# License Attachment

This License Attachment ("LA") is between SAS Institute Inc. ("SAS") and the City of San Antonio ("Customer") in connection with (i) Customer's license of SAS® software listed on Attachment I to this LA ("Software") and (ii) the provision of certain services by SAS which are described on Attachment II to this LA ("Services"). This LA is made a part of the Integration Agreement ("Integration Agreement") executed by the parties in connection with Customer's Request for Competitive Sealed Proposal (RFCSP-013-096) ("RFP"). To the extent the terms contained in this LA conflict with the RFP, this LA shall control.

1. **License Grant; Authorized Use**. SAS grants Customer a nonexclusive, nontransferable and nonassignable license to use the Software with the designated operating systems specified on Attachment I to this LA. SAS also grants Customer a limited license to the Work Product (as defined in Attachment II) resulting from any Services provided hereunder, to the extent more fully set forth on Attachment II. Except as otherwise provided in the LA, the Software may be accessed only by Customer's employees and on site contractors ("Users") doing work in the Territory solely for Customer. The license is an annual license renewed at the mutual agreement of the parties. Renewal is accomplished by SAS sending an invoice for the applicable Software license renewal fees and Customer paying the invoice.

1.1 **Reserved.**

1.2 **Territory; Report Access.** Customer may install and use the Software (a) within the territory listed on Attachment I ("Territory"); (b) on a portable computer in countries outside the Territory for up to three (3) months of an annual license period; and (c) in a manner allowing any party in or outside the Territory limited access to Software applications to view reports showing results of Customer's analysis of Customer's data ("Reports"). Customer may allow this limited Report viewing via the internet, Customer's intranet or terminal emulation sessions.

1.3. **Other Uses of the Software.**

This LA describes standard rights of use. Attachment I also includes special use rights and limits related specifically to the Software. SAS grants no usage rights beyond those specifically listed in this LA. By way of example, the following uses are prohibited unless specifically set forth on Attachment I or a written amendment to this LA: (a) installation or use outside the Territory; (b) use for the benefit of a third party in exchange for compensation; (c) use in application or data service provision, outsourcing, time-sharing, data or information technology management, or other similar arrangements; (d) use to process third party data; or (e) allowing any party other than Users to use, edit, modify, or otherwise access underlying Software, or to perform free form programming with the Software.

2. **Authorized Hardware.** Customer shall install the Software only on hardware authorized under this LA ("Authorized Hardware"). If the Software is licensed for use on mainframe or server hardware, Authorized Hardware is hardware located on Customer's premises that Customer identifies to SAS by type and CPU number. If the Software is licensed for use on personal computers, Authorized Hardware is hardware owned or leased by Customer or its employees.

3. **Fees.** License fees for each Software product are based on the applicable pricing metric and the usage rights and limits set forth on Attachment I. First year fees, pricing metrics and any special usage rights or limits are listed on Attachment I. Renewal fees are listed on invoices and may vary each year. Prior to any license renewal period, SAS may propose pricing metric changes. Some pricing metrics are based on use of certain Software offerings as an integrated solution. Accordingly, the Software components in these offerings may be used only through the Software under which they are bundled and Customer may not use or deploy any individual component as a replacement for other SAS software.

4. **Product Authorization Code.** Customer may allow Users to access Software licensed to Customer for which Customer receives a Product Authorization Code. Customer shall not allow Users to install or attempt to use other products contained on media received from SAS. The "Product Authorization Code" is a component of the Software that enables the Software to operate for the applicable license period. At each new license period, or if required as a result of changes in Authorized Hardware or Software, Customer must apply a new Product Authorization Code to keep the Software operating. SAS is not required to provide the Product Authorization Code if Customer is in breach of this LA or has not paid any undisputed amounts due under this LA. SAS is not liable for damages caused by the resulting Software interruption. Customer may allow only Users to access the Product Authorization Code. Customer acknowledges and agrees that the Product Authorization Code is SAS' confidential and proprietary information. This section shall not be considered in conflict with the "Undisclosed Features" section of the RFP.

5. **Copying.** Customer may copy the Software only for (a) disaster recovery and back-up purposes, and (b) installation of personal computer Software authorized hereunder. All copies remain the property of SAS. Customer may deliver a copy of the Software to a disaster recovery contractor to perform temporary disaster recovery work for Customer. Customer shall give SAS the name and address of the disaster recovery contractor before delivery. The identical copyright notices and any other proprietary rights notices found on the original Software media must be reproduced on all copies authorized under this Section.

