

## **JMT SYSTEMS CONSULTING, LLC MASTER AGREEMENT**

This Master Agreement is made by and between JMT Systems Consulting, LLC., a Washington limited liability company ("JMT"), and the customer entity named on the signature page ("Customer"), to be effective as of the first date when it has been signed by both parties (the "Effective Date").

JMT's offers certain software products the names of which begin with "JMT" (referred herein individually and collectively as "JMT Software", and collectively with Third Party Software, the "Software"), hardware and any embedded software provided by third parties (referred to as "Hardware" and "Third Party Software", respectively), and technical support, professional services and maintenance services made available by JMT from time to time (referred herein individually and collectively as "Services"). All of the hardware conveyed hereunder is sold and copies of software are licensed under the terms set forth below and attached hereto.

### **Sales Orders.**

Customer's initial sales order (the "Initial Sales Order") is attached to this Agreement as Exhibit A, is incorporated herein, and is hereby accepted by JMT. By submitting written sales order(s) in the form provided from time to time by JMT (a "Sales Order") for JMT's approval, Customer may from time to time during the term of this Agreement request additional Hardware, Software or Services, to the extent then part of JMT's product line or service offerings, and at JMT's then prevailing prices. If approved by JMT, such Sales Orders shall become a part of this Agreement and shall be governed hereby. The Initial Order and all accepted Sales Orders are collectively referred to as the "Orders." Delivery lead times will be in conformity with JMT's then-prevailing practices and availability of resources and may vary depending on the nature of the Hardware, Software or Services ordered.

### **Pricing and Payment Terms.**

In the instance of a conflict of terms between this Agreement and any Order, the terms in the Order shall control. All prices are FOB JMT and are exclusive of shipping and handling. JMT shall issue invoices from time to time for any amounts due hereunder, and Customer shall make payments in accordance with the terms of the Order, but in no case later than 30 days of the date of invoice. Without prejudice to JMT's other rights and remedies, late payments shall bear interest at a rate of 1.5% per month or the highest rate allowed by law, whichever is lower.

The fees, charges and other amounts specified in this Agreement do not include any sales, use, excise, duty, value added tax or other taxes or governmental fees imposed on the transactions contemplated under this Agreement. Customer shall bear, and shall reimburse JMT for, all such taxes or fees. Customer shall be responsible for all import, duties and similar declarations upon import. If there is any VAT reverse charge procedure in operation in Customer's country, Customer shall be responsible for ensuring compliance therewith.

JMT shall invoice Customer for payments due in US dollars and Customer shall pay such monies to JMT or to its bank account as detailed on its invoice or other bank account as JMT may designate from time to time at its sole discretion.

All payments due to JMT must be made without any set off, deduction, counterclaim or withholding.

### **Technical Support.**

JMT shall make available to Customer the standard on-line and/or phone-based technical support services (“Technical Support”) that JMT makes available generally to its customers, under JMT’s prevailing terms and conditions for Technical Support. Such standard Technical Support will be provided to Customer without further charge during the 90-day warranty period. Following the warranty period, standard Technical Support will be provided to Customer if Customer orders the same under an accepted Sales Order, and at JMT’s prevailing fees and policies for such Technical Support from time to time, and shall be provided for the time period set forth in the Sales Order. The term for Technical Support shall be one year if not specified in the Sales Order. Customer acknowledges that the nature and level of such standard Technical Support will vary from time to time at JMT’s discretion, and that all such support may be discontinued for discontinued products. Any program updates acquired through Technical Support or other Services shall be deemed to be part of the Software provided by JMT and shall be governed by the terms of this Agreement. Customer will pay the lesser of (a) 150% of JMT's then-prevailing Technical Support fees for the lapsed period, or (b) JMT's then-prevailing hourly rates, if it should allow its Technical Support coverage to lapse and later request Technical Support.

### **Customization and Professional Services.**

JMT may provide professional services, and/or customization Services relating to the JMT Software according to any agreed-upon specifications and for the additional charges as may be covered from time to time by Sales Orders accepted by JMT. Once a customization has been completed and implemented, they shall be included within the definition of JMT Software hereunder.

Customer agrees that (a) all inventions, product improvements, and modifications conceived of or made by JMT that are based, either in whole or in part, on Customer’s ideas, feedback, suggestions, or recommended improvements are the exclusive property of JMT and (b) all rights, title and interest in and to any invention, product improvement, customization or modification will vest solely in JMT. As between the parties, JMT owns the JMT Software.

