

LICENSE AND TERMS OF SERVICE

1. **UNLESS THE PARTIES HAVE ENTERED INTO A SEPARATE SIGNED AGREEMENT REGARDING THE LICENSE AND USE OF THE SOFTWARE, AS DEFINED HEREIN, THE FOLLOWING TERMS AND CONDITIONS WILL BE LEGALLY BINDING ON CUSTOMERS UPON FIRST USE OF THE SOFTWARE PRODUCTS LICENSED FROM ASSETWORKS LLC, SUCCESSOR IN INTEREST TO INCIRCUIT DEVELOPMENT CORPORATION (“ASSETWORKS”) AND SPECIFICALLY DEFINED IN THE APPLICABLE PROPOSAL, QUOTE OR ORDER FORM ISSUED BY ASSETWORKS (“SOFTWARE”) AND ACCEPTED BY THE CUSTOMER IDENTIFIED ON SUCH APPLICABLE PROPOSAL, QUOTE OR ORDER FORM. CUSTOMER SHOULD CAREFULLY READ THE FOLLOWING TERMS BEFORE USING THE SOFTWARE AND SERVICES.**
2. **License.** License to use the Software is granted pursuant to the License Agreement attached hereto as Exhibit B and is subject to a one time license fee.
3. **Terms of Service.** In consideration for fees in the associated quote AssetWorks provides its Service to Customer for an initial term of twelve months and subject to the terms and condition of the License Agreement (“Agreement”), attached as Exhibit B, and subject to the following terms and conditions in these Terms of Service. Unless otherwise terminated in accordance with these terms, this Agreement will automatically renew for additional one year terms.
 - 3.1. **Customer Must Have Internet Access.** In order to use the Service, Customer must have or obtain access to the World Wide Web, either directly or through devices that access Web-based content and Customer must pay and continue to pay any fees associated with such access. Customer must also provide all equipment necessary to make such (and maintain such) connection to the World Wide Web.
 - 3.2. **Accuracy of Customer’s Registration Information.** Customer agrees to provide true, accurate, current and complete information (“Registration Data”) about Customer as prompted by the registration form Customer will fill out online in order to gain access to the Service. Customer further agrees to maintain and promptly update the Registration Data to keep it true, accurate, current and complete. Customer acknowledges and agrees that if Customer provides any information that is untrue, inaccurate, not current or complete in a material way, or AssetWorks has reasonable grounds to believe that such information is untrue, inaccurate, not current or complete in a material way, AssetWorks has the right to suspend or terminate Customer’s account.
 - 3.3. **Email and Notices.** Customer agrees to provide AssetWorks with Customer’s email address, to promptly provide AssetWorks with any changes to Customer’s email address, and to accept emails (or other electronic communications) from AssetWorks at the email address Customer specifies. Customer further agrees that AssetWorks may provide any and all notices, statements, and other communications to Customer through either email, posting on the Service (or other electric transmission) or by mail or express delivery service.
 - 3.4. **Password, Access, and Notification.** Customer may designate up to the number of users under the Customer’s account, which corresponds to the level of Service Customer is receiving from AssetWorks, and Customer may provide and assign unique passwords and user names to each authorized user. Customer acknowledges and agrees that the license granted is not a concurrent user license and that customer is prohibited from sharing passwords and/or user names with unauthorized users. Customer will be responsible for the confidentiality and use of customer’s (including its employees’) passwords and user names. Customer will also be responsible for all Electronic Communications, including those containing business information, account registration, account holder information, financial information, Customer Data, and all other data of any kind contained within emails or otherwise entered electronically through the Service or under Customer’s account. AssetWorks will act as though any Electronic Communications it receives under customer’s passwords, user name, and/or account number will have been sent by Customer. Customer agrees to immediately notify AssetWorks if Customer becomes aware of any loss or theft or unauthorized use of any of Customer’s passwords, user names, and/or account number.
 - 3.5. **Customer’s Lawful Conduct.** The Service allows Customer to send Electronic Communications directly to AssetWorks and to third parties. Customer agrees to comply with all applicable local, state, federal and foreign laws, treaties, regulations, and conventions in connection with its use of the Service including without limitation those related to privacy, electronic communications, and anti-spam legislation. Customer will not send any Electronic Communications from the Service for any purpose that is unlawful, abusive, harassing, libelous, defamatory, obscene or threatening. Except as permitted by these Terms of Service and the Agreement, no part of the Service may be copied, reproduced, distributed, republished, displayed, posted or transmitted in any form or by any means. Customer agrees not to access the Service by any means other than through the interfaces that are provided by AssetWorks. Customer shall not license, rent, sell, lease, transfer, assign, distributed, display host, outsource, disclose, or otherwise commercially exploit or make the

