MARTELLO

END-USER LICENSE AND SUPPORT AGREEMENT

Martello Technologies Corporation, a corporation duly incorporated pursuant to the laws of the Province of Ontario, whose registered office and place of business is at 390 March Road, Suite 110, Kanata, Ontario, Canada, K2K 0G7, and its subsidiaries and affiliates, as specified in the Order Form, including Martello Technologies US Inc. (formerly known as GSX Groupware Solutions Inc. and Savision Inc.), a corporation with offices at 185 Alewife Brook Parkway, Suite 410, Cambridge, MA 02138**,** SAVISION BV, a corporation with offices at Keizersgracht 555, 1017 DR Amsterdam, The Netherlands, and GSX Participations SA, a corporation with offices at Rue du Nant D'avril 1501217 Meyrin, Switzerland, hereinafter collectively referred to as "**MARTELLO**", either directly or through its PARTNER(s), (a) grants CUSTOMER the license set forth in this Agreement to use the Licensed Product(s) set out in the Order Form, and (b) if applicable, agrees to provide the support and maintenance services described in this Agreement, all subject to the terms and conditions specified herein.

THIS AGREEMENT BETWEEN CUSTOMER AND MARTELLO SHALL AUTOMATICALLY TAKE EFFECT UPON AND, IN CONSIDERATION OF THE USE OF THE SOFTWARE, CUSTOMER AGREES TO BE BOUND BY THE TERMS AND CONDITION OF THIS AGREEMENT UPON THE EARLIER OCCURRENCE OF ONE OF THE FOLLOWING EVENTS: (A) CUSTOMER INSTALLS, ACCESSES OR USES THE LICENSED PRODUCT(S), WHETHER OR NOT HAVING SIGNED THE ORDER FORM OR PAID A LICENSE FEE; (B) CUSTOMER ENTERS INTO AN AGREEMENT WITH MARTELLO, FOR INSTANCE BY RETURNING A SIGNED ORDER FORM, PURSUANT TO WHICH CUSTOMER OBTAINS THE RIGHT TO USE THE LICENSED PRODUCT(S) IN ACCORDANCE WITH THIS AGREEMENT; (C) CUSTOMER ENTERS INTO AN AGREEMENT WITH A PARTNER PURSUANT TO WHICH CUSTOMER OBTAINS THE RIGHT TO USE THE LICENSED PRODUCT(S) IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT; OR (D) CUSTOMER CLICKS "I AGREE" OR OTHERWISE SIGNIFIES THEIR INTENTION TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS AN AGENT, EMPLOYEE OR END-USER OF AN ENTITY, HE OR SHE REPRESENTS AND WARRANTS THAT: (I) THEY ARE DULY AUTHORIZED TO ACCEPT THIS AGREEMENT ON SUCH ENTITY'S BEHALF AND TO BIND SUCH ENTITY, ITS AFFILIATES AND ALL USERS WHO ACCESS OR USE THE LICENSED PRODUCT(S); AND (II) SUCH ENTITY HAS FULL POWER, CORPORATE OR OTHERWISE, TO ENTER INTO THIS AGREEMENT AND PERFORM ITS OBLIGATIONS HEREUNDER. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR IF CUSTOMER DOES NOT AGREE WITH THIS AGREEMENT, CUSTOMER MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE LICENSED PRODUCT(S). IF A MARTELLO PARTNER DOWNLOADS OR INSTALLS THE SOFTWARE FOR CUSTOMER, AND CHECKS THE BOX THAT STATES "I ACCEPT THE TERMS AND CONDITIONS OF THE END USER LICENSE AND SUPPORT AGREEMENT", OR ANY SUCH SIMILAR STATEMENT, CUSTOMER IS DEEMED TO HAVE AUTHORIZED SUCH THIRD PARTY TO VALIDLY REPRESENT CUSTOMER TO ENTER INTO THIS AGREEMENT FOR ITS OWN ACCOUNT AND ON ITS BEHALF.

FROM TIME TO TIME MARTELLO AND CUSTOMER MAY PREPARE AND ISSUE DOCUMENTS ANCILLARY TO THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ORDER FORMS, PURCHASE ORDERS, ACCEPTANCE LETTERS, FORMS, NOTICES, ETC. IN ORDER TO SET UP THE USE OF THE LICENSED PRODUCT(S), TO FACILITATE INVOICING AND BILL PAYMENT AND/OR FOR OTHER PURPOSES. IT IS UNDERSTOOD THAT ALL SUCH DOCUMENTS ISSUED OR ACCEPTED BY EITHER PARTY SHALL NOT VARY THE TERMS OF THIS AGREEMENT AND SHALL BE GOVERNED BY THE TERMS SPECIFIED IN THIS AGREEMENT, UNLESS OTHERWISE EXPRESSLY AGREED BY THE PARTIES IN WRITING WITH REFERENCE TO THE SECTION OF THIS AGREEMENT SO VARIED.

1. DEFINITIONS

1.1 In this Agreement, the following terms, in addition to the terms defined else where in this Agreement, shall have the following meanings:

(a) "**Affiliate**" means any person who, directly or indirectly, through one or more entities, controls or is controlled by or is under common control with any of the parties.

(b) "**Agreement**" means this End-User License and Support Agreement, including the schedules attached hereto, together with all applicable Order Forms.

(c) "**Business Day**" means a business day, which shall exclude weekends and U.S. federal holidays and statutory holidays in the Province of Ontario, Canada.

(d) "**Confidential Information**" means any drawings, specifications, documentation, software listings, source or object code, trade secrets, confidential data, know-how, performance, benchmarking or feature-related information or other confidential information relating to or used in connection with the Licensed Product(s) including pricing information. Confidential Information shall not include any information, which is generally available to the public without a breach of confidentiality obligations.

(e) "**CUSTOMER**" means the CUSTOMER set out in the Order Form and each agent, employee or End-User of CUSTOMER using the Licensed Product(s) pursuant to this Agreement, as applicable.

(f) "**Data**" means (i) the information CUSTOMER provides to MARTELLO in the course of ordering, purchasing and using the Licensed Product(s), including name, billing address (including postal code), email address, phone number, payment card, account number, or account verification code, payment card commencement date and expiration date, the account password CUSTOMER selects for its account with MARTELLO, and (other) billing data as defined in MARTELLO'S Privacy Policy (available at: https://martellotech.com/privacy/) (the "**Privacy Policy**") (ii) information MARTELLO collects in the course of processing and fulfilling CUSTOMER orders, including Internet service provider, CUSTOMER Internet Protocol (IP) address; and (iii) information about CUSTOMER's installation and use of the Software.