### **Trial Programs.**

JMT may from time to time make Software and/or Hardware available for evaluation purposes only (the “Evaluation Material”). Evaluation Material will be so marked on the applicable Sales Orders by terms such as "Beta" or "Evaluation". The applicable evaluation period will be stated in the applicable Sales Order, and may be extended if agreed to in writing by JMT and Customer

(including e-mail). If Customer decides to use any of the Evaluation Software after the evaluation period, Customer must obtain a license for the Evaluation Software from JMT by submitting a Sales Order as described herein. THE EVALUATION SOFTWARE IS LICENSED FOR EVALUATION PURPOSES AND IS PROVIDED "AS IS" AND HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED RELATED THERETO. THE WARRANTY PROVIDED BELOW SHALL NOT APPLY TO EVALUATION SOFTWARE. JMT HAS NO OBLIGATION TO PROVIDE TECHNICAL SUPPORT FOR THE EVALUATION SOFTWARE. THE PARTIES AGREE THAT JMT SHALL FACE NO LIABILITY WITH RESPECT TO THE EVALUATION SOFTWARE AND CUSTOMER HEREBY COVENANTS NOT TO SUE WITH RESPECT THERETO. THE LIMITATION OF LIABILITY ON ANY AND ALL CLAIMS WITH RESPECT TO THE EVALUATION SOFTWARE IS \$0.

### **License Grant.**

JMT grants Customer a nonexclusive, nontransferable, revocable, paid-up license to use the JMT Software in machine-readable form only. JMT reserves all rights not expressly granted to Customer in this Agreement. Customer shall have no right to transfer or to sublicense any of such JMT Software or rights to the use thereof without JMT's prior written consent in each instance. Except to the extent permitted by mandatory local law for purposes of interoperability, Customer shall not during or after the term of this Agreement (i) access, use, copy, modify, adapt, alter, translate, merge or create derivative works of the JMT Software, except as expressly provided in this Agreement; or (ii) reverse-engineer, disassemble, or decompile the JMT Software or otherwise attempt to determine its underlying source code or permit any such actions.

To monitor compliance with the terms of the license grant, JMT shall have the right from time to time to establish self monitoring mechanisms implemented in the Hardware, Software, and/or communication devices.

Any and all Third Party Software shall be licensed under and governed by the license terms provided by the applicable third party. Any and all Third Party Software provided by Intermecc, Inc. shall be licensed to Customer under the terms attached hereto as Exhibit B.

### **Confidential Information.**

Customer shall exert efforts commensurate with those it uses to protect its own confidential information to protect and preserve the confidentiality of all non-public information in or about the Software, the Services and the Hardware, and this Agreement, including without limitation the specific pricing terms in any Order and all Software in any human-readable form, however obtained or derived. Customer shall not use any such confidential information except for the purposes expressly authorized hereunder, nor disclose any such confidential information except to Customer's employees who have a need to know the same for such purposes and who are similarly bound to protect the confidentiality of such information. The provisions of this Section shall survive any termination or expiration of this Agreement.

Any results of benchmark tests or other tests for evaluation purposes run on new releases or new versions may not be disclosed or described to any third party without JMT's prior written consent.

### **Term, Term Designation and Termination.**

If the Sales Order does not specify a term of the Software license, the term of the license is perpetual and shall continue unless terminated as otherwise provided in this Agreement. If the Sales Order specifies a specific term of the Software license, the term of the license shall commence on the effective date of the Order and shall continue for the term specified in the Order. At the end of the term specified in the Order the Software license shall terminate.

In addition to its other rights and remedies, JMT may terminate this Agreement and all licenses hereunder upon thirty (30) days' prior written notice if Customer is then in default of its obligations hereunder or in any Order, unless Customer cures all such defaults within such notice period. JMT shall have the right to suspend its performance under this Agreement during such notice period.

This Agreement shall terminate automatically in the event that: (a) all or a substantial portion of the assets of either party are transferred to an assignee for the benefit of creditors, to a receiver or to a trustee in bankruptcy; (b) a proceeding is commenced by or against either party for relief under bankruptcy or similar laws; (c) either party is adjudicated bankrupt or insolvent.

Upon any termination or expiration of this Agreement, Customer shall immediately: (i) destroy or deliver to JMT all copies of Software in any form and shall promptly certify to JMT in writing that Customer has done so; and (ii) pay all fees, costs and expenses owed to or incurred by JMT up until the date of such termination or expiration.

