for 1 server type and 1 storage subsystem

The Service will be delivered in the following phases:

Project Kickoff Meeting Phase
HDS consultant(s) will hold a kickoff meeting with key Customer staff to review the project scope, approach, deliverables, and responsibilities of the parties.

Technical Product Overview Phase
Informal presentation outlining the technical capabilities of ShadowImage.

Solution Design Phase
Document storage configuration, develop functional test plan, prepare configuration diagrams.

Configuration Phase
Confirm storage configuration, review microcode version, apply mode settings, allocate command device, install RAID Manager/CCI, verify command device visibility, verify RAID Manager/CCI functionality, complete test Hitachi Online Remote Copy Manager (HORCM) configuration, create test pair, verify mirroring functionality, delete test pair.

Implementation Phase
Initialize HORCM production configuration, map production volumes to port, TID, LUN format, complete HORCM production configuration. Create production pairs, execute functional test plan, produce engagement documentation.

Project Closeout Phase
Post-installation knowledge transfer, documentation review and turnover; troubleshooting, support, and escalation procedures.

TagmaStore QuickStart Implementation Service

This Quick Start Implementation Service provides you with basic discovery, production, implementation, and environment documentation so that you may rapidly begin to leverage capabilities of the Universal Storage Platform.

The following deliverables are provided within the scope of this service:
- Basic discovery of your environment
- Mainframe - Basic system configuration - Includes configuration of HPAV Alias volumes
- Open Systems - Basic configuration - Includes configuration of Open System Fibre Port attributes, Host Group attributes, configuration of LUNs, and associated LUN Security attributes
- Basic documentation of implementation including host, connectivity and storage resources
- Knowledge transfer session for both Mainframe and open systems environments includes brief, high-level introduction to advanced Universal Storage Platform concepts and introduction to relevant services and solutions available to fully exploit the capabilities of the Universal Storage Platform

System Testing:

Each implementation plan has a system testing component. These tests are executed at the appropriate step in the implementation plan to determine that the hardware or software is properly installed and configured. The following is a summary of the tests that will be performed.

Hardware Testing:

Thunder 9500V:
- Confirm each host can write to and read from the Storage Array
- Confirm each host's startup and shutdown procedures complete normally.

Cisco MDS 9000 switches
- Confirm each host can connect to the appropriate Storage Ports.

SSG110E NAS Gateway
- Using Host system diagnostic tools, verify that each Gateway can display LUNs.
- Confirm clients can access shares.

StorageTek SL500
- Initiate Library Inventory from Backup Master
- Initiate a test Backup.
- Confirm each host's startup and shutdown procedures complete normally.

Mainframe Virtual tape

- Using Host system diagnostic tools, verify that each Virtual Tape device can access its LUNs.
- Confirm Mainframe can perform backups to the Virtual Tape device.

Host Bus Adapters

- Using Host system diagnostic tools, verify that hosts can access LUNs.

- Confirm each host can write to and read from the Storage Array
- Confirm each host's startup and shutdown procedures complete normally.

Software Testing:

HiCommnad Storage Services Manager (HSSM)

- Demonstrate functionality of Provisioning
- Demonstrate functionality of Asset Management
- Demonstrate functionality of Capacity Management
- Create two (2) customized report deliveries

ShadowImage for Universal Storage Platform (USP)
- Verify command device visibility
- Verify RAID Manager/CCI functionality
- Complete test Hitachi Online Remote Copy Manager (HORCM) configuration
- Create test pair
- Verify mirroring functionality
- Delete test pair.
- Create production pairs
- Execute functional test plan

System Acceptance:

Upon successful completion of each test plan for all hardware and software the system will be deemed complete and ready for customer acceptance.

System Production Support

All components of our solution come with 24 x 7 support from the vendor, which includes telephone support, on site repair, maintenance and trouble shooting. Structured Communication Systems also offers 24 x 7 support to assist in managing a complex multi-vendor solution. In addition to this support our proposal also includes training passes from Hitachi Data Systems. These training passes allow each student to take as much training as they would like during a 12 month period. This training could include hardware specific training, all Hitachi software, as well as Cisco switches, Veritas storage virtualization and more. We have also included 5 day training passes for Veritas NetBackup training. Knowledge transfer of each individual component within our solution should be considered a supplement to the formal vendor training. Documentation provided will provide the base line for operation of the solution as implemented.

Project Management and Quality Assurance

We utilize a life cycle methodology for project management and quality assurance. The project begins with an assessment. Understanding the needs of the customer allows us to design the right solution. The second phase of the life cycle is the design phase. Here we match the needs of the customer to market leading technologies. The design phase leads to the implementation phase. With our trained and experienced staff we implement the designed

solutions into the customer's operations. Throughout the implementation we consider the impact to existing policies and procedures and work with the customer to enhance their policies and procedures for the new technologies. After the implementation phase we move into the management phase. Here we tune the solution and adjust the technologies to maximize their benefit. We monitor changes in the environment as well as changes in the technologies and when there is a significant change in either one we begin the life cycle again with the assessment phase. Throughout the lifecycle of a project we have a formal change control process. If a change is necessary and can be accommodated within a particular phase documents are updated and all parties must agree to the changes. If a change is too significant to be accommodated within a particular phase then the life cycle is re initiated with at the assessment phase which could initiate redesign and an adjusted implementation plan to accommodate the change. Again all parties must agree to the initiation of the assessment phase.

Through out the execution of the project management life cycle we utilize tools such as Microsoft Project ^{TM} to assist in monitoring tasks, timelines and dependencies.

Anticipated Organization Chart
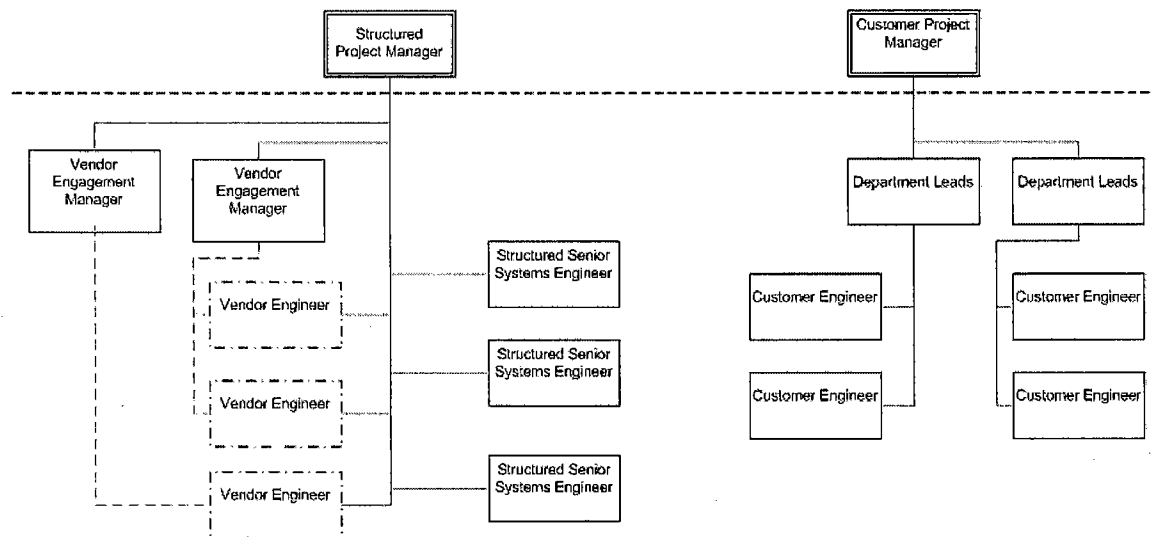
Detail staff requirements

Structured Communication Systems will provide all of the staff necessary to fully implement our solution. Where ever the vendors allow Structured trained and certified engineers perform authorized installations. In those areas that vendor require their own staff complete installations Structured Communication Systems works with the vendor engagement manager to coordinate all installation activities. As well Structured Communication Systems provides at least one of its Senior Systems Engineers to assist the vendor to maintain consistency with the overall solution design. Customer's staff are encouraged to participate in the installation to establish an initial understanding of the technologies and how they integrate. All work performed by Structured Communication Systems engineers or vendor engineers is on a fixed bid bases. No hourly rates apply

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Project Staffing
SECTION 3.3.4.7

Please indicate tasks, roles, and estimated number of hours required from your staff to implement your proposed solution.

Task Description	Staff Title Or Role	Estimated Hours To Complete Task
Project Management	Project Manager	80
Installation of the Thunder 9500V Distributed Enterprise Array	Senior Systems Engineer	16 ea.
Installation of the Cisco MDS 9000 switches	Senior Systems Engineer	6 ea
Installation of the SSG110E NAS Gateway	Vendor Engineer	16 ea
Installation of the StorageTek SL500	Vendor Engineer	10 ea
Installation of the Mainframe Virtual tape	Vendor Engineer	24 ea
The Installation of Host Bus Adapter (HBA)	Senior Systems Engineer	2 ea. system
HiCommnad Storage Services Manager (HSSM) QuickStart	Vendor Engineer	40
QuickShadow QuickStart Service	Vendor Engineer	40
True Copy Implementation Service	Vendor Engineer	120
ShadowImage QuickStart Service for Universal Storage Platform (USP)	Vendor Engineer	40
TagmaStore QuickStart Implementation Service	Vendor Engineer	40
Veritas NetBackup Implementation Service	Senior Systems Engineer	120

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Attachment 4 - San Solution Deliverables

The Contractor shall perform the tasks and provide the products listed below for the SAN Solution. The Contractor shall be expected to work closely with designated City BTS personnel to accomplish the following:

6.1   Supply all SAN hardware and software components and install, configure, and test the proposed SAN Solution by   , 2005.

6.2   Conduct the first full-scale storage implementation project by   , 2005.

6.3   Implement and test the Mainframe tape to disk storage by   , 2005.

6.4   Per Modified RFP Response, Section 3.3.4.6.4, remove NetApps by   , 2005.

6.5   Provide weekly written status reports to City Chief Technology Officer and the City Project Manager.

6.6   Provide on-going maintenance and support for a minimum period of three (3) years with a proposal for a five (5) year maintenance and support agreement.

6.7   Provide at least one (1) master and one (1) electronic copy of the SAN Solution hardware, operating software, system administration and training documentation.

6.8   Provide pre-/post-installation training for five (5) BTS staff members within five (5) days of installation. Include all training materials upon completion of the training.

All deliverables and resulting work products from the contract will become the property of the City of Portland.

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Attachment 5 – Environmental Requirements

Solutions Environmental's Attachment:

City of Portland HDS/Structured Solution Environmental Speci

Equipment HDS 9585V	Chassis size WxDxH (mm)	Mass (kg)	Input Voltage	Frequency	Phase	BTUs @ unit	Power kVA
RKH/RKHE	483x656x129	40	AC 100/200 (100-120/200-240) 16A	50/60 ± 1	Single-phase	1911	0.56
RKA	483x656x129	42	AC 100/200 (100-120/200-240) 16A	50/60 ± 1	Single-phase	2180	0.72
RKAAT	483x656x129	42	AC 100/200 (100-120/200-240) 16A	50/60 ± 1	Single-phase	1781	0.52
19" Rack	2006x609x900	136					
Cisco 9509	439x468x623	78	AC 100Ǧ240V (±10%) 16A	50/60 ±3	Single-phase	2805	0.8
Cisco 9120	436.9x586.7x445	12	AC 100Ǧ240V (±10%) max 4.5A	50/60 ±3	Single-phase	752	0.18
USP100	782x925x1860	820	AC 200V, 208V, or 230V 30A	60 Hz ± 0.5	Three-phase	4030	3.93

Distributed Solution:

Portland Building 9585:

QTY	Description	Size WxDxH (mm)	Weight (kg)	Extended weight (kg)		BTUs @ unit	Extended BTU	Power kVA	Extended Pow kVA
1	19" Rack	2006x609x900	136	136		0	0	0	0
1	RKHE		40	40		1911	1911	0.56	0.56
6	RKA		42	252		2180	13080	0.72	4.32
2	RKAAT		42	84		1781	3562	0.52	1.04
Totals:				**512**			**18553**		**5.92**

BOEC Building 9585:

QTY	Description	Size WxDxH (mm)	Weight (kg)	Extended weight (kg)		BTUs @ unit	Extended BTU	Power kVA	Extended Pow kVA
1	19" Rack	2006x609x900	136	136		0	0	0	0
1	RKHE		40	40		1911	1911	0.56	0.56
3	RKA		42	126		2180	6540	0.72	2.16
4	RKAAT		42	168		1781	7124	0.52	2.08
Totals:				**470**			**15575**		**4.8**

Tiered Solution:

Portland Building 9570:

QTY	Description	Size WxDxH (mm)	Weight (kg)	Extended weight (kg)		BTUs @ unit	Extended BTU	Power kVA	Extended Pow kVA
1	19" Rack	2006x609x900	136	136		0	0	0	0
1	RK		40	40		1911	1911	0.56	0.56
1	RKAAT		42	42		1781	1781	0.52	0.52
Totals:				**218**			**3692**		**1.08**

BOEC Building 9585:

QTY	Description	Size WxDxH (mm)	Weight (kg)	Extended weight (kg)		BTUs @ unit	Extended BTU	Power kVA	Extended Pow kVA
1	19" Rack	2006x609x900	136	136		0	0	0	0
1	RKHE		40	40		1911	1911	0.56	0.56
3	RKA		42	126		2180	6540	0.72	2.16
4	RKAAT		42	168		1781	7124	0.52	2.08
Totals:				**470**			**15575**		**4.8**

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Attachment 6 – Structured Mainframe Performance Guarantee

-----Original Message-----
From: Rothi, Paul
Sent: Wednesday, November 24, 2004 3:21 PM
To: Lampe, Matthew
Subject: FW: Structured Mainframe Performance Guarantee

This is an email I requested from Structured as a result of our conversations regarding the mainframe issues.

