



**PURCHASING ITEM
FOR
COUNCIL AGENDA**

1. Agenda Item Number:

38

2. Council Meeting Date:

July 31, 2008

TO: MAYOR & COUNCIL

3. Date Prepared: July 11, 2008

THROUGH: CITY MANAGER

4. Requesting Department: Fire

5. SUBJECT: Amend agreement for the Enterprise Asset Management System with gbaMS, Inc. to add Exhibit E (Non-Disclosure Agreement) & Exhibit F (Software License Agreement).

6. RECOMMENDATION: Recommend amending agreement for the Enterprise Asset Management System with gbaMS, Inc. to add Exhibit E (Non-Disclosure Agreement) & Exhibit F (Software License Agreement).

7. HISTORICAL BACKGROUND/DISCUSSION: In December 2006, Council awarded an agreement to Red Oak Consulting to assist the City in determining the feasibility of an enterprise asset management system after the Information Technology Oversight Committee (ITOC) had received several similar asset management/work order project requests from various city departments. A core team of members from each department was formed and Red Oak held a series of workshops and meetings with the core team and determined that an enterprise asset management system would be the best option for the city. Red Oak also assisted in the development of the specifications and critical factors for use in the evaluation process.

8. EVALUATION PROCESS: Council approved the agreement for the purchase of the enterprise asset management system at the April 24, 2008 meeting. Two exhibits are being added that were not originally included in the agreement.

9. FINANCIAL IMPLICATIONS: There is no financial impact with the addition of Exhibits E & F.

10. PROPOSED MOTION: Move to amend agreement for the Enterprise Asset Management System with gbaMS, Inc. to add Exhibit E (Non-Disclosure Agreement) & Exhibit F (Software License Agreement).

APPROVALS

11. Requesting Department

Marc Walker

Marc Walker, Assistant Fire Chief

12. Department Head

Tom Carlson

Tom Carlson, Acting Fire Chief

13. Procurement Officer

Carolee Stees

Carolee Stees, CPPB

14. City Manager

W. Mark Pentz

W. Mark Pentz

AMENDMENT NUMBER ONE,
TO AGREEMENT IT7-208-2468 BETWEEN THE CITY OF CHANDLER AND GBA
MASTER SERIES, INC.
FOR ENTERPRISE ASSET MANAGEMENT SYSTEM AND SERVICES

This Amendment #1 to that certain Agreement Between the City Of Chandler (CITY) and GBA Master Series, Inc. (GBA) for Enterprise Asset Management System and Services is entered into this _____ day of June, 2008.

NOW THEREFORE, the parties agree as follows:

1. Exhibit E, Non-disclosure, is hereby added to the contract.
2. Exhibit F, GBA Master Series Software License Agreement, is hereby added to the contract.
3. All terms and conditions in the original Agreement not specifically amended herein shall be incorporated by reference in its entirety and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names this _____ day of June, 2008.

CITY OF CHANDLER:

By: _____
Mayor

CONSULTANT:

By: 
Title: PRESIDENT

APPROVED AS TO FORM:

City Attorney 

ATTEST:

City Clerk

ATTEST: (If corporation)

 VP
Secretary

WITNESS: (If individual or Partnership)

[SEAL]

EXHIBIT E

Non-Disclosure gbaMS – City of Chandler

In order to protect certain Confidential Information (as defined below), which may be disclosed between the City of Chandler, herein (CITY) in the state of Arizona (including its divisions or departments as part of the local municipal government offices) and GBA Master Series, Inc. (gbaMS), herein (CONSULTANT) agree that;

1. Discloser(s) of Confidential Information hereunder is: the CITY (as defined above)

Recipient(s) of Confidential Information hereunder is the CONSULTANT and its representative.

