



MASTER SOFTWARE LICENSE AND SERVICES AGREEMENT

26 April, 2012 (the "Effective Date"), between EcoSys Management LLC, with an address at 800 Westchester Ave, Suite S710 Rye Brook, New York 10573 ("Licensor"), and City and County of San Francisco ("CCSF"), by and through its Municipal Transportation Agency ("SFMTA") and its Affiliates, with an address at 1 South Van Ness Avenue, San Francisco, CA 94103 ("Licensee").

1. **Definitions.** The following terms shall have the following meanings as set forth below:

"Documentation" means collectively, the operation instructions, user manuals, help files and other technical information and materials, in written or electronic form, delivered with the Licensed Programs and that are intended by Licensor for use in connection with the Licensed Programs.

"Licensed Programs" means software listed in this Agreement and all corrections, alterations and updates and any Documentation. All rights not expressly granted to Licensee in this Agreement are reserved to Licensor.

"Maintenance Services" means the services to be provided by Licensor to Licensee set forth in Schedule B hereto. Additional terms and conditions applicable solely to the Maintenance Services are also set forth in Schedule B.

"Pricing Schedule" shall have the meaning set forth in Section 4(c).

"Warranty Period" shall have the meaning set forth in Section 6(a).

"Affiliate" shall mean a consultant or contractor to the CCSF performing services for the CCSF.

2. **License Grant.** Subject to the terms and conditions of this Agreement and upon payment in full of the License Fee set forth in Schedule A, Licensor hereby grants to Licensee and Licensee accepts a perpetual non-exclusive, non-transferable, license to use the Licensed Programs and the Maintenance Services solely for Licensee's own internal use in a single production database for the number of named users as set forth herein and in the Documentation. The rights to and restrictions on the use of the Licensed Software granted to Licensee under this Agreement shall also extend to CCSF's Affiliates, but only during and to the extent that said Affiliate(s) are providing services to the CCSF on a CCSF project.

3. **Restrictions On Use.** Licensor has represented to Licensee that it has expended great expense in creating the Licensed Programs and the Maintenance Services and has a proprietary interest therein. Licensee acknowledges that Licensor represents that the Licensed Programs and the Maintenance Services is copyrighted and contains trade secrets. Licensee covenants that it will not sublicense, disclose, display, copy, distribute, transfer or use the Licensed Programs and the Maintenance Services for any other purpose or on any other terms other than that described herein and will hold in strict confidence the design, specifications and associated Documentation of the Licensed Programs and the Maintenance Services. Neither Licensee, nor any third party, shall modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, or otherwise attempt to derive the source code from the Licensed Programs and the Maintenance Services. Neither Licensee, nor any third party, shall remove, obscure or alter Licensor's copyright notices, trademarks or other proprietary rights or notices affixed to or contained in the Licensed Programs and the Maintenance Services. Licensee further acknowledges and agrees that in the event of a breach or threatened breach by the Licensee of any of the provisions of this paragraph, Licensor will have no adequate remedy at law and accordingly shall be entitled to injunctive relief. However, no specification in this Agreement of a specific legal or equitable remedy shall be construed as a waiver or prohibition against any other legal or equitable remedies in the event of the breach of any provision of this Agreement. The covenants contained in this paragraph shall

survive the termination of this Agreement. Licensee shall take appropriate action whether by instruction, agreement or otherwise and whether with its employees or others, to satisfy its obligations under this Agreement with respect to the use, copying, protection and security of the Licensed Programs and the Maintenance Services, Documentation and all materials related thereto.

4. Fees/Payment Terms.

(a) Licensor will deliver the Licensed Programs, together with applicable Documentation upon execution by Licensor of this Agreement.

(b) The Licensed Programs will include the functionality described in its accompanying Documentation.

(c) The cost of the Licensed Programs is as shown in Schedule A to this Agreement (the "Pricing Schedule").

(d) Licensor may provide Maintenance Services for a separate annual charge as described in the Annual Maintenance Terms & Conditions attached to this Agreement as Schedule B.