### **Indemnification.**

JMT shall defend, at its expense, any claim, lawsuit or related action brought against Customer alleging that Customer's use of the JMT Software in accordance with this Agreement infringes a United States patent or copyright, and shall pay all costs and damages finally awarded in any such action (and reasonable attorneys' fees incurred in such action), provided that JMT is given prompt written notice of such claim, any information in Customer's possession related to such claim, reasonable assistance by Customer, and sole authority to settle or defend such claim. However, JMT shall not have any liability or obligations to the extent the alleged infringement is based upon (a) actions of the Customer or its contractors or agents, (b) use of a JMT product in combination with any software or hardware not provided by JMT hereunder, or (c) failure to install and maintain the most recent software release made available by JMT, to the extent such claim would have been prevented or mitigated by the use of such release. If a claim of infringement is asserted or in JMT's opinion is likely of assertion, JMT may at its option replace or modify the JMT Software or components thereof such that any infringement will be prevented or mitigated, or, where JMT determines that this cannot be effected in a commercially reasonable manner, require the return of the JMT Software or such component(s) thereof upon JMT's refund

of the amount paid therefore to JMT by Customer, less a reasonable allowance for use obtained by Customer. Customer will not acknowledge any claim without JMT's written consent.

Customer shall defend, at its expense, any claim, lawsuit or related action brought against JMT alleging that JMT's use of any Customer Provided Material (as defined below) on behalf of Customer infringes a United States patent or copyright, and shall pay all costs and damages finally awarded in any such action (and reasonable attorneys' fees incurred in such action), provided that Customer is given prompt written notice of such claim, any information in JMT's possession related to such claim, reasonable assistance by JMT, and sole authority to settle or defend such claim.

### **Warranty, Disclaimers and Exclusive Warranties.**

JMT warrants that the JMT Software as provided and installed by JMT will be capable of performing in substantial compliance with JMT's current applicable published specifications for 90 days after JMT delivers them to Customer. AS JMT'S SOLE RESPONSIBILITY, AND AS CUSTOMER'S EXCLUSIVE REMEDY, JMT will exert reasonable efforts to attempt to correct or to replace any JMT Software or components thereof established to have been in violation of this warranty. Customer shall cooperate fully with JMT to rectify any defects and shall make available to JMT any documents necessary or useful to correct such defects.

JMT'S WARRANTIES DO NOT COVER ANY THIRD PARTY SOFTWARE, HARDWARE, OR ANY FAILURE CAUSED IN WHOLE OR IN PART BY THE ACTS OF CUSTOMER. JMT DOES NOT WARRANT THAT THE PERFORMANCE OF THE JMT SOFTWARE WILL BE ERROR-FREE OR UNINTERRUPTED OR THAT JMT WILL CORRECT ALL ERRORS OR DEFECTS. THE WARRANTIES STATED HEREIN ARE EXCLUSIVE AND THERE IS NO OTHER WARRANTY, EXPRESS, IMPLIED, ARISING BY LAW, COURSE OF PERFORMANCE OR OTHERWISE, REGARDING THE JMT SOFTWARE, ITS PERFORMANCE, OR SERVICES OR THE SUITABILITY THEREOF FOR CUSTOMER'S PURPOSES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

Customer represents, warrants and covenants to JMT that Customer has full right, power and authority to enter into this Agreement, that this Agreement has been duly authorized, executed and delivered by Customer and constitutes a valid, binding and legally enforceable agreement of Customer, and that Customer's execution of this Agreement shall not infringe or violate the rights of any third party.

Customer represents, warrants and covenants to JMT that Customer owns all right, title, and interest in any software or hardware not provided by JMT to be used by Customer in connection with the products provided by JMT hereunder (the "Customer Provided Material") or has sufficient rights therein, and that JMT's performance under this Agreement or any other service or act on Customer's behalf will not violate any restrictions on the use of Customer Provided Material or be taken outside of any license rights Customer may have in and to such Customer Provided Material.