-Paul

From: Andrew Edgar [mailto:aedgar@structured.com]
Sent: Monday, November 15, 2004 10:41 AM
To: prothi@ci.portland.or.us
Cc: Jason Sparks; Ron Fowler; Bill Ketrenos; Colin.MacLean@hds.com
Subject: Structured Mainframe Performance Guarantee

Paul,

This is a follow-up from our conversation this morning concerning storage performance on the mainframe. Structured and Hitachi have no concerns about delivering satisfactory mainframe storage performance to The City of Portland. To support our lack of concern specific to Mainframe performance with the TagmaStore, Structured will provide a performance guarantee for the Mainframe Storage Environment. If the storage array does not meet or exceed the current performance levels as specified by the City of Portland, we will provide to the city any upgrades to the Mainframe storage environment, at no cost to the City of Portland to correct the identified performance issue.

Customer Satisfaction is paramount to Structured and Hitachi and having the City of Portland as a complete reference in everyway is a goal that we will deliver on.

Sincerely,

Andrew Edgar
VP Storage & Systems
Structured Communication Systems, Inc.
4382 SE International Way, Suite C
Portland, OR 97222
Ph. (503)513-4580, Cell. (503)887-5570
www.structured.com

Secure Technology Infrastructure

Attachment 7 – Warranty

100% DATA AVAILABILITY WARRANTY EXHIBIT

HDS warrants that the Equipment will provide the Customer with 100% data access for a period of twelve (12) months following the date of installation (the "Warranty Period").

If a Failure occurs during this Warranty Period, HDS will grant the Customer a credit equal to 30% of the purchase price of a similarly-configured array group. This credit will apply irrespective of whether such Failure appears to have been caused by one component or by multiple components. If more than one Failure occurs during the Warranty Period, the Customer will be entitled to a 30% credit for each such Failure; however, the aggregate of all credits for all such Failures shall not exceed 100% of the purchase price of an array group.

For purposes of this Warranty, a "Failure" means a loss of data caused by a malfunction of the Equipment making it unable to read or write data at the individual logical volume level.

A malfunction will not be classified as a "Failure" if it occurs outside of the Warranty Period or is caused by any of the following: (i) the environment, (ii) another vendor's equipment, (iii) the Customer, or (iv) if Hi-Track® detected a problem which required a scheduled component replacement and the Customer elected to defer such replacement.

From time to time, HDS and the Customer may agree that HDS will provide Customer with new or improved technology that may require modification to the Equipment's internal architecture. During such modification, the Customer may experience some Equipment downtime. However, such downtime is not deemed to be a Failure covered under this Warranty, and no credit will be allowed for any such downtime.

The Customer must satisfactorily document any Failure in order to qualify for this credit. The credit may be used toward the purchase of future HDS equipment or services.

HDS' obligations hereunder, and Customer's entitlement to the credit, are contingent upon the following:

a) The Customer must have Hi-Track® installed and operating.

b) An HDS Services Agreement or similar agreement governing the Equipment shall be in effect between Customer and HDS throughout the Warranty Period.

c) At the time when HDS is to perform its obligations under this Warranty, Customer shall not be in default or breach of any agreement between Customer and HDS governing or relating to the Equipment.

HDS' sole liability to Customer and Customer's exclusive remedy against HDS, for nonconformance with this Data Availability Warranty are the remedies stated in this Exhibit.

Note: Freedom Storage, Lightning 9900 and Hi-Track are trademarks of Hitachi Data Systems Corporation.

Special Terms and Conditions

The terms and conditions of Attachment 8, Licenses for Licensed Materials and Attachment 9, Maintenance Agreements, including those non-conflicting terms and conditions of the Agreement of which it is a part, shall apply to transactions in which Contractor furnishes the Products and Licensed Materials required in the Specifications and to Services furnished by the Contractor relating to such Products and Licensed Materials.

To the extent that the terms and conditions in these Attachments conflict with the Agreement, such terms and conditions supersede such conflicting conditions in the City Agreement with Contractor, with the exception of the following terms and conditions which are amended as follows:

Confidentiality.

Notwithstanding the City's good faith agreement not to disclose information submitted in confidence, the vendor understands that third persons may claim that the confidential information delivered to the City hereunder may be, by virtue of its possession by the City, a public record and subject to disclosure pursuant to the Oregon Public Records Law. The City agrees that in the event it receives a public records request for information submitted in confidence, the City will notify the vendor of said request and will inform the public records requestor that the records were submitted in confidence and are exempt from public disclosure under ORS 192.502(4). The City agrees not to disclose any information in confidence until a final unappealable order from a court or agency having the authority to issue such an order shall have been issued, and any such disclosure shall be the minimum necessary to comply with such order. In consideration thereof, vendor agrees to hold the City and its officers and employees harmless for the disclosure of confidential information if a court or agency orders the City to do so.

Governing Law.

This agreement shall be governed and interpreted in accordance with the laws of the State of Oregon.

Attachment 8 – Licenses for Licensed Materials

Hitachi Data Systems License Agreement

INDIRECT CHANNEL CUSTOMER AGREEMENT

Thank you for purchasing Hitachi Data Systems ("HDS") Products (meaning Equipment and licenses of Software) and Services (meaning Maintenance Service, Hi-Track® Service, Professional Services and any additional service performed for Customer by HDS). If you have any questions regarding this Agreement or any of our Products or Services please contact your HDS representative. This Indirect Channel Customer Agreement (the "Agreement") governs your use of Products and Services.

By signing below the parties have caused this Agreement to be duly executed by their respective authorized representatives.

Hitachi Data Systems Corporation	Customer
Agreed to:	Agreed to:
Hitachi Data Systems Corporation 750 Central Expressway Santa Clara, CA 95050-2627	
By: _____	By: _____
Printed Name:	Printed Name:
Date:	**Date:**

Section 1. Software (Licensed Software and Other Software) Licenses

A.   Generally: All Equipment shall include a fully paid-up personal and non-exclusive license to use the Equipment Software and Programs (collectively, "Licensed Software") accompanying or installed on any Equipment. All such licenses are granted subject to the terms and conditions hereunder. The license to use the Equipment Software is limited solely to the purpose of enabling the Equipment to function according to its specifications and for the Customer's internal business purposes. Customer may use the Programs only for its internal business purposes and internal data processing.

B.   Other Software: Customer's use of Other Software shall be governed by the related license including any restraint on transferability. Customer's recourse against HDS shall be limited to Other Software for which HDS is the licensor and to the extent provided for in the applicable license.

C.   Transferability: Customer may transfer possession of Licensed Software to a third-party provided that: (1) Customer purges all copies of Licensed Software remaining in its possession after such transfer, and (2) the third-party transferee is furnished with a legible and complete copy of this Agreement. HDS will provide the third-party transferee with a license for Equipment Software upon its acceptance of the terms of this Agreement applicable to Equipment Software by its initial use of the Equipment Software. HDS will provide the third-party transferee with a license for Programs upon its acceptance of the terms of this Agreement applicable to Programs and payment of the then standard license fees.

D.   Termination: Any Licensed Software license granted hereunder will terminate upon: (1) the licensing to Customer by HDS of any upgrade, revision or replacement for that Licensed Software, (2) the receipt of one month's written notice of termination for the Licensed Software by HDS from Customer, or (3) when Customer is no longer in possession of the Equipment. Upon such termination, Customer shall purge all original versions and back-up copies of the affected software.

E.   Back-up Copies: Customer may make a reasonable number of back-up copies of any Licensed Software to be used only as a necessary replacement of an original version so long as all proprietary and other notices are reproduced on the back-up copy as they exist on the original version. Customer shall maintain accurate records detailing the location of all original versions and back-up copies of Licensed Software.

Section 2. Services and Work Product

A.   Maintenance Services: HDS or its Contractors shall provide Maintenance Services to Customer during the Warranty Period. Any parts removed from the Equipment in the course of any Maintenance Services belong to HDS.

B.   Hi-Track® Services: Hi-Track Services, defined as remote diagnostic and monitoring services on an eligible item of Equipment, may be included as part of the Maintenance Service. As a condition to HDS providing Hi-Track Services, Customer shall provide and maintain, at its expense, telecommunications line(s) and access as specified by HDS. Hi-Track Services will not access Customer's data and HDS will maintain a Customer provided password as confidential information. Hi-Track Material shall remain with the Equipment.

C.   Professional Services:

(1)   Professional Services will be provided by HDS or its Contractors as described in and pursuant to the terms of the relevant Statement of Work.

(2)   Each Statement of Work shall include: (a) a detailed description of HDS' and Customer's respective responsibilities; (b) an estimated completion schedule including milestones if applicable to the Professional Services; (c) specific completion criteria that HDS is required to meet to fulfill its obligations under the Statement of Work; (d) payment terms; and (e) Identification of HDS and Customer contacts. The commencement date for Professional Services under any Statement of Work shall be specified in the applicable Statement of Work or, if no such date is set forth, the date on which HDS begins to perform Professional Services under the applicable Statement of Work. Any Statements of Work attached hereto or hereafter executed which are related to this Agreement are incorporated into and made a part of this Agreement.

(3)   To the extent that any provisions of this Agreement and the Statement of Work conflict, the terms of the Statement of Work shall control unless the Statement of Work is a Customer purchase order (or other business form furnished by Customer), in which case, regardless of when executed, accepted and delivered, this Agreement shall control. None of the provisions of a Customer purchase order (or other business form furnished by Customer), regardless of when executed and delivered, shall be binding on the parties other than the description of the Professional Services, the schedule of rates or fees and the location where the Professional Services are to be performed.

D.   Work Product: Customer acknowledges and agrees that HDS, its licensors, or its Contractors own all Work Product, except any Work Product identified in a Statement of Work as owned by Customer. To the extent that Customer and HDS own any Work Product, each hereby grants to the other a personal, nonexclusive and paid-up license to: (a) use the Work Product; (b) modify and prepare derivative works of the Work Product; and (c) reproduce, copy and display the Work Product; however, the Customer's license shall be limited to intra-company uses, modifications, derivations, distributions, reproductions, copying and displays for the sole benefit of Customer, its employees and representatives and solely for purposes of the Professional Services.

E.   Customer's Responsibilities: Customer shall be responsible for the following items which are not included as Maintenance Services: (1) providing and maintaining a suitable environment for the Products as specified by HDS; (2) performance of any electrical work external to an item of Equipment; (3) maintenance of accessories, attachments, and equipment; (4) painting, refinishing, or other refurbishment of Equipment; (5) repair of damage resulting from accident, transportation, non-HDS installed software or firmware, neglect, improper environmental conditions or any causes other than ordinary use; (6) movement or rearrangement of Equipment or cables, additional wiring, or repair to a previously prepared site or station to make it operational; (7) installation or removal of accessories, attachments or other devices, or the furnishing of supplies; (8) providing HDS or its Contractor with full, free, and safe access to Customer's sites and notifying HDS of any unsafe conditions or hazardous materials to which HDS personnel would or could be exposed to at Customer's site; and (9) obtaining certification of maintenance eligibility from the equipment manufacturer

or authorized service agent if required by HDS. Upon Customer's request, HDS may elect to perform any of Customer's responsibilities at HDS' then current time and expense rate.