(g) "**Documentation**" means any and all documentation, whether in written or electronic form, developed or owned by MARTELLO that accompanies the Software.

(h) "**End-User**" means the end-user(s) permitted to use the Licensed Product(s) pursuant to this Agreement.

(i) "**GSX Software**" means the M365 end user experience monitoring offering, named Martello Gizmo, as such name may be updated by MARTELLO from time to time, in object code form only and including all Updates and/or Upgrades made available by MARTELLO to CUSTOMER.

(j) "**Intellectual Property Rights**" means intellectual property rights granted or recognized under any United States, Canadian or foreign legislation or any other statutory provision or common law or civil law principle in the Licensed Product(s), including but not limited to patents, copyrights, moral rights, trade name rights, trademark rights, database rights, know-how, whether registered or unregistered, including rights in any application, registration, renewal or extension and in whatever form.

(k) "**Internal Network**" means a private, proprietary network resource accessible only by employees and individual contractors (*i.e.*, temporary employees) of an entity or similar business association. Internal Network does not include portions of the Internet or any other network community open to the public, such as membership or subscription driven groups, associations, and similar organizations.

(l) "**License Fee**" means the fee(s) due by CUSTOMER to MARTELLO to use the Licensed Product(s), as specified in the Order Form.

(m) "**Licensed Platforms**" mean the specific platforms for which CUSTOMER purchases a license to use the Software, as specified in the Order Form (*e.g.,* Domino, Exchange, Sharepoint, etc.).

(n)   "**Licensed Product(s)**" means the Software, as set forth in the Order Form, and Documentation.

(o)   "**Licensed Servers**" mean the number of computer server(s) for which CUSTOMER purchases a license to use the Software, as specified in the Order Form.

(p)   "**Order Form**" means the order form, which sets out, among other information contemplated in this Agreement, the MARTELLO entity from whom the Licensed Product(s) are purchased, the Licensed Product(s), the Fees and, if licensing GSX Software, the number of licensed End-Users, the number of Licensed Servers and the Licensed Platform(s).

(q)   "**PARTNER**" means any third party through whom CUSTOMER has obtained the Licensed Product(s), which includes resellers, channel partners or service providers of MARTELLO.

(r)   "**Savision Software**" means the IT operations analytics offerings, named Martello iQ and Martello Live Maps, as such names may be updated by MARTELLO from time to time, in object code form only and including all Updates and/or Upgrades made available by MARTELLO to CUSTOMER.

(s)   "**Software**" means those software programs developed, owned, licensed or otherwise made available by MARTELLO, including the Savision Software and the GSX Software, as specified in the Order Form in object code form only and including all Updates and/or Upgrades made available by MARTELLO to CUSTOMER.

(t)   "**Trial Version**" means a version of the Software, so identified, to be downloaded, installed and used only to review, demonstrate and evaluate the Software for a limited time period. The Trial Version may have limited features, may lack the ability for CUSTOMER to save the end product, and may cease operating after a predetermined amount of time due to an internal mechanism within the Trial Version.

(u)   "**Update**" means a release or version of the Software containing minor functional enhancements, extensions, error corrections or fixes, which may be indicated by a change in the numeric identifier for the Software in the digit to the right of the decimal as determined by MARTELLO and that is generally made available by MARTELLO free of charge to MARTELLO's customers.

(v)   "**Upgrade**" means a release or version of the Software that contains new features or significant functional enhancements, which are indicated by a change in the numeric identifier for the Software in the digit to the left of the decimal, as determined by MARTELLO in its sole discretion and that may be made available by MARTELLO subject to separate fees and charges.

2.   LICENSE(S)

2.1   Pursuant to the terms and conditions of this Agreement and subject to CUSTOMER's payment of the Fees, MARTELLO grants CUSTOMER a limited license to the Software specified in the Order Form, in accordance with, and subject to, the terms of the relevant Software schedule attached hereto. For clarity, the parties acknowledge that MARTELLO offers multiple Software licenses and that each schedule attached hereto relates to a specific Software program. The parties further acknowledge that while multiple Software schedules are attached to this Agreement, only the schedule(s) relating to the Software licensed by CUSTOMER from MARTELLO, as set out in the Order Form, shall apply to CUSTOMER. CUSTOMER undertakes not to use the Software in a manner inconsistent with its design or Documentation and the license(s) purchased. Notwithstanding any reference to "purchase" (or similar term), the Software is licensed, not sold.

2.2   MARTELLO grants CUSTOMER a non-transferable, non-exclusive, non-assignable, revocable right to use the Documentation during the term of the license to the applicable Software, solely for the purposes of using the Software and for its internal business and non-commercial purposes.

3. LICENSE RESTRICTIONS

3.1 In addition to the restrictions set out in the applicable Software schedule(s) to this Agreement, CUSTOMER shall not modify, port, adapt, translate, reverse engineer, reverse compile, decompile, disassemble, decode, otherwise attempt to discover the source code of the Software, work around technical limitations, use components of the Software not running on the Software or modify or alter the Licensed Product(s) in any manner, except to the extent that such prohibition is expressly prohibited under applicable law notwithstanding a contractual obligation to the contrary. CUSTOMER shall not copy, reproduce or create derivative works of the Licensed Product(s). CUSTOMER shall not by-pass or delete any of the copy protection methods that prevent the unauthorized copying or use of the Software. CUSTOMER shall not sub-license, timeshare, electronically distribute, lend, lease, rent, share or otherwise transfer, grant a security interest in or otherwise encumber, the Licensed Product(s), or export or import the Licensed Product(s) in violation of applicable law.

4. SUPPORT AND MAINTENANCE SERVICES

4.1 Subject to CUSTOMER's compliance with this Agreement and subject to Schedule C, MARTELLO shall provide to CUSTOMER the support and maintenance services described below (collectively, "**Support and Maintenance**"), during the term of the license to the applicable Software.

    (a) MARTELLO shall provide a telephone hotline staffed by support personnel who shall be available on Business Days during the hours of 8 a.m. to 6 p.m. Eastern Standard Time to answer technical questions by CUSTOMER regarding use and operation of the Software. MARTELLO's online help desk is available twenty-four (24) hours a day, seven (7) days a week. The average response time for online support is one (1) day.