### **Limitation of Liability.**

JMT SHALL NOT BE LIABLE UNDER ANY CIRCUMSTANCES FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES, INCLUDING ANY LOST PROFITS OR SAVINGS, ARISING FROM ANY BREACH OR PERFORMANCE OF THIS AGREEMENT OR ANY ORDER, OR FROM THE USE OR FAILURE OF THE PRODUCTS OR THE SERVICES PROVIDED HEREUNDER, EVEN IF JMT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL JMT'S AGGREGATE LIABILITY UNDER OR IN RELATION TO THIS AGREEMENT EXCEED THE AMOUNT PAID OR PAYABLE BY CUSTOMER TO JMT FOR THE PURCHASE PRICE OF THE PRODUCTS AND SERVICES UNDER THIS AGREEMENT.

Some jurisdictions do not allow the total exclusion of warranties and may not uphold such exclusions because applicable statutory provisions are prevented from being excluded. Where the total exclusion of warranties is not allowed, JMT's liability will be limited to the minimum permissible under applicable law.

### **Force Majeure.**

If JMT is in whole or in part unable to perform any of its obligations under this Agreement or any Order due to causes beyond its reasonable control, including without limitation fire; casualty; flood; unusually severe weather; earthquake; actual or imminent war, terrorism, riot, or insurrection; epidemic; facilities destruction; unavailability of materials or means of transport; or law or regulation (whether existing or changed), such performance shall be excused or the time for such performance shall be extended.

### **General.**

The relationship between the parties is that of independent parties and neither party will represent that it has any authority to assume or create any obligation on behalf of the other.

The parties acknowledge that the JMT Software may be subject to the export control laws of the United States or other nations, including the U.S. Bureau of Export Administration regulations, as amended, the regulations of the Customer's home country, or EC or United Nations regulations, and hereby agree to obey any and all such laws.

The Customer agrees to act as a reference for JMT as reasonably requested by JMT and to allow JMT to use its name and trademarks in lists of JMT clients and other JMT promotional materials, including but not limited to, web site, press releases, brochures, reports and letters. Such promotional materials may also contain a general description of the products purchased from JMT by Customer, the services provided to Customer by JMT and Customer's general business activities.

If there is any government or third party approval required before the Hardware or Software can be used, it is the sole responsibility of Customer to obtain the consent.

This Agreement and all Orders are personal to the Customer, and Customer shall not assign, sublicense, subcontract or otherwise transfer in any way any of Customer's rights or obligations under this Agreement without JMT's prior written consent, and any attempt to do so shall be void.

Any notice to either party required or permitted under this Agreement shall be in writing and addressed to such party at the respective address set forth below the signatures to this Agreement. Such notices will be effective upon receipt.

The validity and construction of this Agreement shall be governed by the laws of the State of Washington, without giving effect to any principles of conflict of laws to the contrary. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement or to any purchase or license hereunder. If any provision of this Agreement is held by a court of law to be invalid or unenforceable to any extent in any context it shall nevertheless be enforced to the fullest extent allowed by law in that and other contexts, and the validity and force of the remainder of this Agreement shall not be affected thereby.

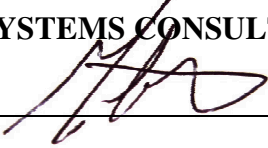
The prevailing party shall be entitled to the award of its reasonable attorneys' fees in any action to enforce this Agreement.

This Agreement and the Initial Sales Order sets forth the parties' entire agreement with respect to the acquisition by Customer of products and services from JMT, and supersedes any prior or contemporaneous agreements, documents, or statements regarding such subject. Customer agrees that the terms and conditions of this Agreement supersede and shall govern over any and all previous or subsequent Customer ordering forms or terms of purchase, all of which are hereby rejected by JMT. No course of performance will constitute JMT's acceptance of any such Customer forms or terms of purchase.

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

The parties have executed this Agreement as of the Effective Date. Each of the persons signing this Agreement affirms that he or she is duly authorized to do so and thereby to bind the indicated entity.

**JMT SYSTEMS CONSULTING, LLC**

By:  \_\_\_\_\_

Name: Michael J. Bosko

Title: President

Date: \_\_\_\_\_

**CUSTOMER:** \_\_\_\_\_

(Print company name)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

EXHIBIT A

INITIAL SALES ORDER

Per JMT Sales Order Numbers listed below:

Software: \_\_\_\_\_

Hardware: \_\_\_\_\_

-- Please print the JMT sales order numbers above --

## EXHIBIT B

### INTERMEC SOFTWARE-RELATED END USER LICENSE AGREEMENT

#### **INTERMEC END USER LICENSE AGREEMENT**

Important: Carefully read this End User License Agreement (EULA) before installing or using the Software. You may use the Software only if You agree to be bound by the terms of this EULA. If you do not agree to the terms of this EULA, You may NOT use the Software and You MUST return the Software and/or the equipment on which it is installed to Intermecc for a refund. ANY INSTALLATION OR USE OF THE SOFTWARE INDICATES YOUR AGREEMENT TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS EULA.