Section 3. Confidential and Proprietary Information

A.   Generally:

(1)   Customer hereby agrees that all information furnished by HDS hereunder in written, other tangible or electronic form and clearly marked as being confidential, or if orally or visually furnished, identified as being confidential in a writing submitted to Customer within thirty (30) days after such oral or visual disclosure, shall be considered by Customer to be HDS' confidential information. Customer further agrees to maintain such HDS confidential information received hereunder in confidence utilizing the same degree of care it uses to protect its own confidential information of a similar nature and to not disclose such HDS confidential information to any third party or to employees of the receiving party without a need to know.

(2)   Hitachi IP constitutes work protected by state, federal and international laws applicable to proprietary rights and intellectual property rights.   Customer agrees all such property is owned exclusively by HDS or its licensors and not to take any action that may jeopardize any right, title or interest that HDS or its licensors may have in the property including, but not limited to, the removal or defacing of any notice, statement or legend that appears on any Hitachi IP. Except as expressly provided in this Agreement, Customer shall not acquire any right, title or interest in or to any Hitachi IP and shall, upon request, promptly return any Diagnostic and Service Related Material plus any copies.

B.   Restrictions: Except as expressly provided in this Agreement, without the prior written consent of HDS Customer shall not permit or engage in any activity related to the transfer (whether in whole or in part) or transformation including, but not limited to, decoding, reverse engineering, decompiling, translating, mirroring or creation of derivative works based on, developed from, or that incorporate portions of any Hitachi IP.

C.   Equitable Remedies: Customer acknowledges that any breach by it of the provisions of this Section 3 or any other confidentiality or use restriction herein will cause irreparable damage to HDS or its licensors and that a remedy at law will be inadequate. Therefore, in addition to any and all other remedies, HDS and its licensors will be entitled to injunctive relief for such breach. Customer shall immediately notify HDS of such breach and take all steps reasonably available to cure and prevent any subsequent violation.

Section 4. Warranties

A.   General: HDS warrants to Customer that: (1) unless otherwise stated, the Equipment and the related licensed internal code will be free from defects in materials and workmanship and conform to HDS' official published specifications for twelve (12) months; (2) it will provide all Services in a workmanlike manner; and (3) the Licensed Software will perform according to its written specifications for ninety (90) days from the date of installation. The Equipment may include used or re-manufactured components, which are warranted as new. Should any of the above not conform to their warranty, HDS will, provided that HDS is notified during the applicable Warranty Period, at its option and at no charge to Customer either repair or replace the Equipment or Licensed Software, or re-perform the Services.

B.   Limitations: HDS warranties do not cover any Licensed Software or Equipment that has been damaged by accident, neglect, misuse, abuse, or natural disaster, subjected to an unsuitable physical operating environment, not properly maintained in accordance with the procedures recommended by its supplier, or modified without HDS' prior written consent.

THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES WITH RESPECT TO PRODUCTS OR SERVICES. HDS DISCLAIMS, AND CUSTOMER HEREBY WAIVES, ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES INCLUDING THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY. HDS, ITS LICENSORS, VENDORS OR CONTRACTORS DO NOT WARRANT THAT PRODUCTS WILL OPERATE UNINTERRUPTED OR ERROR-FREE. EACH REMEDY FOR BREACH OF WARRANTY IN THIS SECTION SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND HDS' SOLE AND EXCLUSIVE LIABILITY.

Section 5. Infringement Indemnification

A.   General: If Customer notifies HDS promptly in writing of any action, HDS will defend that action, at its own expense, and pay the costs and damages awarded against Customer in the action to the extent that it is based on a claim that an item of Equipment, Services or Hitachi IP infringes a valid US patent or copyright provided that HDS has sole control over the defense of any such action and all negotiations for its settlement or compromise and Customer provides all reasonable assistance requested by HDS. Should any Hitachi IP, Services or Equipment become or, in HDS' opinion, likely become the subject of any infringement claim, HDS shall at its sole option and expense either procure for Customer the right to continue using or receiving the item, replace or modify it so it becomes non-infringing, or grant Customer a credit for the Hitachi IP, Services or Equipment as depreciated, on a five-year double declining balance schedule with no salvage value, and accept its return. This Section 5 states HDS' entire liability, and Customer's sole and exclusive remedy for intellectual property rights claims relating to or arising out of any Hitachi IP, Services or Equipment.

B.   Limitations: HDS shall also have no obligation to Customer if the alleged infringement is based on: (1) any modification made to the subject Hitachi IP, Services or Equipment (other than by HDS or its Contractor); (2) the integration, application, operation or use of the Hitachi IP, Services or Equipment with any other equipment, services or software not furnished by HDS or its Contractor; or (3) a violation by Customer of Section 1, 2B, or 3 of this Agreement.

Section 6. Agreement Termination

A.   Default: For the purposes of this Agreement, "Default" means: (1) a breach by Customer of any of its obligations in Section 1, 2B, or 3; (2) the failure of one party to cure a default under this Agreement (other than a default described in Section 6A(1), 6A(2) or 6A(3)) within 30 calendar days after delivery of a notice of default; (3) the insolvency of Customer; or (4) any action by Customer to wind-up, liquidate or otherwise cease doing business.

B.   Remedies Upon Default: In the event of a Default, the non-defaulting party shall have the immediate right to terminate this Agreement including any license granted hereunder; refuse to provide or suspend any Service; and exercise any other rights or remedies provided hereunder and/or available at law or in equity consistent with this Agreement. In the event of a termination, Customer shall promptly purge or destroy all applicable Hitachi IP and updates, and return all other property belonging to HDS or its licensors in Customer's possession or control (other than any licensed internal code).

C.   Survival: The provisions of this Agreement which by their nature would survive termination of this Agreement shall so survive.

Section 7. General

A.   Assignment: This Agreement shall obligate and benefit the parties and their permitted successors and assigns; provided, that Section 3 shall also benefit the licensors of HDS. Except for a Service transaction or software license (which may not be assigned by Customer), Customer may assign this Agreement only with the prior written consent of HDS, which consent shall not be unreasonably withheld. Any attempt by Customer to assign, transfer or delegate this Agreement or any rights or obligations under this Agreement in violation of this Section shall be void.

B.   Limitation of Liability: Should Customer be entitled to recover damages from HDS based on one or more claims for breach of contract, negligence, misrepresentation, or other contract or tort claim, HDS shall be liable only for: (1) its obligations in Section 5; (2) damages for bodily injury (including death) and damage to real property or tangible personal property; and (3) the amount of any other actual direct damages or loss. In the case of clause (3), the maximum aggregate liability of HDS shall not exceed the lesser of (a) the total amount paid to HDS by Customer for the Product or Service subject to the claim, or (b) five hundred thousand dollars ($500,000). Neither HDS nor its licensors or Contractors shall be liable for any special, indirect, incidental or consequential loss or damage of any kind or nature whatsoever, regardless of whether arising from breach of contract, warranty, tort, strict liability, or otherwise, even if advised of the possibility of the loss or damage or if the loss or damage could have been reasonably foreseen.

C.   Limitation on Claims: No action arising hereunder may be brought more than one year after the cause of action has accrued.

D.   Access: Upon request by HDS, Customer shall promptly provide HDS or its Contractor access to the location where any Hitachi IP is located and to all relevant books, records, officers, employees and representatives of Customer for the purpose of verifying compliance by Customer with this Agreement.

E.   Equipment Relocation: Customer agrees to give HDS at least 30 days' prior written notice of any change in location or arrangement of the Equipment.

F.   Notices: Any notice under this Agreement must be in writing and is deemed given and effective three business days after mailing first class, postage prepaid, when sent by facsimile and confirmed by first class mail, or when delivered by overnight express or other express delivery service, in each case to the parties at the address listed above.

G.   U.S. Export Policy: Customer acknowledges that U.S. laws, regulations and requirements regulate the export of U.S. origin products/technology and prohibit use, sale or re-export if Customer knows, or has reason to know, that such products/technology are for use in connection with the design, development, production, stockpiling or use of nuclear, chemical or biological weapons or missiles.

H.   Suspension of Obligations: The obligations hereunder shall be suspended to the extent that a party is hindered or prevented from performing them by acts of God, or any cause whatsoever not within its reasonable control.

I.   Governing Law: This Agreement, its interpretation and enforcement will be governed by the laws of the State of New York, without regard to its conflicts of law principles.

J.   Miscellaneous: This Agreement is the entire agreement of the parties, and supersedes all prior agreements and communications between the parties with respect to the subject matter of this Agreement, and represents the complete integration of the parties' agreement. If any provision of this Agreement shall be held invalid, illegal or unenforceable, the remaining provisions shall not be affected or impaired. This Agreement may be modified only by a written agreement executed by authorized officers of both HDS and Customer. No delay or omission to exercise any right or remedy accruing to HDS upon any breach or default of Customer shall impair that right or remedy, or be construed to be a waiver of any breach or default. A waiver by HDS of any breach or default under this Agreement must be in writing and executed by an authorized officer of HDS.

Section 8. Glossary of Terms

Contractor means an individual or organization under contract with HDS that may provide Services.

Customer means the person or entity identified on the signature page hereto as Customer and each of its permitted successors and assigns.

Diagnostic and Service Related Material means software, hardware, manuals and other documentation of HDS used or held for use by HDS or a Contractor to perform diagnostic Services or Maintenance Services. Diagnostic and Service Related Material does not include any Licensed Software, Other Software or Hi-Track Material.

Equipment means any one or more of data processing equipment, features, and accessories (excluding Hitachi IP) purchased through an HDS authorized reseller.

Equipment Software means computer software including licensed internal code, included as standard with an item of Equipment (other than any Other Software, Hi-Track, or Diagnostic and Service Related Material) and the related licensed materials (including, without limitation, documentation in any form) and all copies.

Hitachi IP means Hi-Track Material, Licensed Software, and Diagnostic and Service Related Material.

Hi-Track Material means hardware, software and/or microcode installed or operating with an eligible item of Equipment necessary for Hi-Track Services.

Maintenance Service includes: (a) the control and installation of engineering changes that HDS determines to be applicable to the Equipment; (b) preventive maintenance including necessary lubrication, adjustment, or replacement of unserviceable parts; and (c) unscheduled maintenance including repair, adjustment, or replacement of unserviceable parts as deemed necessary by HDS.

Other Software means computer software included with an item of Equipment, whether or not separately ordered, which is separately licensed (including licensed via shrink-wrap or click-wrap).

Professional Services means specific assistance services for technical tasks, consulting and systems integration as described in and provided by HDS or one of its Contractors pursuant to a Statement of Work.

Program means separately ordered computer software, except Other Software, included with an item of Equipment and the related licensed materials (including, without limitation, documentation in any form) and all copies.

Statement of Work means sequentially numbered documents which document and constitute the description of Professional Services HDS will render to Customer. A Statement of Work shall include the information described in Section 2.C.

Work Product means works of authorship, programs, program listings, programming tools, documentation, reports, drawings and similar works that HDS or a Contractor may deliver or cause to be delivered to Customer in connection with the performance of Professional Services. The term Work Product does not include any licensed internal code, computer software licensed by HDS, shrink-wrap or click-wrap software, diagnostic or service related materials or any Hi-Track® material of HDS.

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Attachment 9 – Maintenance Agreements

StorageTek Maintenance Agreement

STORAGETEK CUSTOMER PURCHASE AGREEMENT
GENERAL TERMS AND CONDITIONS
This StorageTek Customer Purchase Agreement ("CPA") is between Storage Technology Corporation with its principal place of business at One StorageTek Drive, Louisville, CO 80028 ("StorageTek") and customer as specified on the StorageTek website ("Customer"). StorageTek and Customer are referred to collectively as the "parties" or individually as a "party." BY COMPLETING THE APPLICATION PROCESS ON STORAGETEK'S WEBSITE, WHICH INCLUDES CLICKING AN ACCEPTANCE BUTTON, CUSTOMER AGREES TO THE TERMS AND CONDITIONS OF THIS CPA. CUSTOMER'S EMPLOYEE ACCEPTING THE TERMS OF THIS CPA REPRESENT THEY ARE DULY AUTHORIZED TO ENTER INTO SUCH AGREEMENTS ON BEHALF OF CUSTOMER.