2. Recipient is participating in work for the Discloser(s) such work may include sharing records related by not limited to systems, data, files and CITY information. In the course of the Projects, the company/Contractor or Representatives thereof may review or obtain access to confidential information on or about Discloser(s).
3. By definition, the term Confidential Information as used herein shall also include any and all information discussed between the Discloser(s) and Recipient(s). Recipient(s) hereby agrees not to disclose to others, either directly or through any third party, Confidential Information, regardless of the manner in which the Confidential Information was communicated to or received by the Recipient(s), whether oral, written, digital or otherwise, and regardless of whether the Confidential Information was marked as confidential or proprietary.
4. The term confidential Information means nonpublic information concerning the Discloser(s) that Company/Contractor or Representatives obtain in the course of performing services, or doing tasks or work on Projects. Confidential Information may be provided by Discloser(s) to Recipient or its Representatives, or may be contained or reflected in application technology roadmaps, data, analyses, reports, compilations or other documents prepared by Recipient or its Representatives or others. Confidential information includes, without limitation, reports, interpretations, financial statements and reports, forecasts and projections, budgets, records, information relating to released and unreleased Discloser(s) products, the marketing or promotion of any Discloser(s) products, Discloser(s)'s business policies or practices, Discloser(s)'s business and product strategies, other proprietary and sensitive information of Discloser(s), and information received by others that Discloser(s) is obligated to treat as confidential. Confidential information also includes, without limitation, all tangible materials containing Confidential Information such as written or printed documents, graphs, analyses, compilations, studies, and electronic data and information originating, stored, and transferred from or to Discloser(s) electronic devices such as computer media whether machine or user readable.
5. Recipient agrees Confidential Information under this Agreement is received for the Projects only and shall not be used for any other purpose whatsoever.

Recipient also agrees that the Confidential Information will be treated by it confidentially and will not be disclosed to any other person or entity; provided, however, that (1) any such Confidential Information may be disclosed to those of the Company's/Contractors Representatives who need to know such information for the purpose of the Projects and who have agreed in writing to be bound by the terms of the Agreement to the same extent that the Recipient is bound (2) any disclosure or use of such Confidential Information may be made to which Discloser(s) consents in writing, and (3) Recipient shall give Discloser(s) reasonable notice prior to such disclosure. Recipient agrees that, as to the Confidential Information, it shall use the same degree or care as for its own information or like importance, but at least use reasonable care in safeguarding against disclosure of the Confidential Information.

6. This agreement covers Confidential Information, which is disclosed between the effective date and term of the agreement
7. Company's/Contractor's obligations regarding Confidential Information received under the Agreement expires 3 years from the date of disclosure.
8. This Agreement imposes no obligation upon Recipient or its Representatives with respect to Confidential Information disclosed under this Agreement (1) is now available or becomes available to the public without breach of this Agreement (2) is explicitly approved for release by written authorization or Discloser(s), (3) is lawfully obtained from a third part or parties without a duty of Confidentiality, (4) is disclosed to a third party by Discloser(s) without duty of Confidentiality, (5) is known to Recipient prior to such disclosure, or (6) is at any time developed by Recipient independently of any such disclosure(s) from Discloser(s).
9. Recipient agrees that all Confidential Information received is and will remain the property of Discloser(s) and that such shall not be copied or reproduced without the express permission of the Discloser(s), except for such copies as may be absolutely necessary in order to perform work for the benefit of the Discloser(s) and in connection to the Projects. After the Projects work, services, and tasks are completed and upon written request, recipients will, at Discloser(s)'s option, either return all the copies of portions of the Confidential Information, or destroy all Confidential Information and certify that by written memorandum that all such Confidential Information has been destroyed.
10. Recipients agrees it will not reverse engineer, decompile or disassemble any software disclosed to Recipient.
11. Recipient agrees it will not in any form export, re-export, resell, ship or divert or cause to be exported, re-exported, resold, shipped or diverted, directly or indirectly, any product or technical data or software furnished hereunder or the direct product of such technical data or software to any country for which the United States Government or any agency thereof at the time of export and re-export requires an export license or other governmental approval without the first obtaining such license or approval from the United States Government agency thereof tasked with granting such license and or approval.

12. Recipient agrees it will notify Discloser(s) immediately upon discovery of any unauthorized use or disclosure of Confidential Information, or any other breach of this Agreement by Recipient and its Representatives will cooperate, and will use its best efforts to cause its Representatives to cooperate, with Discloser(s) in every reasonable way to help Discloser(s) regain possession of the Confidential Information and prevent further unauthorized use.
13. Recipient agrees that for a period of 2 years from the date of this Agreement, neither it nor any of its subsidiaries or affiliates or Representatives will, without the prior written consent of Discloser(s), directly or indirectly solicit to employ or employ any officer or employee or Discloser(s) with whom Recipient or any of its Representatives come into contact during the Projects or who are identified in any of the Confidential Information.
14. The Recipient agrees that in addition to all other remedies the Discloser(s) shall be entitled to specific performance and injunctive or other equitable relief as a remedy for such breach or threatened breach, and agrees to waive any requirement for the securing or posting of any bond in connection with any remedy.
15. All obligations created by this agreement shall survive change or termination of the parties' business relationship.
16. Recipient agrees it will return all materials afore mentioned under section 4 of this agreement and shall verify and prove to Disclosers all materials under section 4 have been destroyed or returned in whole to Disclosure when contract is fully executed.
17. Recipient will certify by signing the Data Destruction Statement that the Recipient has destroyed all copies of disclosed information in electronic and hard copy from.