Service available to any third party other than an authorized user, including but not limited to creating internet links to the Service or “mirroring” or “framing” any part of the Service. Customer will not upload, post, reproduce or distribute any information, software or other material protected by copyright or any other intellectual property rights (including rights of publicity and privacy) without first obtaining the permission of the owner of such rights. Customer will not in any way express or imply that any opinions contained in Customer’s Electronic Communications are endorsed by AssetWorks. Neither Customer, nor someone acting on Customer’s behalf, will use the Service to solicit AssetWorks’ customers for any purpose. Customer will ensure that any use of the Service by Customer’s employees (or users) is in accordance with the terms and conditions of these Terms of Service and the Agreement.

- 3.6. **General Practices Regarding Use of the Service.** Customer acknowledges that AssetWorks may establish and change general practices and limits concerning use of the Service, and additionally in exceptional circumstances, AssetWorks may establish limits associated with Customer’s usage of the Service. Customer acknowledges that AssetWorks reserves the right to restrict Customer’s usage of the Service which exceeds limits set by AssetWorks. Customer agrees that AssetWorks may request Customer to purchase additional service commensurate with Customer’s usage and/or data storage or, in the event that Customer refuses to comply with such request, AssetWorks may at its option restrict the Service to eliminate the offense and/or terminate Customer’s Service in accordance with Section 8 of these Terms of Service.
- 3.7. **Third Party Software.** Customer agrees to use software produced by third parties, including, but not limited to, “browser” software that supports a data security protocol compatible with the protocol used by AssetWorks. Until notified otherwise by AssetWorks, Customer agrees to use software that supports the Secure Socket Layer (SSL) protocol or other protocols accepted by AssetWorks and to follow logon procedures for Service that support such protocols. Customer acknowledges that AssetWorks is not responsible for notifying Customer of any upgrades, fixes or enhancements to any such software or for any compromise of data transmitted across computer networks or telecommunications facilities, including but not limited to the Internet.
- 3.8. **Transmission of Data.** Customer understands that the technical processing and transmission of Customer’s electronic Communications is fundamentally necessary to Customer’s use of the Service. Customer expressly consents to AssetWorks interception and storage of Electronic Communications and/or Customer Data, and Customer acknowledges and understands that Customer’s Electronic Communications will involve transmission over the Internet, and over various networks, only part of which may be owned and/or operated by AssetWorks. Customer acknowledges and understands that changes to Customer’s Electronic Communications may occur in order to confirm and adapt such data to the technical requirement of connecting networks or devices. Customer further acknowledges and understands that Electronic Communications may be accessed by unauthorized parties when communicated across the Internet, network communications facilities, telephone, or other electronic means. Customer agrees that AssetWorks is not responsible for any Electronic Communications and/or Customer Data which are lost, altered, intercepted or stored without authorization during the transmission of any data whatsoever across networks not owned and/or operated by AssetWorks.
- 3.9. **Links.** The Service may provide, or third parties may provide, links to other World Wide Web sites of resources. Because AssetWorks has no control over such sites and resources, Customer acknowledges and agrees that AssetWorks is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such sites or resources.
- 3.10. **AssetWorks’ Support.** AssetWorks will make commercially reasonable efforts to promote Customer’s successful utilization of the Service, including but not limited to providing Customer with Getting Started Guides, Knowledge Base and online help, as well as optional and “for fee” training classes. AssetWorks also offers Customer Support and Professional Service consultation. Customer acknowledges that AssetWorks has extensive experience helping Customer improve utilization and realization of benefits of the Service, and that not following the advice of AssetWorks in these areas may substantially undermine Customer’s successful utilization of the Service.
- 3.11. **Proprietary Rights.** Customer acknowledges and agrees that the Service and any necessary software used in connection with the Service (“Software”) contains proprietary and confidential information that is protected by applicable intellectual property and other laws. Customer further acknowledges and agrees that content contained in sponsor advertisements or information presented to Customer through the Service or by advertisers is protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws.
- 3.12. **Trademark Information.** AssetWorks, the AssetWorks logo, and other AssetWorks services marks, logos and product and service names are marks of AssetWorks (the “AssetWorks Marks”). Customer agrees