(e) Licensee may purchase professional services and other services not covered by this Agreement from Licensor upon execution of a mutually acceptable agreement for such services.

(f) All fees will be due and payable within thirty (30) days of Licensee's receipt of invoice. Licensee is responsible for all sales, use or similar taxes imposed by any governmental entity on the transactions contemplated by this Agreement, excluding taxes based on Licensor's net income.

5. Termination.

5.1 **Term.** This Agreement becomes effective on the Effective Date. This Agreement and the license(s) granted hereunder will remain in effect unless and until terminated pursuant to Section 5.2. Unless terminated pursuant to Section 5.2, Licensor shall provide the Maintenance Services for an initial term of one (1) year ("Initial Term"). Thereafter, the provisions of this Agreement relating to Maintenance Services will be extended upon the CCSF's payment of the annual maintenance fee. Licensor shall bill the SFMTA 60 days prior to the expiration of the current term for Maintenance Services period. If the CCSF wishes to extend the provision of Maintenance Services for another one-year term, the SFMTA shall pay the maintenance fee within 30 days of the expiration of the current term.

5.2 **Termination for Material Breach.** In the event of any other material breach of this Agreement, the non-breaching party shall give the breaching party written notice describing such breach. In the event that the breaching party fails to cure such material breach within thirty (30) days after receipt of written notice of such breach from the non-breaching party, the non-breaching party may terminate this Agreement, in whole or in part, upon written notice to the breaching party.

5.3 **Effect of Termination.** Upon the effective date of any termination pursuant to Section 5.2 of this Agreement, without prejudice to any other rights which the parties may have, and subject to the other provisions of this Agreement: (i) Licensor shall immediately discontinue providing Maintenance Services to Licensee; (ii) Licensee shall immediately discontinue any and all use of the Licensed Programs or the Maintenance Services, and return any Documentation to Licensor; and (iii) Licensee shall pay Licensor any outstanding amounts due hereunder.

6. Warranties; Disclaimer of Warranties; Limitation of Liability.

6.1 For a period of ninety (90) days from the date of delivery of the Licensed Programs (the "Warranty Period"), Licensor warrants that when used in accordance with the accompanying Documentation the Licensed Programs will perform the functions and meet the specifications contained in such Documentation in all material respects.

6.2 EXCEPT AS EXPRESSLY STATED HEREIN, LICENSOR MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED PROGRAMS INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. IN NO EVENT WILL LICENSOR BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR SPECIAL DAMAGES, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. LICENSOR DOES NOT WARRANT THAT THE LICENSED PROGRAM OR THE MAINTENANCE SERVICES WILL MEET ALL OF LICENSEE'S REQUIREMENTS OR THAT THE USE OF THE LICENSED PROGRAM OR THE MAINTENANCE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. LICENSOR'S SOLE LIABILITY TO LICENSEE, IF ANY, SHALL IN NO EVENT EXCEED THE FEES PAID BY LICENSEE FOR THE LICENSES GRANTED HEREIN. LICENSEE MAY COMMENCE NO ACTION OR PROCEEDING UNDER THIS AGREEMENT, REGARDLESS OF FORM, MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES.

7. Miscellaneous.

7.1 Assignment and Transfer; Subcontractors. The license is granted to Licensee hereunder based upon its particular needs, size, and intended usage. Licensee may not assign or transfer the license granted by this Agreement without the prior written consent of Licensor in each instance. Licensor shall have the right to provide any Maintenance Services hereunder through subcontractors or other third parties provided that Licensor remains responsible for the acts or omissions of such subcontractors or third parties.

7.2 Indemnity.

7.2.1 General Indemnity. To the fullest extent permitted by law, Licensor shall assume the defense of (with legal counsel subject to approval of the City), indemnify and save harmless the City, its boards, commissions, officers, and employees (collectively "Indemnitees"), from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of the Licensor or its subconsultants), expense and liability of every kind, nature, and description (including, without limitation, court costs, attorneys' fees, litigation expenses, fees of expert consultants or witnesses in litigation, and costs of investigation), that arise out of, or relate to, directly in whole or in part, the negligence, recklessness, or willful misconduct of the Licensor, any subconsultant thereof, anyone directly employed by them (collectively, "Liabilities").