EXHIBIT F
GBA Master Series® Software License Agreement

IMPORTANT – READ CAREFULLY BEFORE INSTALLATION

This software is subject to acceptance of the GBA Master Series, Inc. (gbaMS) license agreement. gbaMS is willing to license the enclosed software to you only upon the condition that you accept all of the terms and conditions contained in the gbaMS license agreement. If you do not agree with the terms and conditions as stated, please return the unopened media package, the disks, and all accompanying printed materials to gbaMS, its distributor, or reseller for a full refund of the license fees.

THIS AGREEMENT ("**Agreement**") is between GBA Master Series, Inc., a Kansas corporation with its principal place of business at 10561 Barkley, Suite 500, Overland Park, KS 66212 ("**gbaMS**"), and **Licensee** with its software programs accessing databases residing at **Licensed Site**.

RECITALS

WHEREAS, gbaMS owns certain software programs that are licensed as individual program titles which are known collectively as the "**GBA Master Series**";

WHEREAS, Licensee would like to use, and gbaMS would like to grant Licensee the right to use, those software programs, while protecting the copyrights, trade secrets, confidential information, and other valuable intellectual property they contain.

NOW, THEREFORE, gbaMS and Licensee agree as follows:

1. DEFINITIONS.

"**Program(s)**" means the object code versions of the computer software programs, databases, and related documentation.

"**Seats**" means the number of concurrent users (i.e., the number of persons using a Program at one time) permitted to use a Program.

"**Clients**" means the number of individual database setups that can be accessed by a Program.

"**Licensed Site**" means the location at which the Licensee will be permitted to store the databases used by the Program(s).

2. LICENSE GRANT.

(a) **License.** Subject to the terms and conditions of this Agreement, gbaMS grants Licensee a fee-bearing nonexclusive license to use the object code versions of the Program(s) for its internal purposes during the term of this Agreement; provided, however, that (i) the number of concurrent users of each Program, including all users authorized to use any Program(s) pursuant to Section 2(b) below, shall not exceed the number of Seats for each such Program, (ii) the number of individual database setups that can be accessed by each Program shall not exceed the number of Clients for each such Program, and (iii) the location at which the databases accessed by the Program(s) reside shall be the Licensed Site designated herein.

(b) **Sublicense.** For information on granting sublicense rights, please contact gbaMS.

(c) **Limited Transfer.** For information on transferring the location of the Licensed Site, please contact gbaMS.

(d) **Copying.** Licensee may make only as many copies of each Program as are necessary for Licensee to utilize the total Seats for each such Program.

(e) **Future Licenses.** gbaMS and Licensee may, by mutual agreement, include future licenses of the Program(s) under this Agreement by exchanging documents (i.e., a purchase order from Licensee and acknowledgment from gbaMS) referencing this Agreement and the Program(s) to be licensed. Such future Program(s) shall be included as Program(s) under this Agreement. The parties agree that such purchase orders and acknowledgments shall have no effect on the terms and conditions of this Agreement, under which such Program(s) are licensed.

(f) **Limited Grant.** Except as expressly provided in this Section 2, gbaMS grants and Licensee receives no right, title or interest in or to the Programs or any other deliverables provided by gbaMS in connection with this Agreement and gbaMS reserves and retains all such right, title, and interest.

3. LICENSE RESTRICTIONS.

(a) **No Reverse Engineering.** Licensee agrees not to disassemble, decompile, reverse analyze, or reverse engineer the Program(s).

(b) **No Modification.** Licensee agrees not to modify the Program(s).

(c) **No Copying.** Licensee agrees not to copy the Program(s), in whole or in part, except for a reasonable number of back-up copies, and as may be necessary to utilize the total Seats for a given Program.

(d) **No Third Party Use.** Licensee will not use the Program(s) in any manner to provide computer services to third parties, except as may be necessary to implement a sublicense (please call us for details).