    (b) From time to time MARTELLO publishes Updates to the Licensed Product(s) on its web pages. These Updates improve the workings of the Software, ensure the Licensed Product(s) comply with minor updates, or remove any bugs known to MARTELLO at the time of issuing of the Update. CUSTOMER shall be entitled to receive or download one (1) copy (key) of each Update, including bug and version updates, if any, which MARTELLO makes generally available to its customers. From time to time MARTELLO also makes available Software Upgrades. Such Software Upgrades may be subject to additional license terms and fees. CUSTOMER acknowledges that any obligation MARTELLO may have to support the previous version(s) of the Software ends upon the availability of the Update or Upgrade. Furthermore, no use of the previous version(s) is permitted after installation of an Update or Upgrade, as applicable.

    (c) CUSTOMER may acquire additional copies of the Documentation for free electronically.

4.2 All services not covered by this Agreement, which CUSTOMER requests, may be provided by MARTELLO subject to the mutual agreement of the parties and at MARTELLO's then-current rates. All services provided by MARTELLO at CUSTOMER's request, other than during MARTELLO's normal working hours at MARTELLO's headquarters shall be billed as special services.

4.3 MARTELLO does not represent that it will continue to manufacture or support any version of the Software indefinitely or for a specific period of time. MARTELLO reserves the right to modify any of the specifications or characteristics of the Software, to remove any Software from the market, and/or to cease manufacturing or supporting any Software, and shall provide CUSTOMER reasonable advance written notice should it have the intention to do so.

5. FEES

5.1 Unless otherwise specified on the Order Form, prices are exclusive of all applicable taxes, duties and charges (i.e. any export/import/customs duties, shipping/transportation charges, value added/sales/use taxes, and any other charges/taxes imposed by local/national or other legal authorities) for which CUSTOMER shall be responsible.

5.2   CUSTOMER will pay MARTELLO or PARTNER, as the case may be, the License Fee, and any other fees in respect of products or services provided by MARTELLO as set out in the Order Form or agreed to by the parties pursuant to this Agreement (collectively, the "**Fees**") within thirty (30) days of the invoice date. Unless otherwise expressly agreed by MARTELLO in writing, all Fees are payable annually in advance.

5.3   For licenses for a period of more than one (1) year, following the first year of the term, MARTELLO may, on an annual basis, increase the Fees payable provided that any such increase does not exceed, on a percentage basis, the increase in the Consumer Price Index, published either by Statistics Canada or the United States Department of Labor, as applicable, over the immediately preceding one (1) year period.

5.4   Should CUSTOMER not pay the applicable Fees when due, then MARTELLO shall be entitled to charge CUSTOMER interest at a rate of 1.5% percent per month (19.57% per annum) or the maximum rate permitted by law, whichever is lower, on the outstanding amounts, calculated from the date that they were due to MARTELLO and if CUSTOMER is more than thirty (30) days late in the payment of the Fees or any other sum due to MARTELLO pursuant to this Agreement or any other agreement between MARTELLO and CUSTOMER, MARTELLO may, at its discretion, suspend performance under this Agreement or any other related agreements or immediately terminate this Agreement and CUSTOMER's right to download, install and use the Licensed Product(s).

5.5   MARTELLO shall have the right to set-off any Fees or other amounts due under this Agreement, which are not paid when due against any amounts owed to CUSTOMER by MARTELLO or a MARTELLO licensor or PARTNER pursuant to this Agreement or any other agreement with MARTELLO or a MARTELLO licensor or PARTNER. CUSTOMER shall not withhold or deduct any amounts from, or set-off amounts owed by MARTELLO or a MARTELLO licensor or PARTNER to CUSTOMER against, any amounts invoiced by MARTELLO or a MARTELLO licensor or PARTNER under this Agreement.

6.   INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIAL INFORMATION

6.1   CUSTOMER acknowledges that any and all of the Intellectual Property Rights used or embodied in or in connection with the Licensed Product(s) shall be and remain the exclusive property of MARTELLO. This Agreement transfers to CUSTOMER neither title nor any Intellectual Property Rights to any of the Licensed Product(s), or any Intellectual Property Rights embodied or used in connection therewith, except for the license rights expressly granted herein. All rights not expressly granted are hereby reserved to MARTELLO. USE OF SOME MARTELLO AND SOME NON-MARTELLO MATERIALS AND SERVICES INCLUDED IN OR ACCESSED THROUGH THE SOFTWARE MAY BE SUBJECT TO OTHER TERMS AND CONDITIONS TYPICALLY FOUND IN A SEPARATE LICENSE AGREEMENT, TERMS OF USE OR "READ ME" FILE LOCATED WITHIN OR NEAR SUCH MATERIALS AND SERVICES.

6.2   CUSTOMER agrees to keep confidential all Confidential Information disclosed to it, protect the confidentiality thereof in the same manner it protects the confidentiality of similar information and data of its own (at all times exercising at least a reasonable degree of care in the protection of Confidential Information), not to use any Confidential Information for any purpose not authorized under this Agreement, and not to disclose, transfer or otherwise provide to third parties any such Confidential Information. CUSTOMER shall cause its officers, directors, employees, agents, and advisers to comply with the terms of this Section and shall take all steps to ensure the secrecy of all such Confidential Information. Without limiting anything else in this Agreement, CUSTOMER acknowledges and agrees that the structure, organization, and source code of the Software are the valuable trade secrets and Confidential Information of MARTELLO and its licensors and suppliers.

6.3   CUSTOMER shall not remove, cover, or alter any proprietary rights notice, such as designations, logos, trade names or trademarks, or any product names, legends, symbols or labels on the Licensed Product(s) or any copies thereof. Any permitted copy of the Software that CUSTOMER makes in accordance with the terms of this Agreement must contain the same copyright and other proprietary notices that appear on or in the Software. This Agreement does not authorize CUSTOMER to use MARTELLO's, its affiliates', subsidiaries', licensors' or suppliers' names or any of their respective trademarks or any third party trademark used in connection with the Licensed Product(s).