7.2.2 Limitations. No insurance policy covering the Licensor's performance under this Agreement shall operate to limit the Licensor's Liabilities under this provision. Nor shall the amount of insurance coverage operate to limit the extent of such Liabilities. The Licensor assumes no liability whatsoever for the sole negligence, active negligence, or willful misconduct of any Indemnitee or the Licensors of any Indemnitee.

7.2.3 Intellectual Property Infringement. Notwithstanding Licensor's denial of warranty as to infringement set out in Section 6.2, Licensor shall also indemnify, defend and hold harmless all Indemnitees from all suits or claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the City, or any of its boards, commissions, officers, or employees of articles or services to be supplied in the performance of Licensor's services under this Agreement. Infringement of patent rights, copyrights, or other proprietary rights ("IP rights") in the performance of this Agreement, if not the basis for indemnification under the law, shall nevertheless be considered a material breach of contract. CCSF shall promptly notify Licensor upon receipt of notice of any claim that the Licensed Software infringes on a third party's IP rights. CCSF shall cooperate with Licensor in the resolution of such claim. Licensor may at its cost: (a) secure a license from claimant authorizing Licensee's continued use of the Licensed Software without modification; (b) modify the Licensed Software so that it does not

infringe on the third party's intellectual property without loss of performance of functionality to the Licensed Software; or (c) defend CCSF against the claim.

7.3. **Audit.** During the term of this Agreement and for three (3) years thereafter, Licensee shall keep accurate books and records pertaining to its use of the Licensed Programs. Licensor shall be permitted reasonable access to such books and records to ensure Licensee's compliance with the terms of this Agreement for verification of any fees due to Licensor hereunder. Licensor agrees to provide reasonable notice to Licensee prior to commencing such audit, and to conduct the audit during normal business hours and with as minimal disruption to Licensee as is practical. Licensor shall not audit more than once per year, unless Licensor has reason to believe Licensee is in breach of this Agreement.

7.4. **Entire Agreement.** This Agreement shall be binding upon Licensor and its successors and assigns, and Licensee, its successors and assigns, as the case may be. This Agreement including the attached Schedules represents the entire Agreement between the parties, and expressly supercedes and cancels any prior oral or written agreements on the subjects herein. Each party acknowledges that it is not entering into this Agreement on the basis of any representations not expressly contained herein. Other than as specified herein, this Agreement may only be supplemented or modified except in writing executed by the parties. No additional or conflicting term in any purchase order, or other document shall have any effect.

7.5. **Governing Law, Venue.** This Agreement shall be governed in accordance with the laws of the State of California, without regard to its conflicts of law rules. The exclusive forum for any disputes, suits, actions or after legal proceeding arising out of or relating to this Agreement shall be an appropriate state or federal court situated in San Francisco County in the State of California and each party hereby irrevocably submits to the exclusive jurisdiction and venue of any such court in any such dispute, suit, action or other legal proceeding.

7.6. **Notice.** All notices delivered under this Agreement shall be in writing and deemed given (a) upon receipt when delivered personally or upon confirmation of receipt following delivery of (i) nationally recognized overnight courier service, or (ii) registered or certified mail, return receipt requested, postage prepaid, or (b) on the date of transmission if sent by facsimile or other wire transmission with confirmation and followed up by certified or registered mail, in each case addressed to the party's address set forth in the introductory paragraph of this Agreement, or at such other address, of which one party is notified of by the other in writing.

7.7. **Severability.** If any provision of this Agreement or portion thereof is found to be invalid or unenforceable under applicable law, it shall be omitted from this Agreement without invalidation the remainder of such provision or the remaining provisions of this Agreement.

7.8. **Headings.** The various headings in this Agreement and the attached schedules are for convenience only. They shall not affect the meaning or interpretation of this Agreement or any paragraph or provision hereof.