not to display or use the AssetWorks Marks in any manner without the owner's express prior written permission.

3.13. Confidential Information. Confidential information shall include Customer Data and any information that is clearly identified in writing at the time of disclosure as confidential. Each party agrees to keep confidential all confidential information disclosed to it by the other party or a third-party, and to protect the confidentiality thereof in the same manner as 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). AssetWorks will restrict its employees' access to Customer's confidential data to only those AssetWorks Employees necessary to successfully provide the Service. Confidential information shall not include information which: (1) is known publicly; (2) is generally known in the industry before disclosure; (3) has become public, without fault of the recipient, subsequent to disclosure by the disclosing party; or (4) has been otherwise lawfully known or received by recipient. Notwithstanding the foregoing, Customer acknowledges and agrees that AssetWorks may disclose Customer's confidential information to third parties to the extent necessary to provide products or services under this Agreement. This subsection (2.13) will not be construed to prohibit the disclosure of confidential information to the extent that such disclosure is required by law or order of the court or other governmental authority. The parties agree to give the other party prompt notice of the receipt of any subpoena or other similar request for such disclosure.

4. **Limit of Warranties.**

4.1. **Warranty of Functionality.** AssetWorks warrants to Customer, for a period of sixty (60) days from the Start Date, that the service will substantially achieve the functionality described in the Getting Started Guides and in other related documentation (available at www.AssetWorks.com or successor Web site) and that such functionality will be substantially maintained in subsequent upgrades to the Service. AssetWorks does not warrant that the Service will be error-free. AssetWorks' sole liability for any breach of this warranty shall be to use commercially reasonable efforts to modify the Service to substantially achieve the functionality described in the Getting Started Guide and other related documentation or to refund the fees paid. AssetWorks shall have no obligation with respect to a warranty claim unless notified of such claim within sixty (60) days of the Start Date of the Agreement, and such notice must be sent to support@AssetWorks.com.

4.2. **Service Level Warranty.** AssetWorks warrants that the Service will meet the service levels outlined in Exhibit A hereto (and incorporated by reference herein) in any billing period. If in a billing period these uptime commitments are not met, Customer's sole and exclusive remedy is that AssetWorks shall credit Customer as described. Credit shall be for ASP. Any credit offer by AssetWorks is expressly conditioned upon Customer providing AssetWorks written notice of such failure sent to support@AssetWorks.com by the 30th day following such service level failures.

4.3. **Security, Data Maintenance and Backup Warranty.** AssetWorks warrants that AssetWorks will use commercially reasonable efforts to ensure that Customer's Data will be maintained accurately and safeguarded during the term of the Agreement, and any renewal terms. In the event of a breach of this provision, AssetWorks will use commercially reasonable efforts to correct the Customer's Data or restore the Customer's Data within three (3) business days. In the event AssetWorks is unable to correct or restore Customer's Data, Customer's sole and exclusive remedy is to elect to terminate the Agreement and receive a pro rata refund of the portion of any fee that has been paid by Customer but for which the Service has not been furnished to Customer (as of the date of termination).