7. CUSTOMER DATA AND CONNECTIVITY

7.1   CUSTOMER authorizes MARTELLO to process CUSTOMER's Data for the purposes described in the Privacy Policy. CUSTOMER acknowledges that MARTELLO's use of CUSTOMER's Data includes processing and fulfilling orders and providing information to CUSTOMER about the Software and offering solutions. MARTELLO may share CUSTOMER Data with its PARTNERS. Should any of the CUSTOMER Data be amended, CUSTOMER undertakes to notify MARTELLO of any such amendment. Should CUSTOMER fail to do so, any notification sent to CUSTOMER at the address, email address or fax number provided to MARTELLO shall be deemed to have been properly delivered.

7.2   The Software may cause CUSTOMER's computer, without additional notice, automatically to connect to the Internet and to communicate with a MARTELLO, or a MARTELLO PARTNERS', website (each, a "**MARTELLO Website**") for purposes that may include providing CUSTOMER with additional information, features and functionality or providing MARTELLO with information concerning the use, functioning, or other features of the Software. Unless otherwise specified in this Agreement, the following provisions apply to all automatic Internet connections by the Software:

   (a)   When the Software automatically connects to the Internet, an Internet protocol address ("**IP Address**") that is associated with CUSTOMER'S current Internet connection is sent to a MARTELLO Website;

   (b)   When the Software automatically connects to the Internet, no personally identifiable information is sent except to the extent that IP Addresses may be considered personally identifiable in some jurisdictions; and

   (c)   Whenever the Software makes an Internet connection and communicates with a MARTELLO Website, whether automatically or due to explicit user request, the Privacy Policy shall apply. Please note that the Privacy Policy allows tracking of MARTELLO Website visits and it addresses in detail the topic of tracking and use of cookies, web beacons, and similar devices.

7.3   Because the Internet is an inherently open and insecure means of communication, any data transmitted over the Internet may be susceptible to interception and alteration. MARTELLO makes no guarantee regarding, and assumes no liability for, the security and integrity of any data transmitted over the Internet, including any data or information transmitted via any server designated as "secure".

8. WARRANTY AND DISCLAIMER

8.1   MARTELLO warrants to CUSTOMER that, for a period of thirty (30) days following the initial purchase and delivery of the Software to CUSTOMER, the Software will perform substantially in conformance with the Documentation. The foregoing warranty applies only to failures in operation of the Software that are reproducible by MARTELLO in standalone form and does not apply to: (i) Software that is modified or altered by CUSTOMER or any third party that is not authorized by MARTELLO in writing; (ii) Software that is otherwise operated in violation of this Agreement or other than in accordance with the Documentation; (iii) failures that are caused by networks or other software or hardware products; (iv) failures resulting from accident, neglect, abuse or misapplication; and (v) Software that is serviced by any person not authorized by MARTELLO. To the greatest extent permitted by law, as MARTELLO's and its PARTNER's entire liability, and as CUSTOMER's exclusive remedy for any breach of the foregoing warranty, MARTELLO will, at its sole option and expense, promptly repair or replace any Software that fails to meet this limited warranty or, if repairing or replacing the Software is not economically or technically feasible, as determined by MARTELLO, in its discretion, refund to CUSTOMER the applicable License Fees paid upon return, if applicable, of the nonconforming Software to MARTELLO. Upon such refund, CUSTOMER's license to use such Software will immediately terminate. Any replacement Software under this limited warranty will be warranted for thirty (30) days.

8.2   EXCEPT AS SET OUT IN SECTION 8.1, TO THE GREATEST EXTENT PERMITTED BY LAW, THE LICENSED PRODUCT(S) ARE BEING PROVIDED TO CUSTOMER "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND AND MARTELLO MAKES NO WARRANTY, REPRESENTATION OR PROMISE WITH RESPECT TO THE LICENSED PRODUCT(S), SUPPORT AND MAINTENANCE,

OR OTHER PRODUCTS OR SERVICES WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ALL IMPLIED WARRANTIES OR IMPLIED CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. MARTELLO DOES NOT WARRANT THAT THE SOFTWARE WILL MEET CUSTOMER'S REQUIREMENTS, WILL OPERATE WITHOUT INTERRUPTION OR WILL BE ERROR-FREE, OR THAT ALL ERRORS MAY BE CORRECTED.

8.3 NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY MARTELLO, ITS LICENSORS, SUPPLIERS OR PARTNERS (OR EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND AFFILIATES) SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY PROVIDED HEREIN.

8.4 The Software is not designed, developed, intended or licensed for use in any nuclear, aviation, mass transit or medical application or in any other inherently dangerous or high-risk applications. MARTELLO AND ITS PARTNERS AND LICENSORS SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM SUCH USE IF CUSTOMER OR ANY OTHER PERSON OR ENTITY USES THE SOFTWARE FOR SUCH PURPOSES.

9. LIMITATION OF LIABILITY AND INDEMNITIES

9.1 TO THE GREATEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL MARTELLO OR ITS LICENSORS, SUPPLIERS (INCLUDING THIRD PARTY MERCHANTS OF RECORD), PARTNERS, DISTRIBUTORS, AGENTS, PARTNERS OR ASSOCIATED SERVICE PROVIDERS (OR EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AFFILIATES) (THE "**MARTELLO ENTITIES**") BE LIABLE TO CUSTOMER FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, LOSS OF REVENUE OR PROFIT, LOSS OF OR DAMAGE TO DATA OR OTHER COMMERCIAL OR ECONOMIC LOSS, WHETHER BASED ON BREACH OF CONTRACT, EQUITY, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT SUCH MARTELLO ENTITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. IF CUSTOMER OR ANY OTHER PERSON OR ENTITY IS ENTITLED TO RECOVER ANY DAMAGES FROM THE MARTELLO ENTITIES ARISING OUT OF OR RELATING TO THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, CUSTOMER'S USE OF, OR INABILITY TO USE, THE LICENSED PRODUCT(S), OR THE PERFORMANCE OR FAILURE TO PERFORM BY MARTELLO OF ANY PROVISION OF THIS AGREEMENT, WHETHER OR NOT CAUSED BY THE ACTS OR OMISSIONS OF MARTELLO, ITS EMPLOYEES OR AGENTS), THE AGGREGATE LIABILITY OF THE MARTELLO ENTITIES, IF ANY, SHALL IN NO EVENT EXCEED THE TOTAL FEES PAID BY CUSTOMER IN THE TWELVE (12) MONTHS PRECEDING THE DATE OF THE CLAIM. THE PARTIES HAVE AGREED THAT THE LIMITATIONS SPECIFIED IN THIS SECTION 9.1 WILL SURVIVE AND APPLY, WHETHER OR NOT THE ALLEGED BREACH OR DEFAULT IS A BREACH OF A FUNDAMENTAL CONDITION OR TERM OR A FUNDAMENTAL BREACH AND EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY OF CERTAIN DAMAGES, SO THESE LIMITATIONS MAY NOT APPLY TO CUSTOMER. THE MARTELLO ENTITIES SHALL BE THIRD PARTY BENEFICIARIES IN RESPECT OF THIS PROVISION.