7.9. **Counterparts/Facsimile Execution.** This Agreement may be executed in two (2) or more counterparts, each of which when so executed and delivered, including delivery of an executed counterpart by means of facsimile transmission or email delivery of an electronically scanned counterpart, shall be deemed an original, and all of which, together, shall constitute one and the same instrument.

7.10 **Force Majeure.** Neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including acts of war, terrorism, acts of God, earthquake, flood, embargo, riot, sabotage, governmental act or failure of the Internet not resulting from the actions or omissions of the party and such failure or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the party's use of alternate sources, work-around plans or other means (collectively, "Force Majeure Conditions").



7.11 Left blank by agreement of the parties.

7.12 **Survival.** Sections 1, 3, 4(g), 5.3, 6(b), and this Section 7 shall survive any termination of this Agreement.

7.13 **Relationship.** The parties intend to create an independent Licensor relationship and nothing contained in this Agreement will be construed to make either Licensor or Licensee partners, joint venturers, franchisor, franchisee, principals, agents or employees of the other. No officer, director, employee, agent, affiliate or Licensor employed by Licensor to perform work on Licensee's behalf under this Agreement will be deemed to be an employee, agent or Licensor of Licensee. Neither party will have any right, power or authority, express or implied, to bind, or make contracts, representations or guarantees on behalf of the other.

7.14 **Export Laws.** Licensee agrees to comply with all laws and regulations of the United States and other countries and jurisdictions ("Export Laws") to assure that the Licensed Programs are not exported, directly or indirectly, in violation of Export Laws, or used for any purpose prohibited by Export Laws. Licensee's use of third party software, if any, supplied by Licensor with the Licensed Programs is subject to the terms of this provision.


7.15 Left blank by agreement of the parties. 7.16 Left blank by agreement of the parties.

7.17 **Representation of Authority.** Each party represents and warrants that: i) the signatory shown below has the authority to bind the party on whose behalf he/she is signing to the terms of this Agreement; ii) the execution and delivery of this Agreement and performance of such party's obligations hereunder have been duly authorized; and iii) this Agreement is a valid and legal agreement binding on such parties and enforceable in accordance with its terms.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have each caused this Agreement to be executed as of the date first written above.

EcoSys Management LLC

City and County of San Francisco

By: 
Printed: Christen Bergerud
Title: Executive VP


By: 
Edward Reiskin
Director of Transportation, SFMTA

Date: 4/23/2012

Date: 4-26-2012

Approved as to form:

Dennis J. Herrera
City Attorney


Robert J. Stone
Deputy City Attorney

Date: 4-25-2012



Schedule A

ECOSYS SOFTWARE LICENSE AGREEMENT

Pricing and Deliverable Schedule for EcoSys EPC

Software License Agreement Date: << Current Schedule Date: <<

LICENSEE CONTACT INFORMATION:	
Company Name: City and County of San Francisco (by and through SFMTA)	
Licensee Phone: 415-701-4618	Licensee Contact: Arthur W. Wong
Address: 1 South Van Ness Avenue	Licensee Fax: n/a
City/State/Zip: San Francisco, CA 94103	Licensee E-mail: art.wong@sfmta.com

INVOICE TO:	SHIP TO:
Company Name: City and County of San Francisco	Company Name: City and County of San Francisco
Address: 1 South Van Ness Avenue	Address: 1 South Van Ness Avenue
City/State/Zip: San Francisco, CA 94103	City/State/Zip: San Francisco, CA 94103
Contact: Arthur W. Wong	Contact: Arthur W. Wong
Contact Phone: 415-701-4618	Contact Phone: 415-701-4618
Contact E-mail: art.wong@sfmta.com	Contact E-mail: art.wong@sfmta.com

EcoSys Sales Representative: Christen Bergerud, EVP

This Schedule is attached to and made a part of the Master Software License and Services Agreement ("Agreement") between Licensor and Licensee. This Schedule is made effective as of the signature date below by and between EcoSys Management LLC, with its corporate offices located at 800 Westchester Avenue, Rye Brook, NY 10573 USA and the Licensee identified above (hereinafter "Licensee").