5. **Disclaimer of Warranties.** EXCEPT AS STATED IN SECTION 3 ABOVE, ASSETWORKS DOES NOT REPRESENT THAT CUSTOMER'S USE OF THE SERVICE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS OR THAT ALL ERRORS IN THE SERVICE AND/OR DOCUMENTATION WILL BE CORRECTED OR THAT THE SYSTEM THAT MAKES THE SERVICE AVAILABLE WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE WARRANTIES STATED ABOVE IN SECTION 3 ARE THE SOLE AND EXCLUSIVE WARRANTIES OFFERED BY AssetWorks. THERE ARE NO OTHER WARRANTIES OR CONDITIONS, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE SERVICE IS PROVIDED TO CUSTOMER ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND IS FOR COMMERCIAL USE ONLY. CUSTOMER ASSUMES ALL RESPONSIBILITY FOR DETERMINING WHETHER THE SERVICE OR THE INFORMATION GENERATED THEREBY IS ACCURATE OR SUFFICIENT FOR CUSTOMER'S PURPOSE.

6. **Limitations of Liability.** CUSTOMER ACKNOWLEDGES AND AGREES THAT THE CONSIDERATION WHICH ASSETWORKS IS CHARGING HEREUNDER DOES NOT INCLUDE ANY CONSIDERATION FOR ASSUMPTION BY ASSETWORKS OF THE RISK OF CUSTOMER'S INCIDENTAL OR CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO ANYONE FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES DIRECT OR INDIRECT DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC

ADVANTAGE), ARISING FROM BREACH OF WARRANTY OR BREACH OF CONTRACT, OR NEGLIGENCE, OR TORT, OR ANY OTHER LEGAL CAUSE OF ACTION ARISING FROM OR IN CONNECTION WITH THE AGREEMENT. THE MAXIMUM LIABILITY OF EITHER PARTY TO ANY PERSON, FIRM OR CORPORATION WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH ANY LICENSE, USE OR OTHER EMPLOYMENT OF THE SERVICE, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED ON BREACH OF REPUDIATION OF CONTRACT, BREACH OF WARRANTY, TORT, OR OTHERWISE, SHALL IN NO CASE EXCEED THE EQUIVALENT OF 12 MONTHS IN FEES APPLICABLE AT THE TIME OF THE EVENT. THE ESSENTIAL PURPOSE OF THIS PROVISION IS TO LIMIT THE POTENTIAL LIABILITY OF THE PARTIES ARISING FROM THESE TERMS OF SERVICE AND THE AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS SET FORTH IN THIS SECTION ARE INTEGRAL TO THE AMOUNT OF CONSIDERATION LEVIED IN CONNECTION WITH THE LICENSE OF THE SERVICE AND THAT, WERE ASSETWORKS TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN, SUCH CONSIDERATION WOULD OF NECESSITY BE SET SUBSTANTIALLY HIGHER. CERTAIN STATES AND/OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE EXCLUSION SET FORTH ABOVE MAY NOT APPLY TO CUSTOMER. THE LIMITATION OF LIABILITY SET FORTH IN THE SECTION SHALL NOT APPLY TO ANY INDEMNITY OBLIGATION SET FORTH IN SECTION 7I BELOW.