6. **Title; Source Code.** Title to the Software and its documentation remains with SAS and its licensors at all times. Copyright notices and other proprietary rights notices in the Software shall not be deleted or modified. Neither this LA, nor the Integration Agreement (and related attachments thereto) transfers any ownership rights to Customer. Source code from which the Software object code is derived ("Source Code") is not being provided and is a trade secret of SAS and SAS' licensors to which access is not authorized. Neither Customer nor any other User shall reverse engineer, reverse assemble or decompile the Software or in any way attempt to recreate the Source Code, except and only to the extent applicable laws specifically prohibit such restriction.

7. **Technical Support.** During the term of the Software license, SAS will use reasonable efforts, either by telephone or in writing, to help Customer solve specific problems with installation or use of the Software within the Territory. Customer may obtain on-site Software support from SAS by executing additional paperwork with SAS and paying applicable additional fees to SAS. It may not be possible for SAS to solve all problems or correct all errors in the Software. From time to time, SAS may make available, and Customer agrees to use reasonable efforts to install, new releases, updates and corrective code. During ongoing Software development, SAS may add, change or delete individual components or functionality in new releases. Such Software modifications shall be subject to the terms of this LA. If Customer chooses not to install the most current release of the Software, the level of technical support may diminish over time.

8. **Payment.**

8.1 **Invoices.** SAS will invoice Customer (a) prior to each applicable license period, for any Software license fees due and (b) any Services fees due. Payment terms for all invoices are net thirty (30) days. License fees do not include taxes. SAS will use reasonable efforts to include all taxes applicable to Customer on the relevant invoice and Customer agrees to pay such taxes to SAS; however, Customer is responsible for taxes on its licensing of the Software. Customer is not responsible for taxes based on SAS' income. Except as otherwise allowed in this LA, refunds are not available after the Product Authorization Code has been provided.

8.2 **License Fee Calculations; Upgrades.** Customer agrees to (a) keep records of where the Software is being used and the extent of usage of the Software relative to the pricing metric and the applicable usage rights and limits, and (b) provide a copy of such records to SAS upon reasonable request. Customer may call or write SAS to change operating systems, Authorized Hardware or any factor affecting the applicable pricing metric or any applicable usage rights. These changes may result in additional license fees which are effective and will be invoiced as of the time of the change.

8.3 **Third Party Payments.** Customer may, by written notice to SAS, designate a third party to pay license fees on Customer's behalf. Customer shall be responsible for any related charges assessed by such third party. When a third party is designated by Customer to pay fees under this LA, SAS will send its standard notices regarding fees only to such third party, and all payments due under this LA will remain Customer's ultimate responsibility.

**9. Limited Warranties and Representations.**

9.1 **Warranties by SAS; Remedies.**

9.1.1 SAS warrants that it has the right to license the Software to Customer. The exclusive remedy for breach of this warranty is set forth in Section 11 (Indemnification).

9.1.2 SAS warrants that each production release of the Software shall substantially conform to its documentation including any updates thereto, and the Software and the media on which it is installed shall be free of software viruses when received by Customer. As the exclusive remedy for breach of these warranties, SAS, at its option, shall: (a) repair the Software; (b) replace the Software; or (c) terminate the Software license and refund the fees paid for the Software at issue during the then-current license period.

9.2 **Warranty Disclaimers. SAS AND ITS LICENSORS DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ARISING AS A RESULT OF CUSTOM OR USAGE IN THE TRADE OR BY COURSE OF DEALING. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SAS AND ITS LICENSORS DO NOT WARRANT OR REPRESENT THAT THE SOFTWARE WILL RESULT IN COMPLIANCE, FULFILLMENT OR CONFORMITY WITH THE LAWS, RULES, REGULATIONS, REQUIREMENTS OR GUIDELINES OF ANY GOVERNMENTAL AGENCY. SAS' LICENSORS PROVIDE THEIR SOFTWARE "AS IS." NOTHING IN THIS SUBSECTION NEGATES THE EXPRESS WARRANTIES SAS PROVIDES IN THIS LA.**

9.3 **Representations by Customer.** Customer represents it shall (a) implement procedures to verify accuracy of data input and output while using the Software, and (b) inform all parties authorized to use the Software of the relevant terms of this LA and any related user documentation, and be responsible for their adherence to such terms. Customer agrees that the Software and Services, in and of themselves, will not ensure compliance with laws.