(e) **Training.** Licensee will not use the Program(s) until its personnel have received sufficient training in the use of the Program(s) to generate accurate data from the operation of the Program(s).

4. PROPRIETARY RIGHTS.

(a) **gbaMS's Property.** The Program(s), in whole and in part and all copies thereof, are and will remain the sole and exclusive property of gbaMS.

(b) **Licensee's Property.** Any and all information provided by Licensee, as well as any and all information generated by Licensee's use of the Programs (specifically excluding Program code), shall remain the sole and exclusive property of Licensee.

(c) **Proprietary Notices.** Licensee will not delete or alter any copyright, trademark, and other proprietary rights notices of gbaMS and its licensors appearing on the Program(s). Licensee agrees to reproduce such notices on all copies it makes of the Program(s).

5. DELIVERY.

gbaMS will deliver the Program(s) to Licensee, or Licensee's designated representative, within a reasonable time of execution of this Agreement by both parties.

6. FEES AND TAXES.

(a) **License Fee.** As consideration for the rights granted to Licensee under the Agreement set forth in Section 2 of this Agreement, Licensee shall remit payment to gbaMS, or gbaMS's designated representative, the License Fee within thirty (30) days of the Shipping Date. Late payments will be subject to a late fee of one and one-half percent (1-1/2%) per month or the maximum rate permitted by applicable law, whichever is less. gbaMS may publish revised fee schedules from time to time, and any fees for future licenses for the Program(s) included under this Agreement shall be determined by gbaMS's then-current fee schedule.

(b) **Taxes.** Fees due under this Agreement do not include any taxes. Licensee will be responsible for, and will promptly pay, all taxes of whatever nature (including but not limited to sales and use taxes) resulting from or otherwise associated with this Agreement or Licensee's receipt or use of the Program(s), except income taxes based on gbaMS's income. In lieu of payment of such taxes, Licensee shall provide gbaMS, or gbaMS's designated representative, with proof of Licensee's tax exempt status.

7. WARRANTIES.

(a) **Warranty.** gbaMS warrants that during the ninety (90) days following delivery to the Licensee:

(i) the Program(s) will be capable of performing in the manner described in all the documentation in all material respects; and

(ii) the storage media containing the Program(s) will be free from defects in materials and workmanship.

(b) **Exclusive Remedy.** In the event that the Program(s) or storage media fail to conform to such warranty, as Licensee's sole and exclusive remedy for such failure gbaMS will, at its option and without charge to Licensee, repair or replace the Program(s) or storage media or refund to Licensee the License Fee paid, provided that the nonconforming item is returned to gbaMS within the 90-day warranty period.

(c) **Disclaimer.** The Warranties provided in this Section are in lieu of all other warranties, express and implied, including but not limited to any implied warranties of Merchantability, and Fitness for a Particular Purpose.

(d) **Year 2000 Compliance.** "Year 2000 Compliant" means that the Program(s), when used in accordance with its associated documentation, will (a) initiate and operate, (b) correctly store, represent, and process dates, and (c) not cause or result in abnormal termination or ending, when processing data containing dates in the year 2000 and in any preceding and following years, provided that all third party applications that exchange date data with the program do so properly and accurately in a form and format compatible with the program. The Program(s) provided by gbaMS under this agreement process dates only to the extent that the Program(s) use date data provided by the host or target operating system for date representations used in internal processes, such as file modifications. Any Year 2000 Compliance issues resulting from the operation of the Program(s) are therefore necessarily subject to the Year 2000 Compliance of the relevant host or target operating system. The preceding does not apply, however, and gbaMS does not assume any liability for, the performance of any applications that authorized licensees may create through use of the Program(s), nor for any Year 2000 Compliance issues that may arise from the use of the Program(s) with any third party products, including hardware, software or firmware. Except as expressly provided in this Section, gbaMS makes no Year 2000 related representations or warranties for the Program(s), and any such warranties, including any implied warranties, are hereby disclaimed.

8. INDEMNITY.

(a) **Duty to Indemnify and Defend.**

(i) gbaMS will defend or settle at gbaMS's own expense, any action or other proceeding brought against Licensee to the extent that it is based on a claim that the use of the Program(s) as licensed in this Agreement

GBA Master Series™ Software License Agreement

infringes any U.S. copyright or that the Program(s) incorporates any misappropriated trade secrets.