7. **Indemnification.** AssetWorks will indemnify, defend and hold Customer harmless from and against any and all costs, liabilities, losses, and expenses (including, but not limited to, reasonable attorney's fees) (collectively, "Losses") finally awarded against Customer by a court of competent jurisdiction arising out of or in connection with a claim, suite, action, or proceeding brought by any third party against Customer which arise out of or result from the infringement of any copyright, patent, trademark, or misappropriation of a trade secret relating to the Service, provided that Customer (a) promptly give AssetWorks notice of the claim, suit, action, or proceeding; (b) gives AssetWorks control of the defense and related settlement negotiations; and (c) provides AssetWorks with all available information and assistance necessary to perform AssetWorks' obligations user this paragraph. If the Service is held to infringe any intellectual property right, AssetWorks may, in its sole discretion and at its own expense, either procure a license that will protect Customer against such claim without cost to Customer or replace the Service with a non-infringing Service. Customer shall have no remedy against AssetWorks, except it may terminate the Service and receive a prorated refund of the services paid for but not used as of the date of termination.
 - 7.1. AssetWorks will indemnify, defend and hold Customer harmless from and against any Losses finally awarded against Customer by a court of competent jurisdiction arising out of or in connection with a claim, suit, action, or proceeding brought by any third party against Customer which arise out of or result from AssetWorks' gross negligence in preventing unauthorized access to confidential Customer data, or AssetWorks' willful disclosure of such confidential Customer data, as determined by a court of competent jurisdiction in connection with a claim by a third party alleging a breach of confidentiality, provided that Customer (a) promptly gives AssetWorks notice of the claim, suit, action, or proceeding; (b) gives AssetWorks sole control of the defense and related settlement negotiations; and (c) provides AssetWorks with all available information and assistance necessary to perform AssetWorks' obligations under this paragraph. Customer shall have no remedy against AssetWorks, except it may terminate the Service and receive a prorated refund of the services paid for but not used as of the date of termination.
 - 7.2. Customer shall defend and hold AssetWorks harmless from and against any and all Losses finally awarded against AssetWorks by a court of competent jurisdiction arising out of or in connection with a claim, suite, action, or proceeding brought by any third party against AssetWorks which arises out of or result from a claim by a third-party (i) alleging that the Customer Data or any Trademark, or any use thereof, infringes the intellectual property rights or other rights, or has caused harm to a third party, or (ii) arising out of Customer's breach of Section 3.5 and 3.13 above, provided that AssetWorks (a) promptly provides Customer notice of the claim, suit, action, or proceeding (b) gives Customer sole control of the defense and related settlement negotiations; and (c) provides Customer with all available information and assistance necessary to perform Customer's obligations under this paragraph.
 - 7.3. The indemnification obligation contained in this Section shall survive termination of Licenses Agreement for one year.
8. **Termination.** Either party may terminate the Agreement upon thirty (30) days written notice to the other party in the event of a breach by the other party of any provision of these Terms of Service or by the Agreement between the parties, provided that, during the thirty (30) day period, the breaching party fails to cure such breach. Upon termination or expiration of the Agreement, Customer shall have no rights to continue use of the Service or Software. If the Agreement is terminated as a result of a breach on AssetWorks' part, AssetWorks shall refund the pro rata portion of any fee that may have been paid by Customer for the portion of the Service not furnished to Customer.

- 8.1. **Accounts Not in Good Standing.** AssetWorks reserves the right at any time to suspend or terminate the Service (or any part thereof) or any accounts not in good standing upon notice to Customer. Customer agrees that AssetWorks shall not be liable to Customer or to any third party for any discontinuation or termination of the Service in the event of the Customer's nonpayment of fees.
- 8.2. **Suspension or Termination of Services.** Customer agrees that AssetWorks, in its sole discretion, may without notice to Customer suspend Customer's access to the Service and may remove, delete, and/or discard any Electronic Communications or Customer Data within the Service in the event that AssetWorks reasonably concludes that Customer has violated these Terms of Service or the Agreement or acted inconsistently with the letter or spirit of these Terms of Service or the Agreement. In the extraordinary event that AssetWorks suspends Customer's access to the Service, AssetWorks will use commercially reasonable efforts to resolve the issues causing the suspension of Service. Customer further acknowledges and agrees that if after a reasonable period of time AssetWorks is unable to resolve the issues causing the suspension of Service to its satisfaction, AssetWorks may terminate Customer's use of the Service permanently upon notice to Customer, Customer agrees that AssetWorks shall not be liable to Customer or to any third party for any suspension or termination of the Service under these circumstances.
- 8.3. **Handling of Customers Data in the Event of Termination.** Customer acknowledges and agrees that following termination of Customer's account and/or use of the Service, AssetWorks may immediately deactivate Customer's account and that following a reasonable period shall be able to delete Customer's account and all related Customer Data and files in Customer's account and/or bar any further access to such information and/or the Service. However, in the event that Customer's Service with AssetWorks terminates, AssetWorks will grant Customer limited access to the Service for the sole purpose of permitting Customer to retrieve lawful Customer Data, provided that Customer has paid in full all amounts owed to AssetWorks. Customer further agrees that under the terms herein AssetWorks shall not be liable to Customer or to any third party for any termination of Customer access to the Service or deletion of data of any kind.
- 8.4. **Termination for Non-Renewal.** Customer acknowledges and agrees that AssetWorks may terminate Customer's use of the Service in the event that Customer does not renew its Agreement with AssetWorks, AssetWorks shall have the right, following a reasonable period, to delete Customer's account and all related Customer Data and files in Customer's account and/or bar any further access to such information, and/or the Service. However, in the event that Customer's Service with AssetWorks terminates, AssetWorks will grant Customer limited access to the Service for the sole purpose of permitting Customer to retrieve lawful Customer Data, provided that Customer has paid in full all amounts owed to AssetWorks. Customer further agrees that under the terms herein AssetWorks shall not be liable to Customer or to any third party for any termination of Customer access to the Service or deletion of data of any kind.
9. **Modification to the Terms of Service and the Service.** AssetWorks reserves the right at any time and from time to time to modify these Terms of Service. AssetWorks further reserves the right to modify, temporarily or permanently, the Service (or any part thereof).
10. **Discontinuation of the Service.** Customer acknowledges that AssetWorks reserves the right to discontinue offering the Service at the conclusion of Customer's then current term. Customer agrees that AssetWorks shall not be liable to Customer or to any third party for any reasonable modifications or discontinuance of the Service, under the terms herein or in the Agreement.

