

# MARKETING AGREEMENT FOR SYSTEM I

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_ between \_\_\_\_\_, a \_\_\_\_\_ [type of organization] address for purposes of this Agreement at \_\_\_\_\_ (hereinafter a "System Integrator"), having an address for purposes of this Agreement at \_\_\_\_\_ (hereinafter "System Integrator").

## RECITALS

WHEREAS, Owner is the owner of all U.S. [and foreign] copyrights and other property rights pertaining to certain computer software programs which are the subject of this Agreement;

WHEREAS, Owner offers such programs as the software portion of certain products to be transferred to End-Users under the terms of a specific "Product License," and Owner desires that certain "Qualified Prospects" to be provided certain "Marketing Assistance" relating to such Products, and for End-Users to be offered certain "Professional Services" relating to such Products, including (without limitation) installation assistance, training, data entry and other program modification;

WHEREAS, System Integrator desires to provide such Marketing Assistance to End-Users of the Products, and to offer such Professional Services to End-Users of the Products, and represents that it has the skilled employees and other resources necessary for that purpose;

WHEREAS, Owner and System Integrator desire to market such Support Services on a cooperative basis under the terms of this Agreement;

NOW, THEREFORE, the parties agree as follows:

## Article 1

### DEFINITIONS

When used in this Agreement, the definitions set forth in this Article shall apply to the capitalized terms:

- 1.1 **"Product(s)."** Those products of Owner containing computer program(s) as listed in Exhibit A hereto [to be created by document user] according to the constituent program number. The configuration of the Products is more fully defined in the Specifications published by Owner for each Product.
- 1.2 **"Specifications."** The current, updated version of product description prepared by Owner for each Product and made available to End-Users.
- 1.3 **"Qualified Prospect."** A person or entity determined by mutual agreement between Owner and System Integrator as a reasonable prospect for the license of a Product after proper consideration of business needs and ability to pay. Such person or entity shall be deemed a "Qualified Prospect" when identified on a copy of the Qualified Prospect Form attached hereto [to be created by document user], signed by both parties.
- 1.4 **"Marketing Assistance."** Performance by System Integrator of the following:

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- a. Investigation and research regarding the identity and location of Qualified Prospects; and the preparation of periodic reports and recommendations concerning its findings;
- b. Participation in preparation of proposals to Qualified Prospects, including the perceived needs of a Qualified Prospect for Products and Professional Services, the economic and technological benefits to be derived by a Qualified Prospect from Products from Owner and Professional Services from System Integrator, and the business and financial constraints that may affect the procurement of a Qualified Prospect;
- c. Planning, preparing, and conducting demonstrations of the Products to Qualified Prospects and other preliminary marketing contacts; and
- d. Participation in business shows and seminars conducted by Owner.

**1.5 “Professional Services.”** Installation services, on-site training and instruction, conversion, program modification, and error correction, all relating to the Products, to be performed by System Integrator pursuant to separate agreements between System Integrator and customers.

**1.6 “Supplemental Products.”** Programs and equipment that supplement the Products, to be offered directly to End-Users by System Integrator, including \_\_\_\_\_, and any other program or equipment that may be approved from time to time by System Integrator offering as part of Marketing Assistance.

**1.7 “Statement of Understanding.”** The statement attached hereto as Exhibit D, which sets forth the responsibilities of End-Users that receive the services of System Integrator that the responsibilities of System Integrator to the terms of its Product License [and/or its Service Agreement] and Professional Services are offered directly and independently by System Integrator. A Statement of Understanding shall be furnished and signed by each End-User or Qualified Prospect. System Integrator commits or commences to render Professional Services.

**1.8 “Product License.”** The standard version of Owner’s End-User License Agreement for the Product, as in effect from time to time, the current version of which is attached hereto as Exhibit F [to be created by document user]. Nothing in this Agreement shall prevent System Integrator, in its standard form of Product License in its discretion, from modifying or amending such form to meet the needs of any End-User, or from discontinuing its offering of any Product at any time.

**[Optional provision]**

**1.9 “Service Agreement.”** The standard version of Owner’s Service Agreement for the Products, as in effect from time to time, the current version of which is attached hereto as Exhibit E [to be created by document user]. Nothing in this Agreement shall prevent Owner from revising its standard form of Service Agreement in its discretion, from modifying or amending such form to meet the needs of any End-User, or from discontinuing its offering of any Products or services at any time.

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## Article 2

### AUTHORIZATION

- 2.1 Owner hereby authorizes System Integrator to provide Marketing Assistance to market contacts and Qualified Prospects and to offer and provide Professional Services and Supplemental Products to End-Users, all in connection with the offering and ancillary to the Product License [and/or the Service Agreement]. [Determine limits.]

## Article 3

### OWNER COMMITMENTS

- 3.1 Subject to the terms and conditions of this Agreement, Owner shall:
- a. Provide \_\_\_\_\_-day training sessions relating to the Products for up to \_\_\_\_\_ System Integrator. Owner shall bear responsibility for the expenses of the training facility and any training apparatus and of conducting each session. System Integrator shall bear responsibility for the expense of transportation and living accommodations for its employees. Training sessions shall be held at Owner's \_\_\_\_\_, on the following dates: \_\_\_\_\_.
  - b. Furnish System Integrator with \_\_\_\_\_ copies of the Products, training materials, marketing, demonstration, and training. Except as otherwise provided in the Product License, the Products furnished to System Integrator, including all programs and documents, shall be subject to the terms of the Product License. It is agreed that System Integrator's performance of Professional Services for End-Users that obtain the Product License under the Product License, is hereby licensed and authorized to exercise the rights of End-Users, the rights of the End-Users under the Product License to use the Products.
  - c. Market the Products to Qualified Prospects in accordance with its best judgment and shall cooperate with System Integrator in its efforts to market the Products to Qualified Prospects.
  - d. Pay System Integrator marketing assistance fees equal to \_\_\_\_\_ percent of the license fees received by Owner under each Product License entered into by Owner as a Qualified Prospect, received Marketing Assistance rendered by System Integrator within \_\_\_\_\_ months of the effective date of such Product License, but excluding the amount of any Product License entered into by an End-User as a result of any independent procurement decision (such as if such procurement decision is independently made by a separate organization, or if it is manifestly evident that the Marketing Assistance rendered by System Integrator had no positive effect on such procurement decision).
  - e. Make payment to System Integrator within \_\_\_\_\_ days of the close of each billing period in the amount of the balance having accrued in such period under the Product License.

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