(ii) gbaMS will pay any and all costs, damages, and expenses (including but not limited to reasonable attorneys' fees) Licensee becomes obligated to pay in any such action or proceeding attributable to any such claim.

(iii) gbaMS will have no obligation under this Section as to any action, proceeding, or claim unless: (A) gbaMS is notified of it promptly; (B) gbaMS has sole control of its defense and settlement; and (C) Licensee provides gbaMS with reasonable assistance in its defense and settlement.

(b) **Injunctions.** If Licensee's use of any Program(s) under the terms of this Agreement is, or in gbaMS's opinion is likely to be, enjoined due to the type of infringement or misappropriation specified in Section 8(a)(i), then gbaMS may, at its sole option and expense, either:

(i) procure for Licensee the right to continue using such Program(s) under the terms of this Agreement;

(ii) replace or modify such Program(s) so that it is noninfringing and substantially equivalent in function to the enjoined Program(s); or

(iii) if options (i) and (ii) above cannot be accomplished despite the reasonable efforts of gbaMS, then gbaMS may both:

(A) terminate Licensee's rights and gbaMS's obligations under this Agreement with respect to such Program(s); and

(B) refund to Licensee the unamortized portion of the License Fee paid based upon a 5 year straight-line depreciation, such depreciation to be deemed to have commenced on the effective date of this Agreement.

(c) **Exclusive Remedy.** The foregoing are gbaMS's sole and exclusive obligations, and Licensee's sole and exclusive remedies, with respect to infringement or misappropriation of intellectual property rights. gbaMS makes no separate warranty of noninfringement under or in connection with this agreement.

(d) **Exceptions.** gbaMS will have no obligations under this Section 8 with respect to infringement or misappropriation arising from: (i) modifications to the Program(s) that were not made by gbaMS (whether or not authorized by gbaMS); (ii) Program(s) specifications or modifications requested by Licensee; or (iii) the use of Program(s) with products (including but not limited to software) not provided by gbaMS.

9. CONFIDENTIAL INFORMATION.

(a) **Definition.** "**Confidential Information**" refers to: (i) the Program(s), including but not limited to their software source code, and any related documentation or technical or design information related to the Program(s); (ii) the business or technical information of gbaMS, including but not limited to any information relating to gbaMS's product plans, designs, costs, product prices and names, finances, marketing plans, business opportunities, personnel, research, development or know-how; (iii) any information designated by gbaMS as "confidential" or "proprietary" or which, under the circumstances taken as a whole, would reasonably be deemed to be confidential; and (iv) the terms and conditions and existence of this Agreement.

(b) "Confidential Information" will not include information that:

(i) is in or enters the public domain without Licensee's breach of this Agreement;

(ii) Licensee receives from a third party without restriction on disclosure and without breach of a nondisclosure obligation; or

(iii) Licensee party develops independently, which it can prove with clear and convincing written evidence.

(c) **Confidentiality Obligations.** Licensee agrees to take all measures reasonably required in order to maintain the confidentiality of all Confidential Information in its possession or control, which will in no event be less than the measures Licensee uses to maintain the confidentiality of its own information of equal importance.

(d) **Employee Confidentiality Procedures.** Licensee agrees to inform its employees of their confidentiality obligations regarding the Program(s) and other gbaMS Confidential Information. Licensee further agrees to ensure that contract employees (including temporary employees) of Licensee agree to confidentiality obligations similar to those of this Agreement.

10. MAINTENANCE AND SUPPORT.

gbaMS and Licensee may, by mutual agreement, include the maintenance and support services described in the software's online help for the Program(s) under this Agreement by exchanging documents (i.e., a purchase order from Licensee and acknowledgment from gbaMS) referencing this Agreement and the Program(s) to be included under such services. The parties agree that such purchase orders and acknowledgments shall have no effect on the terms and conditions of this Agreement, under which such Program(s) are licensed. Maintenance and support services are provided at a rate and for a term as mutually determined by gbaMS and Licensee for the

scope of services to be provided by gbaMS for the Program(s) to be included under such services.

11. LIMITATIONS OF LIABILITY.

gbaMS's total liability under this Agreement will be limited to the License Fee. Licensee agrees that, as part of the material consideration for gbaMS licensing the Programs to Licensee hereunder, in no event will gbaMS be liable to Licensee or any third party under this Agreement for any Special, Incidental, or Consequential Damages, whether based on breach of contract, tort (including negligence), product liability, or otherwise, and whether or not gbaMS has been advised of the possibility of such damage. Input and/or edits of data by means other than the gbaMS standard Program(s) interface may result in loss of data, and/or improper operation of the Program(s). The Licensee agrees that in no event will gbaMS be liable to Licensee or any third party under this Agreement for costs necessary to recover data and/or restore proper operation of the Program(s) resulting from said actions.