Licensed Software	User License Type	Per User License Fee	Qty	Fees
EcoSys EPC	Server License (required)	\$37,500	1	\$37,500
EcoSys EPC	Contributor Licenses (Edit and/or Admin Rights)	\$2,500	45	\$112,500
EcoSys EPC	Read Only Licenses	\$1,500	15	\$22,500
Total Revised License Fee				\$ 172,500



Support Term Commitment	
ONE YEAR COMMITMENT	Initial here: <u>JL</u>
<p>The initial year Support fees shall be the indicated percentage corresponding to the Support Level selected below with an increase not to exceed 3% or CPI, whichever is lower annually. EcoSys will notify Licensee of the fees applicable during renewal terms prior to the renewal date. Licensee shall pay all fees due to EcoSys within thirty (30) days of Licensee's receipt of EcoSys's invoice. Licensee may not elect to purchase support for fewer than the number of licenses acquired. The Support selected shall become effective as of <u>26 April</u> 20<u>12</u> and expires on <u>25 April</u> 20<u>13</u> [INSERT DATES]</p>	


Support Services	Fees
<input checked="" type="checkbox"/> EcoSys Support @ 20 % of License Fees The terms of Support are identified in Schedule B: EcoSys Software Maintenance and Support Services Initial here: <u>JL</u>	\$34,500
* With EcoSys Support, up to three (3) of Licensee's Users will have access to EcoSys support representatives with expert knowledge of Licensee's account to respond to Licensee's issues during business hours.	
Total Support Fee	\$ 34,500
Grand Total License and Support Fees	\$ 207,000

[Remainder of page intentionally left blank.]




IN WITNESS WHEREOF, the parties hereto have caused this Schedule to be executed by their duly authorised representatives as of the agreement date first above written.

EcoSys Management LLC

By: 
Printed: Christen Bergerud
Title: Executive VP

Date: 4/23/2012


City and County of San Francisco

By: 
Edward Reiskin
Director of Transportation, SFMTA

Date: 4.26.2012

Approved as to form:

Dennis J. Herrera
City Attorney


Robert K. Stone
Deputy City Attorney

Date: 4-25-2012

Schedule B

MAINTENANCE SERVICES

Annual Maintenance Terms & Conditions. In addition to the terms set forth in the body of the Master Software License and Services Agreement, the following terms shall apply with respect to Maintenance Services:

1. Definitions:

Mandatory Updates means any update, bug fix, error corrections, or modification to the Licensed Programs that is generally made available to customers of Licensor in the ordinary course of its business free of charge and is deemed "mandatory" by Licensor to ensure the efficient operation of the Licensed Programs, in its sole discretion.

Recommended Updates means any upgrade, bug fix, error corrections, or modification to the Licensed Programs that is generally made available to customers of Licensor in the ordinary course of its business free of charge that is not a Mandatory Update.

Upgrades means any upgrades or modifications to the Licensed Programs which include feature enhancements or new functionality, which may or may not include any Mandatory Updates or Recommended Updates and that is generally made available to customers of Licensor in the ordinary course of its business for a fee.

Updates means all Mandatory Updates and Recommended Updates, collectively.

Business Hours - 9:00 a.m. to 6:00 p.m. EST, Monday through Friday, excluding national holidays observed by Licensee.

Customer Account Manager (CAM) - the Customer Account Manager is assigned upon purchase of the software and is the main point of coordination for all support requests from Licensee. A CAM is normally the first point of contact in the event that a Licensee needs assistance with the Supported Software. The primary function of the CAM is to perform a first level Problem determination, severity level determination, Problem Resolution and then dispatch any additional resources required, working towards the Resolution of the Problem. In addition the CAM can be called during Business Hours to give a status update on any ongoing Problems and is responsible for pro-actively obtaining any status updates.

Development Engineers - Licensor's Software Development Engineers are a resource available to the CAM as a higher level support resource. Development Engineers are responsible for the development and maintenance of the Licensor server and are available to assist with Problem determination as well as assisting with any fixes required.