THE UNDERSIGNED REPRESENTS THAT HE / SHE HAS THE REQUISITE AUTHORITY TO ENTER INTO THIS AGREEMENT AS AN AUTHORIZED AGENT OF THE PARTY NOTED BELOW.

ACKNOWLEDGED AND AGREED:

CUSTOMER:

ASSETWORKS:

By: _____

By: _____

Title: _____

Title: _____

Company: _____

Date: _____

Date: _____

EXHIBIT A
Service Level Agreement

A. PURPOSE AND GENERAL DEFINITIONS

1. Purpose. The purpose of this Service Level Agreement (hereafter "SLA") is to define the service levels for the Application Service Provider ("ASP") Service.

2. Definitions. The following terms used in this Agreement have the meanings set forth below:

"Available" means with respect to ASP a positive response to the Service Level Test.

"Customer Caused Outages" means the period of time during which the ASP Service may be temporarily interrupted as a result of customer's applications or actions

"Planned Outages" means the period of time the ASP Service may be temporarily interrupted for scheduled maintenance, or for any other agreed reason or purpose.

"Service Interruption Event" means an event such as flood, extreme weather, fire or other natural calamity, acts of government agency, war, riot, civil unrest, work stoppage or strike, or any similar event, or any other event outside of the control of AssetWorks, that causes such ASP to be unavailable under this Specification Sheet.

"Service Level Test" comprises a query of the default web page and a query of a default database table.

"IDC" means Internet Data Center, and may be any one of AssetWorks' contracted data centers.

B. SECURITY

Security. The ASP physical environment will be restricted to AssetWorks and other representatives authorized by AssetWorks. Customer shall have no right to take possession of or to otherwise physically inspect any portion of an ASP environment.

C. ASP SERVICE LEVELS

1. ASP Technology (ASP). ASP Services are provided to Customer through an ASP located in an AssetWorks IDC. The ASP includes all networking equipment necessary to connect the customer to an AssetWorks IDC Backbone. The ASP denotes the line of demarcation of the environment AssetWorks is responsible for under the terms of this SLA but expressly does not include the DNS for iBid. The ASP Services do not include any bandwidth or facility services.

2. Authorized Personnel. The ASP Service is provided and maintained by expressly authorized personnel, which may include contractors and subcontractors.

3. Changes and Upgrades. Changes to the hardware, software or upgrade by the customer in the ASP environment will be administered in accordance with the Change Management practices described in the ASP Service Specification Sheet.