#### **1.0 Definitions**

- 1.1 "System" means the Intermecc computer equipment You acquired from Intermecc and on which the Software was pre-installed or onto which it is to be installed.
- 1.2 "Software" means the computer program(s) acquired from Intermecc and installed on the System or any Revisions thereto. This may include programs written by Intermecc as well as operating systems and application programs written by others which have been provided to You or installed on the System by Intermecc. Software will be provided to You in object code form only. The Software includes any disks or media on which it is recorded, any printed Documentation or any "on-line" or electronic Documentation.
- 1.3 "Documentation" means the materials accompanying the Software which describe its functions and how to install and use the Software.
- 1.4 "Revision" means any correction, modification, update, enhancement, or new version of the Software or Documentation.
- 1.5 "You" or "Your" refers to the end user licensed to use the Software under this EULA.
- 1.6 "Intermecc" means Intermecc Technologies Corporation, a Washington corporation.

#### **2.0 License**

- 2.1 Intermecc hereby grants You a license to use the Software subject to the following terms and conditions.
- 2.2 The Software is licensed, not sold. Intermecc hereby grants You a non-exclusive, terminable, limited license to use the Software on the System(s) for Your own internal business purposes. No other right or license is granted or implied. You agree to not modify, copy, distribute or otherwise disclose the Software without the prior written consent of Intermecc. You further agree not to reverse engineer, disassemble, or de-compile the Software. This license shall terminate when You no longer own or You cease to use the System(s) on which You are licensed to use the Software.
- 2.3 You may not duplicate or copy the Software except that You may make a single copy of the Software for use solely for archival purposes. The archival copy must bear the copyright notices appearing in the original.
- 2.4 You may not sell, lease, rent, assign, sublicense or transfer the Software except that You may transfer all of Your rights under this EULA as part of a sale or transfer of the System(s). Such a sale or transfer may only be made if You retain no copies of the Software, You transfer all of the Software (including any media, archival copies, upgrades and Documentation) and the recipient agrees to abide by the terms of this EULA. An upgrade may not be transferred unless You transfer all prior versions of the Software. In the event of any such transfer, You shall remain liable and responsible to Intermecc for the performance of all of Your duties and obligations under this EULA.
- 2.5 The Software product is protected under the copyright laws of the United States and international copyright treaties, as well as other intellectual property laws and treaties. You agree that if any unauthorized copies are made, or if the Software is used in violation of this EULA, Intermecc shall have the right to obtain an injunction against the unauthorized copying or use, in addition to any other rights and remedies Intermecc might have. You acknowledge and agree that nothing in this Agreement gives You any right, title or interest in the Software except the limited rights expressly granted herein. Some or all of the Software may have been developed by an independent third party software supplier which holds copyright or other proprietary rights to the software product. You may be held responsible to any such supplier for any infringement of such rights.
- 2.6 You may not remove, intentionally cover or alter any proprietary notices, copyright notices, labels or marks that are contained in or on the Software.
- 2.7 You agree that You will not export or import any portion of the Software to any country that is not party to either:
  - (i) The Berne Convention of 1989, (ii) The Universal Copyright Convention, (iii) The Buenos Aires Convention, or
  - (iv) a treaty with the United

States of America (U.S.A.) which allows for the recognition of the property rights claimed by Intermecc or its suppliers in the Software. Any export of the Software to such country in violation of this paragraph 2.8 is prohibited and shall constitute a breach of this EULA.

2.8 Intermecc and its software suppliers reserve the right to terminate this EULA if You violate any term or condition of this EULA. In the event of termination, You must stop using the Software and must return all copies of the Software to Intermecc.

2.9 In the event You modify the Software or include it in any other software program, upon termination of this EULA You agree either to remove the Software or any portion thereof from the modified program and return the Software to Intermecc.

### **3.0 Limited Warranty**

3.1 Intermecc warrants for a period of NINETY (90) DAYS from the date of shipment that the Software will perform substantially in accordance with the Documentation provided with the Software. Intermecc does not warrant that the operation of the Software will be uninterrupted or error free. This limited warranty is void if failure of the Software is due to accident, abuse or misapplication.