1. DEFINITIONS.

   "Consulting Services" – all StorageTek services, other than Product support, performed under an SOW.

   "Deliverable" – any tangible work product (and any improvements), other than Software, resulting from the performance of any Services, and any technology, designs, inventions, developments, ideas, processes or other works, relating to the tangible work product.

   "General Code" – all Software other than Internal Code and Maintenance Code.

   "Hardware" - the computer hardware, and other hardware and tangible items, distributed or made commercially available by StorageTek, and listed on an Order accepted by StorageTek.

   "Internal Code" - all Software that comprises firmware of the Hardware that is internal to and executes below the user interface of the Hardware and is necessary to perform its operating functions, except Maintenance Code.

   "Internal Use" - use internally by Customer for its own benefit and not for transferring to any third party through reselling, sublicensing, subcontracting, or providing a service (such as time share or service bureau arrangement), except as permitted under this CPA.

   "Maintenance Code" - all Software used in providing Product support, including, without limitation, Software shipped with Hardware, Software provided in connection with the Product support, remote diagnostic Software, and technical training Software.

"Orders" – Purchase Orders and Schedules that meet the requirements of this CPA, collectively.
"Products" – Hardware and Software, collectively.
"Purchase Order" - a purchase order or other document, other than a Schedule, submitted by Customer to StorageTek to order Products or Product support under this CPA.
"Schedule" - the StorageTek-provided document for ordering Products or support under this CPA.
"Services" – Product support and Consulting Services, collectively.
"Software" – any computer software (including data and databases) and other materials such as flow charts, logic diagrams, documentation, manuals, media and listings for use with the computer software, that is: (1) listed on an Order or SOW accepted by StorageTek; (2) provided by StorageTek to Customer with any Hardware or Services; or (3) otherwise obtained by Customer from StorageTek.

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"SOW" – a written statement of work, signed by both parties, made under, and referring to, this CPA that describes specific services to be performed by StorageTek.
"Third-Party Code" – any portion of the Software owned or provided by third-party licensors of StorageTek.
2. ORDERING. Schedules are intended to be the primary form of Orders used under this CPA, but Customer may use

Purchase Orders. Customer must, however, use an SOW when ordering Consulting Services. All Orders are subject to StorageTek's acceptance. All Orders must reference this CPA and be signed by Customer, and must contain: (a) a description of the Products or Services being ordered; (b) the purchase price for all Hardware, license fee for all Software, and fees for all Services; © the installation site (address where Products are installed or Services performed); (d) the warranty period; and (e) any period of Services for the listed Products.

3. DELIVERY AND TITLE. Title and risk of loss for Hardware and Software media (but not the Software itself) transfers to Customer upon StorageTek's delivery to a common carrier selected by StorageTek. StorageTek does not provide transit insurance.
4. SERVICES.
    (a) Product Support. Customer may Order Hardware or Software support for an additional fee. StorageTek will provide the support according to the specifications described on the StorageTek web site at StorageTek

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http://www.storagetek.com/support services/tekcare.html. If Customer does not order support for a Product when ordering that Product, then Customer may order support at a later date at StorageTek's then-applicable rates, provided that the Product is then eligible for support. If Software is associated with the operation of Hardware, and Customer orders support for the Hardware, then Customer must also order support for the associated Software at an equal level (to the extent that the level is offered by StorageTek) in order to obtain support for the Hardware. The foregoing also applies to support for Hardware if Customer initially places an order for support for Software associated with that Hardware.
    (b) Consulting Services. StorageTek will provide to Customer the Consulting Services described in each SOW under the terms of that SOW and this CPA. If StorageTek performs any additional services at the request of Customer without the services being included in an SOW, then Customer agrees: (i) to pay StorageTek its prevailing rates for these services, and (ii) that this CPA will govern the performance of those services. Unless stated in an SOW: (1) Customer agrees to perform all obligations in each SOW and this CPA; (2) Customer represents that information listed in the "Assumptions" section of each SOW is correct when executed; (3) for each SOW the parties will each assign a project manager to facilitate the efficient provision of Consulting Services under that SOW; and (4) Consulting Services will be provided primarily during a standard Monday through Friday 8:00 am to 5:00 pm work day (however, the parties recognize that on occasion Consulting Services may require scheduling outside those standard hours). The Consulting Services, Deliverables, fees and other obligations specified in an SOW are based upon the information that the Customer provides to StorageTek. Customer acknowledges that any change in this information, or Customer's failure to perform its obligations, may result in delays and cost increases, and may affect StorageTek's ability to provide the Consulting Services. If Consulting Services are delayed or costs are increased because of inaccurate information or Customer's failure to perform its obligations, those delays and costs will be charged to Customer at StorageTek's then-standard time-and-materials rates. Increased costs may include time during which StorageTek consultants are underused.

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(c) **Additional Customer Obligations.** Customer agrees to provide StorageTek with all access to and rights to use Customer's facilities and data processing equipment, and to make available trained personnel capable of answering StorageTek's questions about Customer's data processing equipment and procedures, as reasonably required to perform the Services. If Services are performed at Customer's location, Customer will provide office space and facilities for StorageTek's staff equal to those provided to its own employees to the extent reasonably required to perform the Services.

(d) **Service Items.** StorageTek may use and store certain materials, equipment and other tools ("**Service Items**") at Customer's facilities while performing the Services. All Service Items belong to StorageTek, and Customer will not access or use the Service Items (or permit third parties to do so). StorageTek may at any time remove, replace, modify or disable any Service Items upon reasonable notice to Customer. StorageTek is not responsible for any delays or degradations in Services due to a delay by Customer allowing the removal, replacement, modification or disabling.

(e) **Additional Terms for Services.** Unless the Order or SOW states otherwise, all Services are accepted when delivered.Customer agrees that Products are not provided under any Services (even if specifically mentioned in an SOW). Products are provided only under an Order. Customer may not return Products due to dissatisfaction with Services.

(f) **Additional Resources.** StorageTek may supplement its resources, which may include the use of subcontractors and independent contractors. StorageTek is responsible for the supervision of its subcontractors and independent contractors and is solely authorized (as between StorageTek and Customer) to instruct its employees, subcontractors or independent contractors.

PAYMENT. Customer will pay the fees and charges listed on accepted Orders and SOWs. The preferred method of payment is by Electronic Funds Transfer ("EFT"). Please email your EFT forms to: eftpaymentadvice@stortek.com or fax them

1. to: Storage Technology Corporation attention: Treasury/EFT at 303-673-2837. Discounts will not be offered for paying by

EFT. Wiring instructions will be provided upon request. Customer will reimburse StorageTek for expenses listed on Orders and SOWs for Services, and for actual and reasonable travel and out-of-pocket expenses incurred in performing the Services.

Unless the Order or SOW states otherwise, Customer will pay the fees, charges and expenses within 30 days of the date on theinvoice, except for Product support fees, which are due in advance on the first day of the month in which the Services are provided. If StorageTek does not invoice Customer promptly, Customer must still pay for the fees, charges or expenses. Customer is responsible to pay all taxes that generally apply to sales and licenses, such as sales tax, withholding tax, or duties. StorageTek is entitled to, after providing 10 days' prior notice that payments are overdue, (i) charge interest at the rate of 1.5% per month (or the permissible legal rate, if lower), and (ii) in the case of late payment for Services, stop providing the Services. Customer will reimburse StorageTek for any freight charges. StorageTek may increase Services pricing annually upon notice to Customer.

6. WARRANTY AND DISCLAIMER.
    (a) **Product Warranty.** The terms of the "StorageTek Limited Warranty" and each "Product Limited Warranty," both located on the web site at

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http://www.storagetek.com/global/product_warranties.html, will apply to the Products (excluding any Third Party Code). Besides these warranties, Customer may at an additional charge purchase from StorageTek upgrades to these warranties that StorageTek makes generally available. The Products eligible for the upgrades, and the terms applying to the upgrades, are located at the web site at http://www.storagetek.com/support_services/tekcare.html. These warranties and any upgrades do not apply to problems that arise from: (i) accident, neglect, or causes not attributable to normal wear and tear; (ii) problems relating to items or services with which any Product is used; (iii) installation not according to StorageTek's instructions
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or specifications; (iv) use in an environment, in a manner or for a purpose for which the Product was not designed; (v) installation, modification or repair by anyone other than StorageTek or its authorized representatives; or (vi) Products that have
been attached to non-StorageTek equipment without StorageTek's consent. Customer's only remedies under these warranties and any upgrades will be: (1) to repair or replace (at StorageTek's option) the affected Product; or (2) if the remedy of repair or replace fails its essential purpose, StorageTek will refund the invoice price paid (net of discounts) by Customer upon return of the affected Product.

    (b) **Services Warranty.** Unless stated in the SOW, all Services will be performed in a good and workmanlike manner, according to industry standards. Customer must notify StorageTek within 30 days after performance of Services if the Services do not conform to this warranty. Customer's only remedy for breach of this warranty is for StorageTek to re-perform the Services.

    (c) **Limitation.** THE TERMS OF THIS SECTION WILL GOVERN OVER ANY CONFLICTING WARRANTY TERMS ON ANY REFERENCED WEB SITE. EXCEPT FOR THE WARRANTIES STATED OR REFERENCED IN THIS SECTION, STORAGETEK DISCLAIMS ALL OTHER WARRANTIES, OBLIGATIONS OR LIABILITIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, ARISING BY LAW OR OTHERWISE, INCLUDING WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, OR USAGE OF TRADE.

7. RIGHTS IN SOFTWARE AND DELIVERABLES.

    (a) **Internal Code.** StorageTek grants Customer a limited, nonexclusive license to use the Internal Code, only in the normal operation of the Hardware on which it is installed by StorageTek. Customer may transfer possession of Internal Code only with the transfer of that Hardware, and Customer's license to use the Internal Code discontinues when Customer no longer owns that Hardware. Customer agrees to give StorageTek 30 days' prior notice of a transfer, and to restrict the transferee's rights to use the Internal Code in a manner consistent with this CPA.

    (b) **General Code.** StorageTek grants Customer a limited, nonexclusive, nontransferable license to use the General Code, only on the Hardware, and any Customer machine, identified on the accepted Order for the General Code. Customer must use the General Code only in the normal operation of the related Hardware or Customer machine, and only up to the permitted scope of the license or number of slots (as stated on the accepted Order for the General Code).

    (c) **Maintenance Code.** StorageTek does not grant Customer any license or right in or to any Maintenance Code. If Customer terminates Hardware support or transfers Hardware to another party under this Section, StorageTek has the right to remove or disable Maintenance Code on that Hardware.

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(d) **Deliverables.** When any Deliverable is completed and payment for the Deliverable has been received, unless otherwise stated in the SOW, StorageTek grants to Customer a limited, nonexclusive, nontransferable license to use the Deliverable, only in support of Customer's permitted use of the Products under this CPA. Where the Deliverable is a derivative work or extension embodying or based upon an underlying work, this license is made subject to any intellectual property rights in the underlying work.

(e) **Additional Rights and Restrictions.** Customer may use Software in a backup machine at the installation site for no more than 60 days while the machine on which the Software is loaded becomes temporarily inoperable during an emergency or for disaster recovery. Customer may change the machine on which the Software (except for any Internal Code) is used by giving StorageTek 30 days' prior notice, and listing the new machine's model, serial number, location and the effective date of the change. The change may result in an additional charge to Customer if the model of the substituted machine requires more than the permitted capacity or scope of license originally ordered. Customer may make one copy of the Software (except for any Internal Code) for backup and archival purposes. All rights and licenses granted in or to any Software or Deliverables: (i) are limited to Internal Use in object code form; (ii) are limited to use within the United States; and (iii) continue for as long as Customer complies with this CPA. Customer may not: (1) modify or alter the Software or deliverable; (2) reverse engineer, reverse assemble, translate, or reduce to human readable form any Software or Deliverable (except as may be allowed under applicable law); or (3) use any Software or Deliverable in any other way not expressly permitted in this CPA. Customer may not use any Software or Deliverable for the development or marketing of any software or hardware product that is competitive or compatible with the Products.

(f) **Additional Licenses.** Despite the rights and licenses granted in this CPA, the use of any Software provided with a separate license agreement (including any "break-the-seal," "shrink-wrap," "click-to-accept" license) will be governed by the terms of that license.

8. **OWNERSHIP.** The Software, Deliverables, and all related intellectual property rights are StorageTek's property. StorageTek does not transfer any ownership rights to Software or Deliverables under this CPA. If Customer is permitted to make copies of Software or Deliverables, Customer must reproduce and include any copyright or proprietary notices in the copies.