Incident - An Incident is defined as a single-defined Problem seeking Resolution.

Problem - A Problem is a failure of the Licensed Programs to conform with Licensor's published specifications for the Licensed Programs in any material respect.

Problem Report - Notification of a Problem that includes the following information: (1) a description of the Problem and the desired functionality the Licensee wishes to achieve, (2) the step-by-step process to reproduce the Problem, and (3) any and all exact error messages associated with the Problem.

Resolution - A Resolution to a Problem may consist of any of the following:

- Solution or answer is provided
- A request for enhancement is submitted
- A fix or work-around is provided
- Documentation bug is submitted
- A fix is incorporated into a future release (for Severity Three and Four only)
- The Problem relates to a third-party software vendor who has been notified of the problem

An Incident is considered "open" when a Licensee provides a CAM with a Problem Report. An Incident is considered "closed" when a Resolution to the Problem is given to the Licensee. An Incident is also considered "closed" if and when it is determined that (a) the Problem Report relates to software that is not the Licensed Programs, (b) the problem identified is not a Problem as defined herein, or is not covered by the Maintenance Services or (c) the problem relates to a hardware issue that is not supported by Licensor.

2. Mandatory Updates - Licensee shall have ninety (90) days from the date of its receipt of a Mandatory Update released by Licensor pursuant to these Maintenance Services to install such Mandatory Update. Should Licensee fail to install such Mandatory Update within such ninety (90) day period, Licensor's obligation to provide Maintenance Services shall cease, without refund of any amounts paid, and Licensor shall have the right to terminate this Agreement solely with respect to Maintenance Services, pursuant to Section 5.2. Licensor shall have no obligation to provide Maintenance Services to Licensee during the period in which Licensee has failed to install any Mandatory Update. Licensor warrants that a Mandatory Update shall not compromise the performance or reliability of the Licensed Software or its integration with Primavera P6 and Microsoft Excel programs and data.

3. Licensee Services - Licensor shall provide Licensee, so long as Licensee is in compliance with the terms of this Agreement, with the following services:

- a. Phone/Email Support – Licensee shall have the opportunity to call or e-mail Licensor to have questions answered about the operation of the Licensed Programs. Licensor will use commercially reasonable efforts to provide answers to Licensee's questions during reasonably established support department operating hours.
- b. Updates and Upgrades – Licensee shall be provided with any Updates (and Upgrades if Licensee has paid Licensor for Maintenance Services as set forth herein) that Licensor makes generally available to its other customers.
- c. Additional services – Licensee shall have the opportunity to contract with Licensor to obtain additional professional services, including installation, on site support, customization, project management, and training at Licensor's then prevailing rates. Such services are excluded from Maintenance Services.

Should Licensee alter the Licensed Program in any manner or fail to install any Mandatory Update, Licensor's obligation to provide the services described herein shall immediately cease

4. Support Process

Licensee will be assigned a Customer Account Manager (CAM). The CAM is the main point of coordination for all support requests and is the first point of contact in the event that a Licensee Representative needs assistance with the Licensed Programs. The primary function of the CAM is to perform a first level Problem determination, severity level determination, Problem Resolution and then dispatch any additional resources required, working towards the Resolution



of the Problem. In addition the CAM can be called during Business Hours to give a status update on any ongoing Problems and is responsible for pro-actively obtaining any status updates.

Licensee shall establish and maintain the organization and processes to provide "First Line Support" for the Licensed Programs directly to users. First Line Support shall include but not be limited to (a) a direct response to Users with respect to inquiries concerning the functionality or operation of the Licensed Programs, (b) a direct response to Users with respect to problems with the Licensed Programs, (c) a diagnosis of problems or deficiencies of the Licensed Programs and (d) a resolution of problems or deficiencies of the Licensed Programs.