9.2 Subject to Section 9.1, MARTELLO shall defend CUSTOMER in any third party action, suit or claim that CUSTOMER's use or possession of the Licensed Product(s) infringes any valid third party United States or Canadian intellectual property rights and shall pay settlement amounts agreed to by MARTELLO and/or any losses, damages liabilities, expenses, or costs (including, but not limited to, reasonable legal fees) awarded to such third party against CUSTOMER by a court of competent jurisdiction, provided that: (a) CUSTOMER promptly notifies MARTELLO in writing of any such action, suit or claim; (b) CUSTOMER shall give MARTELLO sole control of the defence and settlement of the claim; (c) at MARTELLO's request, CUSTOMER shall fully cooperate at its own expense with MARTELLO in defending or settling such claim; and (d) CUSTOMER shall not settle any claims without MARTELLO's consent, or compromise the defense of any such claims. If: (i) MARTELLO becomes aware of an actual or potential claim; or (ii) CUSTOMER provides MARTELLO with notice of an actual or potential claim, MARTELLO may (or in the case of an injunction against CUSTOMER, shall), at MARTELLO's sole option and determination: (1)

procure for CUSTOMER the right to continue to use the Licensed Product(s); or (2) replace or modify the Licensed Product(s) with equivalent or better software or technology so that CUSTOMER's use is no longer infringing; or (3) if (1) or (2) are not commercially reasonable, take return of the affected Licensed Product(s) and pay to CUSTOMER the depreciated capital cost of the affected Licensed Product(s), as calculated by applying a three (3) year straight-line depreciation schedule commencing from the date of delivery, less any outstanding moneys owed on such affected Licensed Product(s). The obligations in this Section 9.2 do not extend to: (A) any claim based upon infringement or alleged infringement of any intellectual property right by the combination of the Licensed Product(s) with other products, software or services not provided or performed by MARTELLO; (B) any claim related to or in connection with any modification of the Licensed Product(s) by anyone other than MARTELLO; (C) any compliance by MARTELLO with the specific instructions of CUSTOMER; (D) any use, distribution, or exercise of any other right in respect to the Licensed Product(s) outside what is reasonably foreseeable; or (E) any claim based upon CUSTOMER's breach of the terms and conditions in this Agreement. The foregoing are MARTELLO's sole and exclusive obligations, and CUSTOMER's sole and exclusive remedies, with respect to infringement or misappropriation of any intellectual property right.

9.3   CUSTOMER shall, at its own expense and at MARTELLO's request, indemnify, defend (at MARTELLO's option) and hold harmless the MARTELLO ENTITIES from and against any and all liabilities, claims, damages, losses, costs, expenses and other amounts (including reasonable legal fees) that arise or result, directly or indirectly, from CUSTOMER's use of the Licensed Product(s).

10.   TERM AND TERMINATION

10.1   This Agreement takes effect as set out at the beginning of this Agreement hereof and shall remain in force for the term of the license specified in the Order Form for the Licensed Product(s) and if no term is specified in the Order Form, for one (1) year, unless terminated earlier as set forth in this Agreement. This Agreement shall automatically renew for successive terms of one (1) unless either party provides written notice to the other of its intent not to renew this Agreement not less than thirty (30) days prior to the end of the then-current term.

10.2   Notwithstanding any provisions contained herein, MARTELLO may terminate this Agreement if the CUSTOMER is in default under this Agreement and, if such default is capable of cure, fails to cure such default within thirty (30) days of written notice from MARTELLO of such default. Without limiting the foregoing, any licenses granted to CUSTOMER shall automatically terminate, without notice from MARTELLO, if CUSTOMER is in breach of this Agreement.

10.3   Notwithstanding any provisions contained herein, this Agreement may be terminated with immediate effect by MARTELLO upon written notification to CUSTOMER if any of the following events take place:

(a)   if CUSTOMER becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of its creditors, files or has filed against it by a third party any petition under any bankruptcy act, or an application for a receiver of CUSTOMER is made by anyone and such petition or application is not resolved in favor of CUSTOMER within sixty (60) days; or

(b)   if CUSTOMER does not pay the Fees or pays later than sixty (60) days after the date the Fees are due and payable, and without prejudice to any other rights MARTELLO may have under this Agreement or the law.

10.4   Notwithstanding anything contained in this Agreement to the contrary, MARTELLO may also, in its sole discretion, terminate or suspend access to the Licensed Product(s) at any time. If CUSTOMER's access to the Licensed Product(s) are terminated or suspended, MARTELLO may also, in its sole discretion, terminate or suspend access to the Support and Maintenance.

10.5   The expiry or termination of this Agreement shall be without prejudice to the rights of the parties accrued up to the date of such expiry or termination. Upon expiry or termination of this Agreement, or the license granted hereunder, for any reason, including, without limitation, as a result of CUSTOMER not paying the applicable Fees, all of CUSTOMER rights to access and/or use the Licensed Product(s) shall end without

notice to CUSTOMER and CUSTOMER shall return or destroy (as MARTELLO shall instruct) no later than fourteen (14) days thereafter, any Licensed Product(s), technical information and any other data in respect of the Licensed Product(s) supplied to CUSTOMER during the term of this Agreement and all and any copies made in whole or in part of same, and at MARTELLO's request, CUSTOMER shall furnish MARTELLO with a statement certifying that same has been done. Licenses to Software cannot be terminated by CUSTOMER for convenience prior to expiry of the then-current license term.

10.6   The following Sections shall survive any termination or expiration of this Agreement, in addition to any terms that by law or by their nature are intended to survive: Article 3 (License Restrictions), Article 6 (Intellectual Property Rights and Confidential Information), Article 7 (Customer Data and Connectivity), Article 9 (Limitation of Liability and Indemnities), Article 10 (Term and Termination), Article 12 (General), and Sections 5.4, 5.5, 8.2, 8.3 and 8.4.