9. **ENFORCEMENT.** Customer acknowledges that StorageTek has incorporated into its Products use-based disabling devices or other electronic license enforcement mechanisms that intentionally limit Customer's ability to use the Product(s) if Customer attempts to use the Product(s) beyond the terms or scope of Customer's license. Customer is responsible for obtaining StorageTek US FORM CPA Online 10 Aug 04

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additional access codes from StorageTek to increase the scope of license or authorization. StorageTek is not liable for damages if Customer does not obtain and use the access codes.

10. **RESTRICTED RIGHTS.** If Customer delivers Services to an entity of the United States Government that may be provided with use or access to the Software, Customer will ensure that any U.S. Government customer receives only the rights in the

Restricted Rights Legend below regarding the Software as well as any associated technical data. Customer will further place the following legend on all media that contains Software: *Use, duplication or disclosure by the Government is subject to restrictions for commercial computer software and will be deemed restricted rights software as in subparagraph ©(2) of the FAR at 48 CFR 52.227-19, or as in Clause 252.227-7013© of the DFARS, as applicable. Manufacturer is Storage Technology Corporation, One StorageTek Drive, Louisville, Colorado 80028-4309.*

11. AUDIT. Customer agrees that, upon written request and no more than once per year, StorageTek may conduct an audit at its expense of the applicable Customer facilities, products and records to determine whether Customer complies with the terms of this CPA or the scope of its license. StorageTek's employees and agents will, while on Customer's premises, comply with facility rules and regulations, including any standards for security, to the extent that those rules and regulations do not thwart the intent of the audit.

12. RESELLER PURCHASES. Except for Sections 2, 3, 5 and 7(a), this CPA will apply to Services or Software purchases by Customer through a StorageTek authorized reseller ("Reseller"). Pricing and payment terms, however, for the Services or Software will be determined between the Reseller and Customer. Customer must execute a separate StorageTek software schedule when ordering Software through a Reseller, except that the use of Software provided with a separate license agreement (including any "break-the-seal," "shrink-wrap," "click-to-accept" license) will be governed by the terms of that license. Customer must use an SOW when ordering Consulting Services through a Reseller.

13. INDEMNIFICATION.

   (a) Infringement Indemnity. If Customer complies with this CPA, StorageTek will defend and indemnify Customer against any third-party claim made against Customer that the use of any Products sold or licensed under this CPA (excluding Third-Party Code) infringes a United States patent, copyright or misappropriates a trade secret, and will pay the amount of any resulting adverse final judgment (or settlement to which StorageTek consents) including pre-approved attorneys' fees. StorageTek has no obligation to defend or indemnify if the third party claim arises from: (i) use of the Product for a purpose or in a manner for which the Product was not designed or intended; (ii) use of a Product in combination with software, devices or business processes not supplied by StorageTek, to the extent that the combination caused the infringement; (iii) Customer or third party modifications of Products; to the extent that the modification caused the infringement; (iv) the distribution of any Product to, or its use for the benefit of, any third party; (v) damages due to the use of non-StorageTek products, data or business processes; (vi) specifications, software or other materials not provided by StorageTek; or (vii) the use of an allegedly infringing version of any Product, if the alleged infringement could be avoided by the use of a different version or engineering change made available by StorageTek at no additional charge. Customer will reimburse StorageTek for any costs or damages incurred by StorageTek that result from the actions in (i)-(vi) above. If any claim that StorageTek is obligated to defend has happened, or in StorageTek's opinion may happen, Customer permits StorageTek, at StorageTek's option and expense, either to get Customer the right to continue using the Product or replace or modify the Product so that it becomes non-infringing. If these alternatives are not reasonably available, Customer will return the infringing Product, on StorageTek's written request, and StorageTek will refund the net invoice price or the license fee for the infringing Product, less a deduction for depreciation equal to 20% of the purchase price or license fee paid by Customer for each year or part of a year since the date of purchase or license. THIS SECTION STATES CUSTOMER'S ONLY REMEDY FOR INTELLECTUAL PROPERTY INFRINGEMENT

CLAIMS.

   (b) Mutual Indemnity. StorageTek and Customer will each defend and indemnify the other party against any claim or action brought against the other party arising from their own negligence, gross negligence or willful misconduct.

(c) **Conditions.** Each party will defend and indemnify the other party under this Section if the indemnified party: (i) promptly notifies the indemnifying party of the claim for defense or indemnification; (ii) cooperates with the indemnifying party in defending the claim; and (iii) grants the indemnifying party sole control of the defense or settlement.

14. **LIMITATIONS OF LIABILITY.** EXCEPT FOR LIABILITY ARISING UNDER SECTION 13, STORAGETEK'S LIABILITY TO CUSTOMER, REGARDLESS OF THE BASIS OF LIABILITY OR THE FORM OF ACTION, WILL NOT EXCEED THE GREATER OF: (A) THE TOTAL PRICE CUSTOMER PAID STORAGETEK, NET OF ALL DISCOUNTS AND REFUNDS, FOR THE PRODUCTS OR SERVICES CAUSING THE LIABILITY; OR (B) $100,000. EXCEPT FOR CLAIMS ARISING UNDER SECTIONS 7 OR 13(B), NEITHER PARTY WILL EVER BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS BY ANYONE, LOST PROFITS OR LOST REVENUES, LOSS OR RECONSTRUCTION OF DATA, LOSS OF ACCESS StorageTek US FORM CPA Online 10 Aug 04

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TO DATA, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF CONTRACT, NEGLIGENCE OR OTHERWISE, AND REGARDLESS OF WHETHER THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES.

15. **TERMINATION.** This CPA may be terminated: (a) by either party after 30 days' notice of, and failure to cure, any material breach by the other party; (b) at will by either party with 90 days' notice to the other party; or (c) by StorageTek, immediately with notice upon a breach of any of the license provisions relating to Software. Upon a termination of this CPA for any reason: (i) the terms of this CPA will remain in effect until obligations required to be performed by either party before termination, but that remain unperformed at the time of termination, are performed; and (ii) all other rights and obligations of the parties under this CPA will automatically terminate, except for rights granted to the Software and Deliverables and any rights accruing prior to termination and any obligations which are intended to survive termination (such as the terms associated with any SOW). But if this CPA is terminated due to Customer's material breach, all rights granted to Customer under this CPA (including rights to any Software or Deliverables) will cease, and Customer will immediately return or destroy all Software and Deliverables, and certify the destruction of the Software and Deliverables in writing signed by an executive officer. If Customer terminates Product support (other than due to StorageTek's material breach) or StorageTek terminates Product support due to Customer's material breach, in each case, before the expiration of the Product support term, early termination fees will apply. The termination fee (which is due net 30 to StorageTek from date of termination) will be an amount equal to: (0.20) x (monthly charge for the Product support) x (number of months remaining in the term for the Product support). The termination fee will not prevent StorageTek from seeking any other available remedies for Customer's breach of this CPA.

16. **ARBITRATION.** Any dispute relating to this CPA will be resolved by binding arbitration under the commercial rules, but not the administration, of the American Arbitration Association. The Federal Arbitration Act 9 USC Sections 1-16 will govern the arbitrability of any dispute. This Section does not limit the parties from seeking judicial relief to maintain the *status quo* until the arbitration award is rendered or the dispute is resolved. The arbitration will be in Boulder County, Colorado. Within 10 days of service of a demand for arbitration, the parties shall appoint a sole arbitrator. If the parties are unable to agree upon a sole arbitrator within the 10 day period, then either party may request from the Judicial Arbiter Group ("JAG") a list of 3 JAG Arbiters. Within 20 days of service of the demand for arbitration, first Customer, and then StorageTek, may eliminate 1 JAG Arbiter from the list of 3, and the remaining JAG Arbiter will be appointed by the parties as the sole arbitrator. The

arbitrator may only award equitable relief and compensatory damages, as limited by this CPA, and may not award punitive damages or other noncompensatory damages. The fees, expenses and costs of the arbitrator will be borne equally by the parties. The decision of the arbitrator may not be appealed or modified, except as provided in the Federal Arbitration Act. Either party may apply to any court having jurisdiction to enforce the decision of the arbitrator. The demand for arbitration, the arbitration proceedings and the arbitrator's award are confidential. But the parties may cancel or terminate this CPA according to its terms without being required to follow the procedures in this Section.

17. **MISCELLANEOUS.** This CPA is the entire agreement between the parties and supersedes all other agreements, oral or written. StorageTek may revise the information available at any web site referenced by this CPA, or designate other web sites or sources from which to obtain the information. All revisions will be effective upon publishing by StorageTek on the worldwide web (or through any such other source). Except for the preceding sentence, this CPA may only be amended or modified upon mutual written agreement. This CPA will be governed and interpreted according to the laws of the State of Colorado without regard to its conflicts of laws provisions. Subject to Section 16, the Federal and State Courts having jurisdiction over Denver, Colorado (USA) will have sole jurisdiction over any disputes arising under this CPA, and the parties agree to the personal jurisdiction of those courts. If any part of this CPA is for any reason found unenforceable, but the remainder of this CPA can be substantially performed and neither party is materially prejudiced by such substantial performance, then the CPA will be enforced to the extent permitted by law. Each party will obtain the prior written approval of the other party prior to any press release or other publicity relating to this CPA, and the approval will not be unreasonably withheld or delayed. Neither party will be liable for delays in manufacturing, shipping or delivery, or failure to manufacture, ship or deliver Products, or to otherwise perform any obligation under this CPA, due to any cause beyond its reasonable control, provided that the party gives prompt notice and makes all reasonable efforts to perform, except that nothing in this provision will affect Customer's obligation to make payments under this CPA. Customer may not assign or transfer this CPA, or delegate any performance under this CPA, without StorageTek's prior written consent, which will not be unreasonably withheld or delayed. Either party may waive any right, privilege, breach or performance under this CPA, but the waiver will only waive the specific right, privilege, breach or performance and not any prior or subsequent right, privilege, breach or performance under this CPA. The waiver by either party of a breach of any provision of this CPA will not waive the provision itself. Customer will adhere to applicable export laws and regulations and may not export or re-export, directly or indirectly, any Product, unless authorized in writing by StorageTek. Any notice required or permitted by this CPA must be in writing. Receipt will happen on the earliest of: (a) actual receipt, regardless of the method of delivery, (b) the delivery day following dispatch if sent by reputable overnight carrier, (c) the sixth day after mailing by registered or certified United States mail, return receipt requested, postage prepaid or (d) upon confirmation of receipt if sent by facsimile or electronic mail, and in each case must be sent to the address, facsimile number or e-mail address, as applicable, set forth on the Business Page. Each party will promptly notify the other of any changes to the information on the StorageTek US FORM CPA Online 10 Aug

STORAGETEK CONFIDENTIAL
Business Page. Customer acknowledges that StorageTek manufactures general-purpose computer data storage devices and software.

STORAGE TECHNOLOGY CORPORATION
MASTER LICENSE AGREEMENT FOR SOFTWARE – INDIRECT CHANNEL
CONTRACT

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StorageTek's telephone Software Support Center(s), and the Customer will be expected to cooperate with StorageTek to assist in the diagnosis of any problems by providing requested information regarding any Software problem that may be occurring at the Customer's site. StorageTek may discontinue Program Services for any Software on 12 months' written notice, although Customer's obligation to pay MLCs remains in full effect. In addition, when subsequent releases or versions become available, StorageTek may discontinue Program Services for any or all prior releases and versions on 6 months' prior notice; although Customer's obligation to pay MLCs remains in full effect, provided however, that StorageTek will at all times support the current release, until such time as StorageTek may declare End of Life for such Software, solely at its election and upon written notice to Customer. StorageTek will have the right to refuse to provide Program Services or to assess a reasonable charge for any additional time and/or materials which results from providing Program Services for Software that has been altered by anyone but StorageTek, or a release or version which is not currently supported as provided above.

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In no event shall StorageTek's cumulative liability for damages with respect to Software delivered to Customer in any calendar year exceed the greater of $100,000 or the total amount paid by Customer for the specific Software involved in Customer's claim. This limitation shall not apply to the cost of the indemnity for claims of patent and proprietary rights infringement below or claims for personal injury or tangible property damage.