12. TERM AND TERMINATION.

(a) **Term.** This Agreement will continue in full force and effect perpetually, except as follows:

(b) **Termination.** gbaMS will have the right to terminate this Agreement if Licensee breaches any material term or condition of this Agreement and fails to cure such breach within thirty (30) days of written notice from gbaMS;

(c) **Effect of Termination.** If this Agreement is terminated, Licensee will immediately terminate any sublicenses then in effect, retrieve from sublicensees all copies of the Program(s) in sublicensees' possession, and then return to gbaMS, or gbaMS's designated representative, or (at gbaMS's request) destroy all copies of the Program(s) in its possession or control, and an officer of Licensee will certify to gbaMS in writing that it has done so.

(d) **Survival.** The provisions of Sections 4 (Proprietary Rights), 6(b) (Taxes), 7(b) and (c) (Warranties Exclusive Remedy and Disclaimer), 8(c) and (d) (Infringement Exclusive Remedy and Exceptions), 9 (Confidential Information), and 11 (Limitations of Liability) will survive termination of this Agreement for any reason.

(e) **Nonexclusive Remedy.** The exercise by gbaMS of any remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise.

13. GENERAL PROVISIONS.

(a) **Audit Rights.** Licensee agrees to allow gbaMS, or gbaMS's designated representative, at gbaMS's sole expense, upon reasonable written notice, and during Licensee's ordinary business hours, to visit the facilities in which Licensee uses the Program(s) and review Licensee's practices with regard to the Program(s).

(b) **Assignment.** This Agreement will bind and inure to the benefit of each party's successors and assigns, provided that Licensee may not assign this Agreement, in whole or in part, without gbaMS's written consent.

(c) **Modifications.** This Agreement may only be modified, or any rights under it waived, by a written document executed by both parties.

(d) **Conflicting Terms.** Purchase orders or similar documents relating to the Program(s) issued by Licensee will have no effect on the terms of this Agreement.

(e) **Notices.** All notices under this Agreement will be deemed given when delivered personally or sent by U.S. certified mail, return receipt requested, to the address shown below or as may otherwise be specified by either party to the other in accordance with this Section.

(f) **Severability.** If any provision of this Agreement is found illegal or unenforceable, it will be enforced to the maximum extent permissible, and the legality and enforceability of the other provisions of this Agreement will not be affected.

(g) **Waiver.** No failure of either party to exercise or enforce any of its rights under this Agreement will act as a waiver of such rights.

(h) **Entire Agreement.** This Agreement is the complete and exclusive agreement between the parties with respect to the subject matter hereof, superseding and replacing any and all prior agreements, communications, and understandings (both written and oral) regarding such subject matter. No purchase orders, acknowledgments, invoices, or other documents exchanged in the ordinary course of business shall modify or add to the terms and conditions of this Agreement.

(i) **Choice of Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Kansas.

GBA Master Series® Software License Agreement

SPECIAL PROVISIONS

The following provisions supercede the preceding standard terms and conditions of the *GBA Master Series®* Software License Agreement.

2. LICENSE GRANT.

(a) License. Subject to the terms and conditions of this Agreement, gbaMS grants Licensee a fee-bearing nonexclusive license to use the object code versions of the Program(s) for its internal purposes during the term of this Agreement; provided, however, that (i) the number of concurrent users of each Program, including all users authorized to use any Program(s) pursuant to Section 2(b) below, shall not exceed the number of Seats for each such Program, (ii) the number of individual database setups that can be accessed by each Program shall not exceed the number of Clients for each such Program, and (iii) the location at which the databases accessed by the Program(s) reside shall be the Licensed Site designated herein. **The Licensee is also permitted to install the Program(s) in a test environment at the Licensed Site and to store copies of the databases used by the Programs for the purposes of end-user training, acceptance of any converted/migrated legacy data, and acceptance of any developed interfaces/integration.**

13. GENERAL PROVISIONS.

(i) Choice of Law. This Agreement will be governed by and construed in accordance with the laws of the State of **Arizona**.