11.   VERIFYING COMPLIANCE WITH LICENSE

11.1   CUSTOMER agrees that, no more than once every twelve (12) months, MARTELLO or its authorized representatives shall, upon ten (10) days' prior notice to CUSTOMER, have the right to inspect CUSTOMER's records, systems, and facilities to verify that CUSTOMER's use of any and all Software is in conformity with CUSTOMER's valid licenses from MARTELLO and all restrictions on use of the Software in this Agreement. For example, MARTELLO has the right to those of CUSTOMER's records useful to determine whether the number of end-users and the number of servers does not exceed the number of End-Users and of Licensed Servers, if applicable, for which CUSTOMER has obtained a license. If such verification process discloses that CUSTOMER's use is not in conformity with a valid license, CUSTOMER shall immediately request valid licenses to bring CUSTOMERS use into conformity. If CUSTOMER does not immediately obtain a valid license, MARTELLO may suspend or terminate CUSTOMER's license to use the Software without notice or liability to CUSTOMER. Upon request, CUSTOMER shall immediately lend its full cooperation to any such inspection. MARTELLO shall maintain the confidentiality of all CUSTOMER information to be regarded as confidential that MARTELLO obtains in the course of such inspection, in so far this information does not relate to the use of the Software itself.

12.   GENERAL

12.1   Force Majeure. Notwithstanding anything else in this Agreement, and except for the obligation to pay money, no default, delay or failure to perform on the part of either party shall be considered a breach of this Agreement if such default, delay or failure to perform is shown to be due to causes such as sabotage, strikes, lockouts or other labor disputes, embargoes, riots, terrorism, civil disturbances, orders, actions or inaction of governmental authorities or suppliers, restrictive laws or regulations, court orders, condemnation, failure of the Internet, material breakdown of its equipment, epidemics (whether or not declared), pandemics (whether or not declared), local disease outbreak, government orders, war, embargoes, severe weather (including, without limitation, hurricanes), fire, flood, earthquakes, acts of God or the public enemy, disasters, default of a common carrier, or similar causes beyond reasonable control of the party charged with a default ("**Force Majeure**"). A failure due to Force Majeure shall only be excused to the extent of the duration of such Force Majeure and a reasonable time thereafter.

12.2   Partial Invalidity. In the event that any terms, conditions or provision contained in this Agreement or any part thereof are found to be invalid, unlawful or unenforceable to any extent the parties shall endeavor to agree such amendments, which shall in so far as possible effect the intentions expressed therein. In default of such agreement, such invalid term, condition or provision shall be severed from the remaining terms, conditions and provisions, which shall continue to be valid and enforceable to the fullest extent permitted by law.

12.3   Assignment. CUSTOMER may not assign this Agreement or any rights or obligations hereunder, directly or indirectly, by operation of law or otherwise, without the prior written consent of MARTELLO. MARTELLO may freely assign or subcontract this Agreement and upon such assignment shall be fully released from all of its obligations hereunder. Subject to the foregoing, this Agreement shall enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns. Any attempted assignment in violation of this Section shall be void.

12.4   Waiver. Failure or neglect by MARTELLO to enforce any of the provisions hereof at any time shall not be construed or deemed to be a waiver of MARTELLO's rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice MARTELLO's rights to take subsequent action. The express waiver by MARTELLO of any provision, condition or requirement of this Agreement shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement.

12.5   Publicity. CUSTOMER shall not disclose the existence or terms of this Agreement or make any press release or other public communication.

12.6   Notices. All notices required by or relating to this Agreement will be in writing and will be sent by electronic mail to MARTELLO at: itops-contracts@martellotech.com; and to CUSTOMER at the email address set out in the Order Form. Should CUSTOMER fail to update the email address or other contact information set out in the Order Form, any notice sent to CUSTOMER at the email address or other contact information shall be deemed to have been properly delivered to CUSTOMER.

12.7   Third Party Beneficiary. MARTELLO's Affiliates and PARTNERS are third party beneficiaries to the rights reserved for MARTELLO under this Agreement, and by entering into this Agreement, MARTELLO shall be deemed to have accepted such on behalf of its Affiliates and PARTNERS. Except to the extent expressly set forth herein, there are no third party beneficiaries to this Agreement.

12.8   Relationship of the Parties. Nothing contained in this Agreement shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties. The relationship between the parties shall at all times be that of independent contractors. Neither party shall have authority to contract for or bind the other in any manner whatsoever.

12.9   Government Use. The Software and Documentation are deemed to be "commercial computer software" and "commercial computer software documentation", respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212(b), as applicable. Any use, modification, reproduction, release, performing, displaying or disclosing of the Software and accompanying Documentation by the U.S. Government shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms of this Agreement.

12.10 Export Regulations. The Software is subject to United States and Canadian export laws and regulations. CUSTOMER must comply with all Canadian, United States and international export laws and regulations that apply to the Software. These laws include restrictions on destinations, End-Users and end use.

12.11 Compliance with Laws. CUSTOMER undertakes to comply with all applicable laws, orders, and regulations of any governmental authority with jurisdiction over CUSTOMER's activities in connection with this Agreement or CUSTOMER's use of the Licensed Product(s).

12.12 Governing Law (United States). If CUSTOMER is located in the United States, this Agreement shall be construed under and governed by the laws of New York, including its Uniform Commercial Code, without reference to conflict of laws principles. CUSTOMER consents and agrees that the courts of New York shall have the exclusive jurisdiction over any legal action or proceeding arising out of or relating to this Agreement, and CUSTOMER consents to the jurisdiction of such courts for any such action or proceeding and CUSTOMER agrees that CUSTOMER will pay to MARTELLO all legal costs and disbursements incurred by MARTELLO in enforcing this Agreement.

12.13 Governing Law (Canada). If CUSTOMER is located in Canada, this Agreement shall be construed under and governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein, without reference to conflict of laws principles. CUSTOMER consents and agrees that the courts of the Province of Ontario, in Ottawa, Ontario, Canada, shall have exclusive jurisdiction over any legal action or proceeding arising out of or relating to this Agreement, and CUSTOMER consents to the jurisdiction of such courts for any such action or proceeding and CUSTOMER will pay to MARTELLO all legal costs and disbursements incurred by MARTELLO in enforcing this Agreement.