4. Monitoring. AssetWorks monitoring tools will monitor the managed networking equipment, web servers and database servers.

D. REMEDIES

1. Definitions. As used herein, the following additional terms have the meanings set forth below:

1.1. "Downtime" is defined as unplanned outages during the annual billing period.

1.2. "Unplanned Outages" are defined as the time that is tracked in five (5) minute intervals for each failed Service Level Test occurring outside a Planned Outage, Customer Caused Outage, or Service Interruption.

1.3. "Service Credit" means 1/365th or 0.274% of the ASP annual fee billed for each hour of Downtime below 95% availability in each year. The one-year period corresponds to the yearly AssetWorks billing period for the customer. The Service Credit is based on an allocated yearly fee and applied only as a credit to the next year's renewal fee, provided the claim is made within thirty (30) days of end of billing period. Customer should report any Unplanned Outage to AssetWorks customer support.

2. 95% Availability Guarantee. Customer's sole and exclusive remedy shall be one (1) Service Credit for each hour of downtime. These remedies are cumulative in respect to one billing period and only for the ASP Service. The aggregate maximum number of Service Credits to be issued for any and all Downtime periods that occur in a single billing period shall not exceed the equivalent of the total annual fee for that billing period.
3. Required Configuration Change. If AssetWorks determines that the Customer's configuration requires upgrades or additions to prevent recurring outages and advises the Customer of necessary modification or upgrade, the Customer must make the required upgrades or modifications to remain eligible for future credits.
4. Exclusive Remedy. Except as set forth in this Section D, no other service level warranty will apply to the provision of the ASP Services. In light of the fact that damages from unscheduled downtime or other failure to provide the ASP Services would be impossible to ascertain and that the remedies set forth in this Section D have been arrived at in good faith as a reasonable estimate of compensation and not as a penalty, the Customer's remedy shall be fixed and liquidated as set forth in this Section D. In no event will the total remedies available to the Customer exceed those set forth in this Section D. The remedy set forth in this Section D shall be Customer's sole and exclusive remedy for any failure to provide the ASP Services. No Service Credit shall be due, and AssetWorks shall have no liability for any failure to provide the ASP Services (a) during any Planned Outage, (b) resulting from a Service Interruption Event, or (c) caused directly or indirectly, by the acts or omissions of Customer or its representatives or by Customer Equipment or Customer's representatives' equipment (as defined in the services agreement between AssetWorks and the Customer).
5. Customer Interference. Neither AssetWorks nor any third party shall be responsible for acts or omissions of Customer's representatives that result in failure of, or disruption to, the ASP Services. Customer agrees that neither Customer nor its representatives shall attempt in any way to circumvent or otherwise interfere with any security precautions or measures taken by AssetWorks or any third party relating to ASP. Any such attempts may, among other things, cause failure of or disruption to the ASP Services. Any failure of or disruption to the ASP Services resulting from a violation of these provisions shall be considered a Service Interruption Event and Customer will have no right to any Service Credit or other remedy with respect to such failure or disruption. Subject to the limitations set forth in the services agreement between Customer and AssetWorks, Customer will be responsible for, and will indemnify AssetWorks and all affected third parties for, any damage or service interruptions caused by Customer or its representatives in violation of these provisions, including, without limitation, any damage to any non-Customer-supplied equipment. Further, Customer agrees to compensate AssetWorks and any such third party, at the then current rates, for all remedial services or losses resulting from any violation of the above provisions.
6. Customer Security Practices. Customer agrees that any equipment connected to non-Customer-supplied equipment or data networks will be adequately secured against unauthorized use and that Customer and its representatives will use generally accepted security practices to minimize any risks of unauthorized use of its or their networks and equipment.
7. Limitations of Liability: AssetWorks' entire liability and Customer's exclusive remedy against AssetWorks for any damages arising from any act or omission in connection with the ASP Services, regardless of the form of action, whether in contract, tort, strict liability or otherwise shall be limited to the Service Credits set forth in this Section D.