Licensor shall establish and maintain the organization and processes to provide "Second Line Support" for the Licensed Programs to Licensee. If after commercially reasonable efforts Licensee is unable to diagnose or resolve problems or deficiencies of the Licensed Programs, Licensee shall contact Licensor's CAM (or other Licensor Support Representative if CAM is not available) for Second Line Support and Licensor shall provide support for the Licensed Programs in accordance with the terms herein.

Second Line Support shall be provided to up to three (3) designated representatives of Licensee. Licensor shall provide Second Line Support directly only to these designated users. Second Line Support shall include but not be limited to (i) a diagnosis of problems or deficiencies of the Software and (ii) a resolution of problems or deficiencies of the Licensed Programs.

Licensor will request the Licensee provide up to three (3) Licensee support representatives, prior to the completion of the implementation, who will be authorized to contact Licensor's Customer Support for support requests.

5. Customer Support Procedures - in order for Customers to receive the highest level of responsiveness when contacting Customer Support, the following call in procedures are recommended:

- For telephone support, call the Ecosys Support Dispatch line at +1 212.742.0770. If your CAM is not immediately available, you will have the option to choose to speak with another Licensor's Support Representative or to leave a message. Standard support hours in the USA are Monday through Friday, 8:00AM through 6:00PM Eastern time, exclusive of Licensor's holidays.
- For email questions, send your message to support@ecosysmgmt.com. Your request will be logged and assigned to your CAM.

6. Support Severity Levels

Severity One - A Problem exists that renders the Licensed Programs inoperable. The Licensed Programs are experiencing a total system failure as a result of a Problem and there is no work-around or reasonable alternative method available or a function is not working as documented as a result of a Problem, and there no work-around or reasonable alternative method available, and the use of this function is immediately critical to the Licensee's business.

Severity Two - A function is not working as documented as a result of a Problem, however, there is a work-around or reasonable alternative method available; or a function is not working as documented, and there is no work-around or reasonable alternative method available, however the use of the function is not immediately critical to the business, but the function is necessary.



Severity Three - A function is not working as documented as a result of a Problem, however, the incident has a minor impact or has no impact to the Licensee's business, but is requested to be fixed.

Severity Four - Licensee has a non-critical question or comment about the Licensed Programs.

7. Resolution Goals and Notification Procedures

Our Service Level Resolution Goals are designed to help our technical support team drive each Problem Report to a timely Resolution. Licensor exercises commercially reasonable efforts to meet the following response times but does not guarantee that the following response and resolution times will always be met.

Severity Level	Initial Response	Resolution Goal (if programming is not needed)	Resolution Goal (if programming is needed)
One	1 hour	24 hours	2 business days
Two	2 hour	36 hours	3 business days
Three	8 hours	48 hours	20 business days
Four	24 hours	72 hours	Future Release

(All of the response times are measured from the receipt of the Service Call.)

Severity Level One and Two Problems

Availability

A CAM is always available to be the first point of contact for Severity One and Two Problems. If within four (4) hours of the Service Call being received by or escalated to a CAM, the Problem has not been Resolved, the CAM shall bring in a Development Engineer to assist with the Problem Resolution.

Notification

Promptly following the receipt of a Service Call for a Severity One or Two Problem, the following people shall be notified:

- Licensor Technical Support Manager
- Licensor Regional Sales Manager responsible for the Licensee

Severity Level Three and Four Problems

Availability

CAMs are available during Business Hours to be the first point of contact for Severity Three and Four Problems.

Timeframe for Resolution

Service Calls shall be responded to in "first in, first out" order.

8. Enhancement Requests

In addition to those Problems designated as Severity One through Severity Four, Licensee may designate Incidents as Enhancement Requests. Enhancement Requests are requests to enhance or



modify features of the Supported Software including features that Licensee would like Licensor to incorporate into future versions of the Licensed Programs.

Enhancement Requests are to be submitted via e-mail to the CAM assigned to Licensee. Upon receipt of an Enhancement Request, the CAM will classify the request and submit it to the appropriate Licensor personnel for response. Status on Enhancement Requests that have been submitted are available through the CAM. Licensor is not obligated to implement Enhancement Requests.