Patent and Proprietary Rights Indemnity. StorageTek will defend, at its own expense, any action brought against Customer to the extent that it is based upon a claim that a Software infringes upon any United States patent, copyright, trademark, mask work right, trade secret or other proprietary right and will satisfy Customer's obligation under any settlement or judgment in such. As a condition to receiving this indemnity, Customer must (i) give StorageTek prompt notice that such action has been commenced or threatened, (ii) permit StorageTek to have sole control of the defense and settlement of such action, (iii) provide reasonable assistance and cooperation to StorageTek, at StorageTek's expense, in defending such action, (iv) if StorageTek so elects, permit StorageTek to replace or modify the Software, without materially affecting its functionality, so that it becomes non-infringing and (v) if StorageTek so elects, return the allegedly infringing Software to StorageTek and accept an amount equal to the original price of the Initial License Charge or One- Time License Charge less accumulated depreciation. The foregoing indemnity will not apply to a claim asserted by a parent, subsidiary or affiliate of Customer or a claim based upon (i) the use of Software in combination with a non-StorageTek product, (ii) the use of Software other than for its normal purpose or (iii) a modification to the Software not authorized in writing by StorageTek.

Restricted Rights. If Customer is the United States Government, Customer shall obtain only "Restricted Rights" (as defined in the Federal Acquisition Regulation) in the Software, and only "Limited Rights" (as defined in the Federal Acquisition Regulation) in any associated technical data, and Customer will place the following legend on all media which contains Software: Restricted Rights Legend. Use, duplication or disclosure by the Government is subject to restrictions for commercial computer software and shall be deemed restricted rights software as set forth in subparagraph (c)(2) of the FAR at 48 CFR 52.227-19, or as set forth in Clause 252.227-7013(c) of the DFARS, as applicable. Manufacturer is Storage Technology Corporation, One StorageTek Drive, Louisville, Colorado 80028-0001.

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"Customer:"
Customer Name:
Street Address:
City, State, ZIP:
Phone:
Fax:
Contact Name:
E-Mail:
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Storage Technology Corporation
Customer
Signature Signature
Print or Typed Name Print or Typed Name
Title Title
Date Date

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StorageTek Product Support Service Specification - Elite Support

Global Support Services

Offering description

Elite is a service offering that provides access to technical information and same day onsite support 24 hours a day, every day of the year (24x365) for all StorageTek equipment related issues. All equipment within a product line must be maintained with the same level service offering at a site location.

Offering attributes

Customer Resource Center (24x7)

Elite provides Internet access to StorageTek's Customer Resource Center (CRC) 24 hours a day, seven days a week (24x7). This allows viewing of technical information such as frequently asked questions, technical bulletins, and online documentation. In addition, Elite provides access to an engineering change database and the ability to download engineering change information as well as code fixes and patches. Elite Customers must request a logon and password to access the CRC.

Telephone support (24x7)

Elite Customers will have 24x7 access to StorageTek technical resources in the event they are unable to resolve an issue on their own. The Customer will call StorageTek where a technical analyst will assist Customer with problem isolation, technical questions, or equipment operation.

Onsite (24x365)

Elite Customers are entitled to onsite service 24 hours a day, every day of the year, with a 2 hour target response time if the site is within fifty (50) miles of a StorageTek service facility. This means that a trained StorageTek Customer Engineer will be dispatched to Customer's premises upon receipt of a Customer call for assistance, unless the problem is resolved or Customer agrees that no onsite service is required. Onsiteservice at a location more than fifty (50) miles from a StorageTek's service facility may be subject to a surcharge and arrival time will be on a commercially reasonable basis.

Spares support

The Elite offering includes the cost of all replacement parts required to correct a hardware problem. Spare parts are strategically located near every major metropolitan area, which allows StorageTek to respond to equipment failures at Customer site in a timely manner. While StorageTek makes no response time commitment, every effort is made to deliver a required part to Customer site as quickly as possible upon notification of a failed hardware component.

Remedial maintenance

Customers selecting Elite are entitled to complete problem resolution by StorageTek. Initial resolution activities will take place via telephone. If the problem cannot be resolved remotely, StorageTek will dispatch a technical representative to the Customer premise, per the onsite response time guidelines, to take corrective action and restore the equipment to normal operation.

Engineering changes

Elite Customers will have access to information on engineering change notices (ECN) via the Customer Resource Center (CRC). ECNs are generally equipment design modifications and/or microcode changes initiated to improve functionality and/or operational performance of the equipment. Upon notification of an ECN, Customer can elect to have StorageTek install the change on their equipment. StorageTek will work with Customer to schedule a time for the ECN installation.

Preventive maintenance

Elite Customers are entitled to have preventive maintenance (PM) performed on equipment where PM applies. Preventative maintenance is proactive maintenance performed to prevent potential future equipment failure and assure accordance with specifications. Under the Elite offering, PM will be performed
only between the hours of 8AM to 5PM local time, Monday through Friday, excluding nationally recognized holidays.

Concurrent maintenance

Concurrent maintenance consists of remedial maintenance tasks that can be performed non-disruptively, during normal equipment operation. Concurrent maintenance techniques will be employed by StorageTek whenever the necessary technology exists in the equipment to do so.

Specify code: Elite

Not covered

Installation

Equipment installation is not covered under the Elite offering but is a separate billable service. When requested, StorageTek will install equipment, charging Customer a one-time installation fee dependent upon the product being installed. Installation services are performed between the hours of 8AM and 5PMlocal time, Monday through Friday, excluding nationally recognized holidays.

Equipment upgrades

The installation of feature and model upgrades is not covered under the Elite offering but is a separate billable service. When requested, StorageTek will install feature or model upgrades, charging Customer a one-time installation fee for each unit upgrade. Equipment upgrades are performed between the hours of 8AM to 5PM local time, Monday through Friday, excluding nationally recognized holidays. Equipment feature and model upgrades must be purchased separately.

Equipment relocation

Equipment relocation, either from site to site or within the same site, is not covered under the Elite offering but is a separate billable service. When requested, StorageTek will move or relocate equipment based on fixed price quotation, or the then current time and material rate with a two-hour mandatory minimum. Equipment relocation services are performed during the hours of 8AM to 5PM local time, Monday through Friday, excluding nationally recognized holidays. Major equipment moves and relocation services are available by price proposal and a service Statement of Work.

Feature/function updates:

Software/Microcode updates that introduce new features or functions are not covered under the Elite offering. Feature/Function Updates must be purchased separately.

General exclusions

The following services are not included in an Elite Warranty Service or Maintenance Service and are billable on a time and material basis at StorageTek's then-current rates: 1. All services performed by StorageTek beyond the scope of the description above; 2. Electrical work external to the Equipment; 3. Service of any kind on Equipment which has been altered or connected to another device without StorageTek's written consent; 4. Service on accessories, attachments, etc. which are added to or used with the equipment; 5. Repair of damage resulting from transportation by Customer, accident, power failure or other casualty; 6. Repair of damage or malfunction caused by misuse of the Equipment or negligence by Customer or a third party, use of unauthorized supplies or consumables with the Equipment or the failure of Customer to provide proper facilities and/or environmental controls for the Equipment.

Other terms

Warranty service

StorageTek warrants that each product (except for used Equipment) will with normal use conform to its published specifications for the period specified in the Schedule and Customer's remedy for breach of Warranty is limited to repair or replacement (at StorageTek's option) of the nonconforming product. Equipment feature and model upgrades are warranted for the unexpired Warranty period on the Equipment on which they were installed. Equipment service requested by Customer and performed by StorageTek but which is outside the scope of Warranty shall be performed on a time-and-material basis at StorageTek's then-current rates. Customer agrees to pay such charges upon receipt of an invoice from StorageTek. warranty Service that is needed at a location more than fifty (50) miles from StorageTek's nearest point of service may be subject to a Surcharge as specified on the Schedule.

Term of the schedule

The Warranty term and service level is specified in the Schedule. If the Warranty Uplift option is selected, Maintenance Service will commence upon the beginning of the Warranty period and shall remain in force as specified in the Schedule; otherwise Maintenance Service will commence upon the expiration of the applicable Warranty period, and unless otherwise specified in the Schedule, shall remain in force for at least one (1) year. Customer may terminate Maintenance Service as of the end of the Term specified in the Schedule or any time thereafter by giving ninety (90) days prior written notice to StorageTek. StorageTek may terminate Maintenance Service at any time by giving six (6) months prior written notice to Customer.

StorageTek may decline to provide Warranty Service or Maintenance Service for Equipment relocated to an area not serviced by StorageTek or if such service becomes impractical because of alterations in the Equipment or its connection to unauthorized systems or devices.

Charges

Periodic charges such as monthly maintenance charges and recurring license charges as specified on the Schedule will be invoiced in advance. After the first twelve (12) months, StorageTek may adjust periodic charges. Warranty Service and Maintenance Service that is needed at a location more than fifty (50) miles from StorageTek's nearest point of service may be subject to a Surcharge as specified on the Schedule. All services performed by StorageTek beyond the scope of Warranty Service or Maintenance Service described herein are billable on a time-and-material basis at StorageTek's thencurrent rates. All removed parts become the property of StorageTek. Failure of Customer to surrender or return parts to StorageTek within the specified timeframe shall be billable at StorageTek's thencurrent rates.

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Veritas Software Maintenance Agreement

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provided in thisAgreement. You may not: (i) create any derivative works based on the Licensed
Software or Documentation; (ii) reverse engineer, disassemble, or decompile the Licensed Software
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subject to strict compliance with applicable law); (iii) use the Licensed Software or Documentation in connection with a service bureau or like activity whereby You, without purchasing a license from VERITAS, operate or use the Licensed Software or Documentation for the benefit of a third party who has not purchased a copy of the Licensed Software; (iv) permit the use of the Licensed Software or Documentation by any third party without the prior written consent of VERITAS; or (vi) use the Licensed Software to process data from a storage device unless the storage device is directly connected either (a) to a processor on the host-based computer to which the Licensed Software is licensed, or (b) to an additional processor or processors on the network, where You have an appropriate number and level of licenses for such processor(s). In addition, you shall not release the results of any benchmark testing of the Licensed Software to any third party without the prior written consent of VERITAS. 3. SERVICES. You may acquire under a separate agreement, education, installation, implementation, configuration, professional or consulting services ("Services") from VERITAS pursuant to the then applicable VERITAS Services policies and the in-country list prices in effect at the time the Services are ordered. 4. MAINTENANCE/SUPPORT. You may acquire maintenance/technical support services ("Maintenance/Support") for the Licensed Software provided that You subscribe to VERITAS' Maintenance/Support programs or to an authorized VERITAS partner support program. Maintenance/Support shall be based on the in-country list price and then applicable Maintenance/Support policy in effect at the time such Maintenance/Support is ordered. Maintenance/Support fees are due annually in advance and are nonrefundable and non-cancelable. 5. LIMITED WARRANTIES; DISCLAIMER.
5.1 Licensed Software Performance Warranty; Media Warranty. VERITAS warrants that the Licensed Software, as delivered by VERITAS and when used in accordance with the Documentation, shall substantially conform with the Documentation for a period of ninety (90) days from delivery and that the media upon which the Software is furnished to You shall be free from defects in material and workmanship under normal use for a period of ninety (90) days from delivery.
5.2 Licensed Software Warranty Remedies. For any Licensed Software that does not operate as warranted in Section 5.1 VERITAS shall, at its sole discretion, either repair the Licensed Software, replace the Licensed Software with software of substantially the same functionality, or terminate the license and refund the relevant license fees paid for such noncompliant
Licensed Software only when You return the Licensed Software to VERITAS or its authorized reseller, from whom you obtained the Licensed Software, with the purchase receipt within the warranty period. The above warranties specifically exclude defects resulting from accident, abuse, unauthorized repair, modifications or enhancements, or misapplication. 5.3 Maintenance/Support Warranty. VERITAS warrants, for a period of thirty (30) days from the date of performance of the Maintenance/Support covered by this warranty that the Maintenance/Support shall be performed in a manner consistent with generally accepted industry standards.
5.4 Maintenance/Support Remedies. For Maintenance/Support not performed as warranted in Section 5.3, and provided VERITAS has received written notice of such non-conformance within thirty (30) days of performance of the Maintenance/Support, VERITAS shall, at its discretion, either correct any nonconforming Maintenance/Support or refund the relevant fees paid for the specific nonconforming Maintenance/Support service.
5.5 DISCLAIMERS. THE WARRANTIES SET FORTH IN SECTIONS 5.1 AND 5.3 ARE YOUR EXCLUSIVE WARRANTIES AND ARE IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, AND VERITAS EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES OF STATUTORY NON-INFRINGEMENT. NO THIRD PARTY, INCLUDING AGENTS, DISTRIBUTORS, OR AUTHORIZED VERITAS RESELLERS IS AUTHORIZED TO MODIFY ANY OF THE ABOVE WARRANTIES OR MAKE ANY ADDITIONAL WARRANTIES ON BEHALF OF VERITAS. VERITAS DOES NOT WARRANT THAT THE LICENSED SOFTWARE SHALL MEET YOUR REQUIREMENTSOR THAT USE OF THE LICENSED SOFTWARE

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9. U.S. GOVERNMENT RIGHTS. The Licensed Software and Documentation are deemed to be "commercial computer software" and "commercial computer software documentation" as defined in FAR Section 12.212 and DFARS Section 227.7202, as applicable. Any use, modification, reproduction release, performance, display or disclosure of the Licensed Software and Documentation by the U.S. Government shall be solely in accordance with the terms of this Agreement.