12.14 Jurisdiction. Notwithstanding the foregoing, nothing in this Agreement shall prevent MARTELLO from seeking injunctive relief from, or bringing a claim or enforcing a judgment in, a court of competent

jurisdiction within or outside of New York or the Province of Ontario, as applicable. No choice of laws rules of any jurisdiction shall apply to this Agreement. CUSTOMER waives all rights that CUSTOMER may have or that may hereafter arise to contest the jurisdiction of such courts. The parties waive any right to a jury trial with respect to any action brought in connection with this Agreement. The parties agree that none of the obligations herein will be governed by the United Nations Convention on Contracts for the International Sale of Goods.

12.15   Arbitration. In the event a dispute arises between the parties hereto arising out of or in connection with or with respect to this Agreement or any breach thereof, such dispute shall be determined and settled by arbitration: (a) if CUSTOMER is located in the United States, the arbitration shall be conducted in New York, New York, in accordance with the rules of the American Arbitration Association; and (b) if CUSTOMER is located in Canada, the arbitration shall be conducted in Ottawa, Ontario, in accordance with the *Arbitration Act, 1991* (Ontario). The award rendered thereon by the arbitrator shall be final and binding on the parties thereto, and judgment thereon may be entered in any court of competent jurisdiction. Nothing in this Section shall prevent either party from applying to a court of competent jurisdiction for equitable or injunctive relief.

12.16   Further Assurances. CUSTOMER shall execute and deliver all such further documents and instruments and do all acts and things as MARTELLO may reasonably require to carry out the full intent and meaning of this Agreement.

12.17   English Language. The parties hereto have requested that this Agreement and all correspondence and all documentation relating to this Agreement, be written in the English language. Les parties aux présentes ont exigé que la présente entente, de même que toute la correspondance et la documentation relative à cette entente, soient rédigées en langue anglaise.

12.18   Entire Agreement. This Agreement, including the schedules attached hereto, any other terms referenced herein and the Order Form(s), constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous communications, agreements and understandings, written or oral, with respect to the subject matter hereof.

12.19   Basis of Bargain. Each party recognizes and agrees that the warranty disclaimers and liability and remedy limitations in this Agreement are materially bargained for and that such warranty disclaimers and liability and remedy limitations have been taken into account and reflected in determining the consideration to be given by each party to enter into this Agreement.

12.20   Modification. MARTELLO may, from time to time, amend this Agreement. Any such amendment will automatically become a part of this Agreement upon posting of such amended Agreement, unless otherwise specified by MARTELLO.

SCHEDULE A
SAVISION SOFTWARE TERMS

If CUSTOMER licenses the Savision Software from MARTELLO, in accordance with the Order Form, the following terms, in addition to the terms of the main body of the Agreement, shall apply:

1. Subject to the terms and conditions of this Agreement, MARTELLO grants to CUSTOMER a non-transferable, non-exclusive, non-assignable, non-sublicenable and revocable right to use, display, copy (as set out in this Agreement), load and run the Savision Software during the term of the license specified in the Order Form, as renewed in accordance with this Agreement, for its internal business and non-commercial purposes either: (a) on any compatible computer platform at CUSTOMER's location; or (b) as the parties may agree otherwise, for instance pursuant to a software as a service license model. The Savision Software is restricted to a named management group, named instance, or named machine provided by CUSTOMER at time of purchase. All other such licensing restrictions not set out in this Agreement will be specified within the Order Form or email containing CUSTOMER's license key provided at the time of purchase. CUSTOMER shall use the Savision Software only in full compliance with the agreed scope of the license terms.

2. CUSTOMER is entitled to make one (1) back-up copy of the Savision Software. CUSTOMER is not entitled to make more copies of the Savision Software than specified in the Agreement, unless specifically allowed by applicable law.

3. If a license to use the Savision Software was issued to CUSTOMER for an evaluation period at no charge to CUSTOMER, then the Savision Software shall be subject to this Agreement, *mutatis mutandis,* and such evaluation period commences on the date of delivery of the Savision Software to CUSTOMER and automatically expires no more than sixty (60) days later or, if CUSTOMER advises MARTELLO it no longer wishes to evaluate the Savision Software, upon MARTELLO receiving such notice. CUSTOMER expressly acknowledges that the Savision Software will be rendered inoperative upon expiry of the evaluation period and CUSTOMER will be responsible to remove the Savision Software from its systems. Should CUSTOMER continue to use of the Savision Software after the evaluation period, then the applicable License Fee shall be due and payable, the terms of the Agreement shall govern such use and MARTELLO shall provide CUSTOMER a key to enable CUSTOMER to use the Savision Software.

4. The geographic maps feature is sub-licensed by MARTELLO from Microsoft BING. If CUSTOMER makes use of geographic maps feature in any MARTELLO product, then CUSTOMER will be limited to a maximum of ten (10) End-Users. By entering into this Agreement, CUSTOMER agrees that it will limit use of the geographic maps feature to not more than ten (10) End-Users. Should CUSTOMER require more than ten (10) End-Users, then it is CUSTOMER'S responsibility to license more users from Microsoft BING directly. It is not MARTELLO's responsibility to police the number of users, and CUSTOMER agrees to indemnify, defend (at MARTELLO's option) and hold harmless MARTELLO in the case there is a breach of Microsoft BING licensing.

SCHEDULE B
GSX SOFTWARE TERMS

If CUSTOMER licenses the GSX Software from MARTELLO, in accordance with the Order Form, the following terms, in addition to the terms of the main body of the Agreement, shall apply:

Grant of License

1.   Subject to the terms and conditions of this Agreement, MARTELLO grants to CUSTOMER and its Affiliates a license to the GSX Software as expressly specified in the Order Form and in this Schedule B. Depending on the GSX Software's licensing mechanism, the Order Form shall specify any or all of the GSX Software, the number of End-Users, the number of Licensed Servers, and the designation of the Licensed Platforms of the GSX Software.

      (a)   <u>Trial License:</u> MARTELLO hereby grants to CUSTOMER and its Affiliates, and CUSTOMER and its Affiliates hereby accept(s), the right and license to download, install and use the GSX Software by entering the key access code delivered by MARTELLO for demonstration, evaluation and training purposes. The license is limited to the trial period of one (1) month, unless otherwise expressly agreed by MARTELLO, and is non-exclusive, non-transferable, non-assignable, non-sublicensable and revocable. CUSTOMER may not use such GSX Software after any applicable time-out period has ended, unless CUSTOMER has purchased a license to use it. CUSTOMER undertakes not to download, install or use more than once any Trial Version of the GSX Software. CUSTOMER hereby acknowledges that from time to time the Trial Version may be a beta version or release candidate, *i.e.*, GSX Software which is available but not yet final and subject to modifications or adjustments.