**10. Exclusions of Damages; Limitation of Liability.**

10.1 **Exclusions of Damages. NEITHER CUSTOMER, SAS, NOR SAS' LICENSORS ARE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, OR RELIANCE DAMAGES (ARISING IN TORT, CONTRACT OR OTHERWISE), EVEN IF THEY HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER SAS NOR SAS' LICENSORS ARE LIABLE FOR ANY CLAIM AGAINST THE CUSTOMER BY A THIRD PARTY RELATING TO USE OF THE SOFTWARE, EXCEPT AS SET FORTH IN SECTION 11 (INDEMNIFICATION). SAS' LICENSORS ARE NOT LIABLE FOR DIRECT DAMAGES (ARISING IN TORT, CONTRACT OR OTHERWISE) AND DISCLAIM ANY LIABILITY CONNECTED WITH USE OF THE SOFTWARE. THE PARTIES MAKE THESE EXCLUSIONS IN CONSIDERATION OF THE FEES PAID AND LICENSES GRANTED IN CONNECTION WITH THIS LA.**

10.2 **Limitation of Liability. THE TOTAL AMOUNT CUSTOMER MAY RECOVER FOR ANY CLAIMS OR DAMAGES OF ANY KIND RELATING TO THIS LA OR THE INTEGRATION AGREEMENT (INCLUDING ALL ATTACHMENTS THERETO) IS LIMITED IN THE AGGREGATE TO THE FEES PAID FOR THE SOFTWARE AT ISSUE DURING THE RELEVANT LICENSE PERIOD OR FOR THE SERVICES AT ISSUE.**

10.3 **Applicability.** The limitations in this Section shall apply even if any of the warranties provided in Section 9 fail of their essential purpose. Some jurisdictions do not allow limitations of liability or exclusions for incidental or consequential damages, so certain provisions of this Section may not apply to Customer; however, they apply to the greatest extent permitted by applicable law.

**11. Indemnification.** As set forth on Exhibit A of the Integration Agreement.

**12. Termination; Expiration.** Customer may terminate an annual license for any Software at any time. SAS may terminate this LA immediately for any violation by Customer of SAS' intellectual property rights. For any other breaches, SAS may terminate the Software license for a breach of this LA if not cured within thirty (30) days of SAS' written notice. Obligations in this LA that by their nature are continuing will survive termination or expiration. Upon termination or expiration of each Software license hereunder, or when a User, Related Entity or disaster recovery contractor is no longer authorized to access the Software, Customer agrees to reclaim, delete, and destroy the Software at issue, along with any related user documentation.

**13. Governing Law; Export and Import Restrictions.** The laws of Texas, excluding choice of law provisions, govern this LA. SAS hereby notifies Customer that United States export laws and regulations apply to the Software. Both parties agree to comply with these and other applicable export and import laws and regulations. The parties expressly agree to exclude from this LA and the Integration Agreement the United Nations Convention on Contracts for the International Sale of Goods.

**14. General.**

14.1 **Severability.** If a court of competent jurisdiction finds any part unenforceable, that part is excluded, but the remainder of this LA stays in full force and effect.

14.2 **No Waiver.** Failure to require compliance with a part of the LA is not a waiver of that part. Nothing in this subsection waives any remedy SAS may have under the LA at law, in equity, or otherwise.

14.3 **Non-assignment.** Customer may not assign this LA or any of its rights or obligations hereunder without SAS' written permission, which permission will not be unreasonably withheld.

14.4 **Audit.** Upon fifteen (15) business days' notice to Customer, SAS will have the right to conduct an on-site audit during Customer's normal business hours to verify compliance with the terms and conditions of this LA. Customer shall cooperate with SAS by: (a) making applicable records available; (b) providing copies of the records requested; and (c) directing all agents to cooperate. If the audit reveals that Customer owes additional license fees, Customer shall pay the amounts owed and SAS' reasonable expenses in conducting the audit.

14.5 **Injunctive Relief.** Breach of SAS' or SAS' licensors' intellectual property rights will lead to damages not adequately remedied by an award of money; therefore, SAS may protect those intellectual property rights through temporary restraining orders or injunctions, without the obligation of posting bond.

**15. Complete Agreement; Modifications.** This LA, the Integration Agreement (and all attachments thereto), and invoices arising under it are the parties' complete and exclusive statement relating to their subject matter. Modifications must be in writing, signed by both parties, and specifically reference the LA. Additional or different terms on current or future Customer or third party purchasing documents are expressly objected to and rejected.

| Software and Subcomponents[1] | | Applicable Pricing Metric, Number of Authorized Units[2], Limited Scope | Operating System[3] | Authorized Hardware (CPU/Server Manufacturer, Model type/Serial No.)[3] | Initial Fees[4] (in above Currency Type) | License Beginning Date | Anniversary Date |
|---|---|---|---|---|---|---|---|
| | | | | | **FOR SAS USE ONLY** | | |
| **SAS Fusion Center Solution for San Antonio Police Department** | | | | | | | |
| **Software:** | Memex Platform | Total Users (14) Limited Scope | LINA - Linux for x64 | To be defined by Customer in writing | See Section 4.2 of Attachment I | 30NOV2013 | 30NOV |
| **Software:** | Memex eGuardian CONNECT | Capacity Based Limited Scope | LINA-Linux for x64 | To be defined by Customer in writing | See Section 4.2 of Attachment I | 30NOV2013 | 30NOV |

1. Pricing metrics, operating systems and/or Authorized Hardware for subcomponents which differ from that of the Software with which they are associated are listed in the column that corresponds to the applicable subcomponent.  Unless otherwise noted, subcomponents listed here are included in the Software license fee for the Software product with which they are licensed or provided.
2. The pricing metric is used to derive license fees; for example, but without limitation, Capacity Based, Total Users, PC Use, etc. as described on the next page of this Attachment I.  Certain pricing metrics contain additional terms that pertain to Customer's use of the Software.
3. Customer must provide Operating System and Authorized Hardware information to SAS prior to shipment of Software.