10. COMPLIANCE WITH LAW. Each party agrees to comply with all applicable laws, rules, and regulations in connection with its activities under this Agreement. Without limiting the foregoing, You acknowledge that the Licensed Software, including documentation and other technical data, is subject to export controls imposed by the U.S. Export Administration Act of 1979, as amended (the "Act"), and

the regulations promulgated thereunder and other applicable foreign export control laws. You shall not export or re-export (directly or indirectly) the Licensed Software, Documentation or related technical data except in compliance with the Act and its implementing regulations or other applicable foreignexport control laws.

11. GENERAL. You agree to pay any tax assessed on the Licensed Software, other than taxes based on VERITAS' net income or corporate franchise tax. This Agreement shall be governed by and construed in accordance with the laws of the State of California, exclusive of any provisions of the United Nations Convention on Contracts for Sale of Goods, including any amendments thereto, and without regard to principles of conflicts of law. Any suits concerning this Agreement shall be brought in the federal courts for the Northern District of California or the state courts in Santa Clara County, California, or if the matter is brought by VERITAS, in a court of competent jurisdiction in Your domicile. This Agreement is personal and may not be assigned or assumed (including by operation of law) without VERITAS' prior written consent. A change of control shall constitute an assignment. During the period this Agreement remains in effect, and for three years thereafter, VERITAS has the right to verify Your compliance with this Agreement on Your premises during Your normal business hours and in a manner that minimizes disruption to Your business. VERITAS may use an independent auditor for this purpose with Your prior approval which You will not unreasonably withhold. If any provision of this Agreement is held to be unenforceable, it shall be enforced to the maximum extent permissible, and the remaining provisions shall remain in full force. A waiver of any breach or default under this Agreement shall not constitute a waiver of any other subsequent breach or default. Unless You have entered into a separate, written and signed agreement with VERITAS for the supply of the Licensed Software, this Agreement is the complete and exclusive statement of the agreement between us which supersedes any proposal, prior agreement, oral or written, purchase order or similar terms issued by You, or any other communications between us in relation to the subject matter of this Agreement. Any modifications to this Agreement shall be made in writing and must be duly signed by authorized representatives of both parties or they shall be void and of no effect. VERITAS Software Corporation
350 Ellis Street
Mountain View, CA 94043
50-000524-001

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Compaq License Agreement

The following are the terms under which DIGITAL Equipment Corporation, a subsidiary of Compaq Computer Corporation, ("Compaq") provides Compaq Services in the United States of America.

1. DEFINITIONS

"Commencement Date" for services sold is the same as Warranty Commencement Date which is defined as date of delivery of product unless product is installed by Compaq in which case commencement date begins with the date of installation. "Equipment" refers to Compaq and third party hardware products for which the Services are sold. "Products" refers to Compaq and Third Party Equipment and Software. "Services" refers to the Compaq services to be supplied which are listed on the Service Document and are as described in the applicable Service Description. "Service Description" refers to the documents which describe the attributes of specific services applicable at the time of Customer's order acceptance which provides information regarding responsibilities of Compaq and Customer for the Services to be supplied. "Service Document" refers to the document which lists the Services to be supplied. "Software" refers to Compaq and third party software products licensed to Customer for which the Services are sold. "Third Party" Equipment, Products or Software refers to Equipment, Products or Software supplied by Compaq under the brand name of a third party.

2. TERM

For Services which have a term, the Services will commence on the Commencement Date and shall continue for the period specified on the Service Document.

3. SERVICE WARRANTY

Compaq warrants that Services will conform to the applicable Service Description. Customer shall be responsible for the performance of all Customer responsibilities specified in the Service Description. This warranty does not apply to conditions resulting from improper use, external causes, including service or modifications not performed by Compaq, or operation outside the environmental parameters specified for the Product. Compaq does not warrant that the operation of any Product will be uninterrupted or error free. THIS WARRANTY IS COMPAQ'S ONLY WARRANTY AND NO OTHER WARRANTY, EXPRESS OR IMPLIED, WILL APPLY. COMPAQ SPECIFICALLY EXCLUDES THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Compaq will remedy non-conforming Service provided Customer promptly notifies Compaq within thirty days after the performance of Service of any non-conformance to this warranty.

4. SERVICE MATERIALS

Diagnostic software and other material used by Compaq in the performance of Services remain the exclusive property of Compaq. Customer will not use such material or make it or any resultant diagnosis or system management data available to other parties without Compaq's prior written consent. Parts replaced by Compaq become the property of Compaq.

5. LIMITATION OF LIABILITY

COMPAQ WILL BE LIABLE TO THE CUSTOMER FOR DIRECT DAMAGES UP TO THE GREATER OF ONE MILLION DOLLARS ($1,000,000) OR THE PURCHASE PRICE FOR THE PRODUCT, OR THE ANNUAL CHARGE FOR THE SERVICE, WHICH IS THE SUBJECT OF THE CLAIM. THE FOREGOING LIMITATION WILL NOT REDUCE COMPAQ'S LIABILITY FOR PERSONAL INJURY. IN NO EVENT WILL COMPAQ BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, OR ANY DAMAGES RESULTING FROM LOSS OF DATA, USE, OR PROFITS. THESE LIMITATIONS WILL APPLY TO ANY FORM OF ACTION, WHETHER ARISING UNDER CONTRACT, STATUTE, TORT, OR OTHERWISE. Any action against Compaq must be brought within eighteen months after the cause of action arises. For purposes of this Section 5, "Compaq" includes its employees, subcontractors and suppliers.

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6. EXPORT STATEMENT OF ASSURANCE

Services may be subject to U.S. and other Government export control regulations.
Customer assures that it will comply with those regulations whenever it exports or reexports controlled products or technical data obtained from Compaq or any product produced directly from the controlled technical data.

7. GENERAL PROVISIONS

Compaq is not responsible for delay or failure to perform due to causes beyond its reasonable control. Services may not be performed if Customer does not fulfill the Customer responsibilities specified in the Service Description, does not make payment for Services, or Compaq reasonably believes conditions at the site represent a safety or health risk. Customer may not assign or transfer any of its rights or obligations under this Agreement without the written consent of Compaq, which consent will not be unreasonably withheld. Compaq may subcontract the performance of Services to qualified service suppliers. All documents referred to in these Terms will be considered incorporated into these Terms and are available from Compaq upon request. These terms constitute the entire agreement between the parties with respect to the subject matter hereof. Any modifications to these Terms must be in writing and signed by an authorized representative of both parties. Any Customer site access requirements shall not be enforceable to either increase the obligations or liabilities or reduce the rights under these Terms of Compaq, its employees, or subcontractors. Any contract incorporating these Terms will be governed by and construed under the laws of Massachusetts.

8. U.S. GOVERNMENT CUSTOMERS

Commercial computer software, computer software documentation, and technical data for commercial items are licensed to the U.S. Government under Compaq's standard commercial license and, where applicable, the rights in DFAR 252.227-7015, "Technical Data-Commercial Items". ©July 1998 Compaq Computer Corporation. All rights reserved. Compaq is registered in the U.S. Patent and Trademark Office.

COMPAQ COMPUTER CORPORATION
U.S. SERVICES STANDARD TERMS

COMPAQ ON-SITE SERVICE
PRODUCT DESCRIPTION

Compaq On-site Service provides on-site remedial and preventive hardware support for Compaq branded products.

AGREEMENT

This Service Description, together with U.S. Standard Terms and Conditions or Compaq Services U.S. Standard Terms constitute the entire agreement ("Agreement") between DIGITAL Equipment Corporation, a subsidiary of Compaq Computer Corporation, ("Compaq") and Customer.

GEOGRAPHIC AVAILABILITY

This service is available in the United States. Additional travel charges may be applicable in Alaska and Hawaii.

ELIGIBILITY

Equipment is eligible for this service provided it is in good operating condition and Compaq's serviceability requirements and site environmental conditions are met. Any equipment repairs and/or adjustments Compaq determines are necessary in order to meet this eligibility will be made at Compaq's Per Call rates, and Terms and Conditions then in effect.

COMPAQ RESPONSIBILITIES:
Remedial Maintenance
Compaq will provide remedial maintenance during the contracted hours of coverage. Compaq will respond to a call, made during the contracted hours of coverage, on a priority basis over Per Call Service requests. Typical response time is next business day unless optional response time is purchased (see Optional Extended Coverage below).
NOS Restoration
Re-installing the network operating system (Windows NT or Novell NetWare) from the system diskette(s) or CD provided by the Customer. Customer is responsible for restoring both application and data files.
Preventive Maintenance
Scheduled preventive maintenance (if applicable) is provided during the contracted hours of coverage in accordance with equipment standards specified by Compaq.
Field Change Orders (FCOs)
Compaq will install all applicable FCOs, which in Compaq's opinion are required to ensure proper machine operation, during the contracted hours of coverage.
Labor and Materials
Compaq will provide all labor and materials.
Parts
Replacement parts may be new or refurbished. Replaced parts become the property of Compaq.
Predictive Tools/Remote Diagnosis
Compaq may provide predictive service tools on applicable Compaq systems. Compaq may utilize remote diagnosis on those systems which feature remote diagnosis capability.
Standard Coverage
On-site hardware coverage is 8:00 a.m. to 5:00 p.m., Monday through Friday, except locally observed Compaq holidays.
Optional Extended Coverage
Customers may purchase standard coverage (M-F, 8:00 a.m. to 5:00 p.m.) with optional 4-hour response time. Coverage is also available separately for 24 hours per day, 7 days per week including holidays, with either 4-hour or 2-hour response time. (See following table for geographic restrictions on response time.) For Customers electing optional coverage, Compaq will provide remedial maintenance within 4 hours (2 hours where applicable) of a call logged during the contracted hours of coverage, and the remedial maintenance will be performed continuously until the problem is resolved. In addition, preventive maintenance and field change order installation started during the contracted hours of coverage will continue for up to three (3) hours after the contracted hours of coverage.
Zone Charges
Equipment located beyond one hundred (100) miles from a designated Compaq office is subject to Zone Charge Uplifts as specified in the Price List.
CUSTOMER RESPONSIBILITIES:
Notify Compaq immediately of equipment malfunction. Allow Compaq personnel full and unconditional access to all equipment and software. If security restrictions apply to any or all customer systems to be supported by the Agreement, the customer may be required to assume additional responsibilities for maintaining the equipment and/or software. Notify Compaq of any potential safety or health hazards that may exist at the site, as well as provide and/or recommend safety procedures to be followed while at the site. Provide at no charge to Compaq a reasonably secure work space and storage facilities, supplies and scratch media (including spare tapes and disk packs) as required, and full and unrestricted access to all communications facilities. Maintain a current backup copy of the operating system and other applicable software programs and data. Have a customer-authorized employee present during service. Maintain site conditions within the common environmental range of all system devices (and media) as specified by Compaq. Provide and bear the cost of Compaq-specified modems

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and/or data sets, when required for systems having remote diagnosis service. These devices will be connected to a dedicated direct-distance-dialing (voice-grade) telephone line, provided and paid for by the customer.

EXCLUSIONS

The following maintenance services are not included under this Agreement: Service outside of the contracted hours of coverage. Services which, in Compaq's opinion, are required due to improper treatment or use of the equipment. Services required due to unauthorized attempts by other than Compaq personnel to repair, maintain or modify the equipment. Services required due to causes external to the Compaq-maintained equipment. Reconfiguration of equipment. Individual hardware products that cannot, in Compaq's opinion, be properly repaired due to excessive wear or deterioration. These products may be withdrawn from service upon ninety (90) days prior written notice, which notice shall not be issued prior to the end of the first year of service.