EXHIBIT B

License Agreement

This License Agreement (this "Agreement") is entered into between AssetWorks LLC., as successor in interest to InCircuit Development Corporation ("AssetWorks"), and the party named in the proposal, quote or order form ("Customer") as of the date the Customer first uses the online business application provided by AssetWorks and specified in the proposal, quote or order form provided by AssetWorks ("Software/Services").

1. **Service.** AssetWorks shall host the Software/Services and may update the content, functionality, and user interface of the Software/Services from time to time at its sole discretion.

2. **System License Grant.** In consideration of the license fee paid by Customer and subject to the terms of this agreement and the Terms of Service to which this License Agreement is attached, AssetWorks grants Customer, its employees, and agents a nonexclusive, nontransferable license to use the Software/Services for internal business purposes provided that Customer is current on an AssetWorks ASP plan. Reselling of the Software/Services is prohibited unless expressly authorized by AssetWorks. Any rights not expressly granted are reserved by AssetWorks.

3. License Term, Fee and Payment.

This license commences on date AssetWorks provides access to the Software/Services for the fee set forth in the proposal, quote or order form issued by AssetWorks and accepted by the Customer. The fee is due as follows: Net 30. Any late payments shall be subject to a service charge equal to 1.5% of the amount due (calculated on a monthly basis) or the maximum amount allowed by law, whichever is less.

Payment Method: Corporate Credit Card or check payable to AssetWorks at the address set forth on the invoice.

This License shall continue, unless terminated within 30 days after the start of a renewal term. Either party may terminate this Agreement if the other party fails to cure any material breach of this Agreement within thirty (30) days after written notice of such breach. Upon termination of expiration of this agreement, Customer has no rights to continue use of the Service. If this Agreement is terminated as a result of a breach on AssetWorks' part, Customer's remaining payment obligation ceases.

4. **Terms of Service, Warranties & Limitations of Liability.** The license fee paid under this Agreement is subject to a thirty (30) day refund if the following conditions are met; (1) The Customer must not be able to use the Service as intended, (2) The Customer must request a refund within thirty (30) days of the start date of the term of the Agreement, (3) the refund request must be sent to AssetWorks via email to the sales representative or Billing@AssetWorks.com, (4) the refund request must include a detailed explanation of why the Customer cannot use the Service as intended, (5) the Customer must assist AssetWorks in verifying that the service cannot be used by the Customer in the manner intended. The Customer's sole and exclusive remedy is that AssetWorks will use reasonable commercial efforts to correct the Service so that the Service may be used by the Customer as intended within thirty (30) days of the refund request. AssetWorks will refund the license fee paid if the Service is not corrected.

EXCEPT AS PROVIDED IN THIS SECTION, ASSETWORKS MAKES NO WARRANTY OF ANY KIND WITH REGARDS TO THE SERVICE, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, ACCURACY, OR FITNESS FOR A PARTICULAR PURPOSE. NEITHER PARTY WILL BE LIABLE FOR LOSS OR INACCURACY OF DATA, LOSS OF PROFITS OR REVENUE OR INDIRECT, SPECIAL INCIDENTAL OR CONSEQUENTIAL DAMAGES WHETHER OR NOT FORSEEABLE.

5. **Miscellaneous.** This Agreement shall inure to benefit and bind the parties hereto, their successors and assigns, but neither party may assign this Agreement without consent of the other, except such consent is not required to the successor of all or substantially all of the assignor's business or assets. This Agreement does not create any joint venture, partnership, agency, or employment relationship between the parties. This Agreement and Incorporated Terms of Service represent the entire agreement of the parties and may not be modified unless expressly agreed to in writing by both parties. This agreement shall be governed in accordance with the internal laws of the State of Texas. If any provision is held by a court of competent jurisdiction to be contrary to law, such provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect. Each party shall be responsible for compliance for all applicable laws, rules and regulations, if any, related to the performance of its obligations under this Agreement. Neither party will be liable for any failure to perform any obligation (other than payment obligations) hereunder, or from any delay in the performance thereof, due to causes beyond its reasonable control.