      (b)   <u>Term License:</u> Subject to payment of the License Fee and CUSTOMER's compliance with the terms and conditions of this Agreement, MARTELLO grants to CUSTOMER and its Affiliates, and CUSTOMER accepts (on its and its Affiliates' behalf), the right and license to download, install and use the GSX Software by entering the key access code delivered by MARTELLO for: (i) the number of End Users; (ii) the number of Licensed Servers; (iii) the Licensed Platforms expressly specified on the Order Form or as otherwise purchased at any time in the future; and (iv) for the license term specified in the Order Form, as renewed in accordance with this Agreement. The license is limited to the period specified in the Order Form and is non-exclusive, non-transferable, non-assignable, non-sublicensable and revocable. CUSTOMER may not use such GSX Software after the applicable time-out period has ended, unless CUSTOMER has renewed the license term.

2.   CUSTOMER may download, install and use the GSX Software on the number of Licensed Servers, which CUSTOMER purchased a license for and within CUSTOMER's Internal Network only for use of the GSX Software initiated by an individual from a computer within the same Internal Network only as permitted by Sections 1(a), **Error! Reference source not found.**, and 1(b), respectively. By way of example, the foregoing does not permit CUSTOMER to download, install or use (either directly or through commands, data or instructions) the GSX Software: (a) from or to a computer not part of CUSTOMER's Internal Network; (b) for enabling web hosted workgroups or services available to the public; (c) by any individual or entity to use, download, copy or otherwise benefit from the functionality of the GSX Software unless licensed to do so by MARTELLO; (d) as a component of a system, workflow or service accessible by more than the number of End Users; or (e) for operations not initiated by an individual user (e.g., automated server processing). CUSTOMER may however provide its authorized consultants, agents, auditors, counsels and other representatives temporary access to the GSX Software for the purpose of providing assistance to CUSTOMER.

3.   The total number of Licensed Servers may not exceed the number of Licensed Servers for which CUSTOMER licensed the GSX Software as per the Order Form. CUSTOMER undertakes to communicate to MARTELLO any increase in the number of servers upon which the GSX Software is used so that the applicable License Fee may be adjusted accordingly.

4.   The total number of users able to use the GSX Software on such Licensed Servers may not exceed the number of End Users for which CUSTOMER licensed the GSX Software as per the Order Form. CUSTOMER undertakes to communicate to MARTELLO any increase in the number of users of the GSX Software so that the applicable License Fee may be adjusted accordingly. At any time, MARTELLO may ask CUSTOMER to provide the exact number of actual users of the GSX Software.

5.   The license is in respect of the Licensed Platform(s) specified on the Order Form. In case CUSTOMER wishes to change the platform, CUSTOMER undertakes to communicate to MARTELLO any such change so that the License Fee may be adjusted accordingly.

6.   MARTELLO may at any time require CUSTOMER to provide: (a) the actual number of users of the GSX Software; (b) the actual number of servers on which the GSX Software is installed; and (c) the actual platform on which the GSX Software is being used. CUSTOMER shall respond to such request within thirty (30) days. Should CUSTOMER fail to do so, MARTELLO shall have the right to either terminate this Agreement, or suspend the license for GSX Software for an undefined time period without liability to CUSTOMER.

7.   MARTELLO recommends CUSTOMER makes regular backup copies of the .FDB files (Firebird database files).

License Restrictions

8.   The GSX Software may include various applications, utilities, and components, may support multiple platforms and languages, and may be provided to CUSTOMER in multiple copies. Nonetheless, the GSX Software is designed and provided to CUSTOMER as a single product to be used as a single product on computers as permitted by the Order Form and the terms of the Agreement. CUSTOMER is not required to install all component parts of the GSX Software, but it may not unbundle the component parts of the GSX Software for use on different computers. CUSTOMER may not unbundle or repackage the GSX Software for distribution, transfer or resale.

9.   If the GSX Software licensed by CUSTOMER is a Trial Version, unless otherwise provided herein, CUSTOMER shall not: (a) in the aggregate, download, install or use more than one copy of the Trial Version of the GSX Software; (b) download, install or use the Trial Version of the GSX Software under more than one username; (c) alter the contents of a hard drive or computer system to enable the use of the Trial Version of the GSX Software for an aggregate period in excess of the trial period for one license to such Trial Version; (d) disclose the results of software performance benchmarks obtained using the Trial Version to any third party without MARTELLO's prior written consent; (e) use the Trial Version for any application deployment or ultimate production purpose; or (f) use the Trial Version of the GSX Software for a purpose other than the sole purpose of determining whether to purchase a license to a commercial or education version of the GSX Software; provided, however, notwithstanding the foregoing, CUSTOMER is strictly prohibited from downloading, installing or using the Trial Version of the GSX Software for any commercial training purpose.

Internet Connectivity

10.   The GSX Software may cause CUSTOMER's computer, without additional notice, automatically to connect to the Internet (intermittently or on a regular basis) to check for Updates or Upgrades that are available for download to and installation on CUSTOMER's computer and to let MARTELLO know the results of installation attempts.

11.   The GSX Software may cause CUSTOMER's computer, without additional notice, and on an intermittent or regular basis, automatically to connect to the Internet to facilitate CUSTOMER's access to content and services that are provided to it by MARTELLO. In addition, the GSX Software may, without additional notice, automatically connect to the Internet to update downloadable materials from these services so as to provide immediate availability of these services even when CUSTOMER is offline.

SCHEDULE C
PERPETUAL LICENSES

If the Software was licensed by CUSTOMER pursuant to a perpetual license, then Support and Maintenance is not included within the License Fee paid by CUSTOMER and MARTELLO has no obligation to provide Support and Maintenance in respect of the Software. If CUSTOMER requests, and MARTELLO agrees to provide, Support and Maintenance in respect of the applicable Software, such Support and Maintenance must be purchased by CUSTOMER separately using an Order Form. The term of Support and Maintenance purchased, as well as the annual fees payable by CUSTOMER (which will be deemed to be Fees under, and payable in accordance with, the Agreement), will be set out in the Order Form.