TERMINATION

If either party fails to perform its obligations under this or any other agreement between the parties and such failure continues for a period of thirty (30) days after written notice, the other party shall have the right to terminate this Agreement.

Part No. 162586-001
Road Miles from Designated Compaq Office
Optional Response for Compaq On-site Service
Uplift to 2-Hour Response
0-50
51-100
101-200
201 and beyond
4-Hour
4-Hour
8-Hour
16-Hour
Available
Not available
Not available
Not available
Response Time
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SCHEDULE C

Form of End User License Agreement

[RESELLER] ("Licensor"), with offices at [   ], and [END USER CUSTOMER], with offices at [ ] ("Licensee"), enter into this End User License Agreement, including any addenda attached hereto (this "Agreement"), as of the date of last signature below (the "Effective Date"). Licensor is an authorized reseller of certain software products and services supplied by Diligent Technologies Corporation ("Diligent"). Licensee agrees to be bound by the terms of the sublicense granted herein.

LICENSED PRODUCT:

TYPE OF LICENSE:
       VTFMainframe Tier #

SITE(S) WHERE INSTALLED (If other than address provided above):

TOTAL LICENSE FEE:
DUE ON OR BEFORE:

ANNUAL MAINTENANCE FEE:
DUE ON OR BEFORE:

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2. OWNERSHIP. Licensee acknowledges and agrees that as between the parties, Diligent and its licensors own all right, title and interest in and to the Licensed Product and, except for the express sublicense grant contained in Section 1, no such right, title or interest is transferred to Licensee. Licensee shall not remove or obscure any copyright or other proprietary rights notices included on or in the Licensed Product, and shall reproduce such notices without modification on or in any copies, including but not limited to partial, physical or electronic copies, of the Licensed Product. All trademarks, service marks and other business identifiers associated with the Licensed Products and all accompanying materials ("Diligent Trademarks") are owned by Diligent or its licensors, and no right to use any Diligent Trademark is hereby granted to Licensee.

3. SERVICES. Licensee may purchase directly from Diligent and in such case Diligent shall provide or cause to be provided any installation and other services ("Services") at the rates specified in, and pursuant to the terms and conditions of, a separate Services Agreement.

4. PRODUCT MAINTENANCE. Licensee may purchase and in such case Licensor shall provide, or cause to be provided, any Product Maintenance (**"Product Maintenance"**) specified in this Agreement (or in the applicable purchase order) in accordance with the attached Product Maintenance Addendum, if any, and at the rates specified in this Agreement (subject to adjustment as specified such Product Maintenance Addendum) on an annual term basis. Product maintenance starts at time of shipment.

5. WARRANTY: Licensor warrants that, for a period of ninety (90) days after shipment ("Warranty Period"), the Licensed Product will substantially conform to the applicable Diligent technical documentation provided therewith, and the media embodying such License Product will be free from material defects. This warranty does not apply to problems that arise from: (i) other items or services not covered by Product Maintenance with which the Licensed Product is used; (ii) installation other than in accordance with the written instructions or the applicable Diligent technical documentation provided therewith; (iii) use in an environment, in a manner or for a purpose for which the Licensed Product was not designed; (iv) installation, modification, alteration or repair by anyone other than Diligent or Diligent's authorized representatives; or (v) the negligence or fault of Licensee, its Personnel or any third party not under the control of Licensor or Diligent. Licensor's and Diligent's entire liability and Licensee's sole and exclusive remedy for breach of the warranty described in this Section 5 shall be for Licensor or Diligent to, at their option, (a) use reasonable efforts to remedy such breach within a reasonable period of time; (b) replace the affected Licensed Product; or (c) within thirty (30) days after shipment, refund the amount paid by Licensee for the affected Licensed Product, upon return thereof to Licensor of the Licensed Product and all accompanying materials. The warranty contained in this Section 5 shall apply only to the versions of the Licensed Product originally delivered to Licensee, and shall not apply to any upgrades, updates, new releases or revisions thereof unless otherwise agreed by Diligent in writing.

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6. WARRANTY LIMITATION AND EXCLUSIONS. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT OR IN AN ATTACHED ADDENDUM, ALL LICENSED PRODUCTS, ALL ACCOMPANYING MATERIALS AND ANY SERVICES AND MAINTENANCE PURCHASED HEREUNDER ARE PROVIDED HEREUNDER BY LICENSOR ON AN "AS IS" BASIS. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LICENSOR, DILIGENT AND DILIGENT'S THIRD PARTY LICENSORS AND SUPPLIERS EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE.

7. INDEMNITY. Diligent shall defend Licensee against any third party claim that any Licensed Product or any upgrades or updates thereto infringes a U.S. patent or copyright, and pay the resulting costs and damages awarded against Licensee by any court of competent jurisdiction, provided Licensee: (i) notifies Diligent promptly in writing of such claim, (ii) grants Diligent sole control over the defense and settlement thereof, and (iii) reasonably cooperates in response to any Diligent request for assistance regarding investigation, defense or settlement thereof. Should any Licensed Product become, or in Diligent's opinion be likely to become, the subject of such a claim, Diligent shall, at its option and expense, (a) use commercially reasonable efforts to procure for Licensee the right to make continued use thereof, (b) use commercially reasonable efforts to replace or modify such Licensed Product so that it becomes non-infringing, or (c) request return of such Licensed Product to Licensor and, upon receipt by Licensor thereof, refund (or cause to be refunded) an amount equal to the license fees paid therefore by Licensee, less a deduction for depreciation, calculated on a straight-line, five-year basis. Licensor and Diligent shall have no liability if the alleged infringement is based on (1) In-Licensed Code or the combination of Licensed Product with non-Diligent products, (2) use for a purpose or in a manner for which the Licensed Product was not designed, or in a manner not contemplated by this Agreement or the applicable Diligent technical documentation provided therewith, (3) use of any older release or version of the Licensed Product when use of a newer release or version would have avoided the infringement, (4) any modification made without Diligent's written approval, (5) any modifications made by Licensor or Diligent pursuant to Licensee's specific instructions, or (6) any intellectual property right owned or controlled by Licensee or any of its Affiliates. This section states Licensee's sole and exclusive remedy and Licensor's and Diligent's entire liability for infringement claims.

8. LIMITATIONS OF LIABILITY: LICENSORS AND DILIGENT'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO PROVEN, DIRECT DAMAGES IN AN AMOUNT NOT TO EXCEED (I) US$1,000,000, FOR PERSONAL INJURY OR PHYSICAL DAMAGE TO REAL OR TANGIBLE PERSONAL PROPERTY; OR (II) THE PRICE PAID BY LICENSEE TO LICENSOR FOR THE SPECIFIC PRODUCT(S) FROM WHICH SUCH CLAIMS ARISE, FOR DAMAGE OF ANY TYPE NOT IDENTIFIED IN (I), ABOVE OR OTHERWISE EXCLUDED HEREUNDER. WITHOUT LIMITATION OF THE FOREGOING, EXCEPT FOR CLAIMS ARISING UNDER SECTION 1, 2, 7 OR 10, NEITHER LICENSOR NOR DILIGENT NOR DILIGENT'S THIRD PARTY LICENSORS AND SUPPLIERS SHALL (A) HAVE ANY LIABILITY TO LICENSEE FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, REVENUES, DATA AND/OR USE), REGARDLESS OF THE THEORY OR LIABILITY (INCLUDING TORT) AND EVEN IF ADVISED OF THE POSSIBILITY THEREOF; OR (B) BRING ANY CLAIM ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT MORE THAN EIGHTEEN (18) MONTHS AFTER THE CAUSE OF ACTION ACCRUES.

9. TERMINATION: Either party may terminate this Agreement upon written notice to the other party for any material breach of this Agreement that remains uncured thirty (30) days after notice thereof by the non-breaching party, unless such breach is by its nature incapable of cure, in which case the non-breaching party may terminate this Agreement immediately upon notice to the other party. Upon termination of this Agreement for any reason: (i) all rights of Licensee hereunder shall immediately cease, except for a license, in accordance with Section 1, to continue use of any Licensed Product for which all license fees have been paid, unless termination is by Licensor for breach by Licensee, in which event all license rights shall also immediately cease, all copies of the Licensed Product and all accompanying materials shall be returned promptly to Licensor and a duly authorized officer of Licensee shall certify in writing to Licensor that all such Licensed Product and accompanying materials have been returned; (ii) all amounts due to Licensor or Diligent hereunder shall become immediately due and payable. If Licensee is subject to insolvency, bankruptcy or similar proceedings, then, subject to the provisions of the applicable bankruptcy and insolvency laws, Licensor and Diligent reserve the right to require Licensee or its receiver or equivalent to return all copies of the Licensed Product and all materials furnished in connection therewith to Licensor, in which event all licenses granted hereunder shall automatically terminate and no refunds will be due to Licensee. Notwithstanding the foregoing, termination of any Services Agreement or Maintenance Addendum attached hereto shall be in accordance with the terms of such addendum. The following Sections of this Agreement shall survive its termination: 2 through 11, inclusive.

10. CONFIDENTIALITY: Licensee acknowledges that the Licensed Product and other materials furnished by Licensor or Diligent in connection herewith constitute valuable, proprietary information and trade secrets of Diligent, the disclosure or misuse of which would cause Diligent irreparable harm. Accordingly, Licensee agrees to maintain such Licensed Product and materials in confidence, using at least the same degree of care as Licensee uses to safeguard its own confidential information, but in no event less than reasonable care. Licensee further agrees that it will promptly inform Licensor and Diligent of any known or suspected unauthorized use or misuse of such Licensed Product or materials, whether by Licensee Personnel or by any third party, and will cooperate with Licensor and Diligent in investigating and halting such unauthorized use or misuse.

11. MISCELLANEOUS: Licensor shall, at its own expense, comply with and obtain all authorizations required by U.S. and foreign export control laws and all related regulations in relation to the purchase, delivery and use of the Licensed Product, including any updates or upgrades thereto, provided pursuant to this Agreement. The software licensed hereunder is commercial computer software and its documentation is commercial computer software documentation which, if provided to any entity that is an agency, department, or other entity of the United States Government, or funded in whole or in part by the United States Government, is, pursuant to FAR 12.212(a)-(b) or DFARS 227.7202-1(a) and 227.7202-3(a), provided under the limited commercial license specified herein only. Licensor and Diligent may identify Licensee for reference purposes; however, any press release concerning this Agreement by either party, or Diligent, shall be subject to the other party's prior, written approval. Licensee shall not assign this Agreement or any right or delegate any performance without Licensor's prior written consent, which consent shall not be unreasonably withheld. Upon written acceptance by Licensor of a purchase order, such order shall be deemed incorporated by reference into this Agreement, provided that, in the event of any conflict between this Agreement and any term in such order, this Agreement shall control. In addition, the terms of any "shrinkwrap," or similar license agreement provided by Licensor or Diligent with any Licensed Product shall be automatically incorporated into this Agreement, provided that, in the event of any conflict between this Agreement and any terms in such license agreement, this Agreement shall control. This Agreement, together with any attached addenda and other documents expressly incorporated herein by reference, (i) is the

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complete statement of the agreement of the parties with regard to the subject matter hereof; (ii) may be modified only by a writing signed by both parties; (iii) is governed by the law of the Commonwealth of Massachusetts, excluding its conflict of law rules and excluding The U.N. Convention on Contracts for the International Sale of Goods, and any dispute arising in connection herewith shall be brought exclusively in the state and federal courts located in the Commonwealth of Massachusetts. Any waiver of any default hereunder shall be effective only if in a writing signed by the waiving party, and no such waiver shall operate as a waiver of any prior or subsequent default of the same or similar nature. If any part of this Agreement is held unenforceable, the validity of the remaining provisions shall not be affected. All notices, authorizations, comments or other communications required or permitted to be given hereunder shall be made in writing and sent postage prepaid by certified mail, return receipt requested, by overnight carrier or by facsimile followed by an original sent immediately in the above-described manner addressed to the party to be notified and shall be deemed made on the date of receipt: if to Licensor: [   ]; if to Licensee: [   ] Notices or communications to Diligent shall be sent to the following address: Diligent Technologies Corporation, 200 Crossing Boulevard, Suite 410, Framingham, MA 01702 Attn: Natalie McBride.

[RESELLER]   [END USER CUSTOMER]

By: _____   By: _____

Name/Title:_____   Name/Title: _____

Date: _____   Date: _____