1. **License of Software**. This Attachment I shall provide additional terms which govern Customer's license of the Software specified on the preceding chart and any related user documentation provided by SAS. When licensed alone or as a subcomponent, SAS AppDev Studio software may be used for development purposes only.
2. **Pricing Metrics**. The pricing metrics described herein apply to the Software and any Software subcomponents listed on the preceding chart. For the avoidance of doubt, only those pricing metrics listed on preceding chart apply to the Software and Software subcomponents licensed hereunder.
    (a) **Total Users** - The Software license fee is based on the total number of Users (not concurrent) who access the Software during the applicable license period.
    (b) **Capacity Based -** The Software license fee is based on the total processing power of the Authorized Hardware on which the Software is installed. With respect to server hardware, processing power includes each processor core contained within the Authorized Hardware. With respect to mainframe hardware, processing power is based on Millions of Instructions Per Second ("MIPS").
    (c) **Limited Scope –**The Software may be used solely to support Customer's operation of its law enforcement operation located at the Southwest Texas Fusion Center, located in San Antonio, Texas. The Software will also include the following modules: Request for Service Module, Intelligence Management Module, Suspicious Activity Reporting Module ("SARS Module"), and Confidential Informant Management Module ("CIM Module"). Customer's use of the SARS Module shall be further limited to ten (10) named users and Customer's use of the CIM Module shall also be further limited to eight (8) named users.
3. **Subcomponent Installations**. Some Software consists of subcomponents which may be used only in connection with a single Software configuration. When the Software requires installation of subcomponents on more than one hardware tier, the server-tier subcomponents may be installed only on the Authorized Hardware listed on the preceding chart of this Attachment I. If authorized by SAS, however, some server-tier subcomponents also may be installed on separate hardware. Where the license fee is based on hardware capacity, then the separate hardware must have the same or lower classification as the Authorized Hardware. Software or subcomponents licensed to SAS by third parties may only be installed once.
4. **Committed Term**.
    4.1. **License Grant; Termination**. SAS hereby grants and Customer hereby accepts a license to use the Software for two (2) non-cancelable annual license periods commencing on the License Beginning Date ("Committed Term"). Notwithstanding the foregoing, either party may terminate the license in the event of a material breach of the terms of the LA by the other party provided such breach is not cured within thirty (30) days of the breaching party's receipt of written notice from the other party. This right to cure does not apply to breaches that threaten to cause or have caused damage to or loss of all or part of SAS' intellectual property rights.
    4.2. **License Fees During the Committed Term; Invoicing**. The license fees during the Committed Term shall be payable in two (2) annual installments as follows:

| Annual License Period | Annual License Fee Installment |
|---|---|
| First Annual License Period | $103,590 |
| Second Annual License Period | Included |
| **Total License Fees During Committed Term** | $103,590 |

The license fees set forth above do not include applicable taxes which will be added to SAS' invoices. If Customer desires to increase its usage of the Software beyond that agreed upon herein by, for example, increasing the capacity of the Authorized Hardware, increasing the number of Users authorized to access the Software, or increasing the value of a pricing metric, additional fees may apply.

SAS will invoice the first Annual License Fee Installment as soon as both parties sign the Integration Agreement. SAS will invoice the Annual License Fee Installments for the remaining Annual License Periods of the Committed Term approximately thirty (30) days prior to each annual Anniversary Date. Customer will pay such invoices net thirty (30) days regardless of whether Customer discontinues its use of the Software prior to the expiration of the Committed Term. SAS will provide one (1) year Product Authorization Codes each year for the Software when SAS receives Customer's payment of the applicable Annual License Fee Installment.

    4.3. **Renewal following the Committed Term**. Following the expiration of the Committed Term, the parties may renew the Software license annually in accordance with this LA unless otherwise mutually agreed by written amendment to this LA. Such license renewals shall be accomplished by SAS sending an invoice for the applicable Software license renewal fees and taxes and Customer paying the invoice. The following renewal year pricing shall apply to the three optional one-year periods following the Commited Term:

| Renewal Option Year | Renewal Fees |
|---|---|
| Year Three | $23,793 |
| Year Four | $24,983 |
| Year Five | $26,232 |

4.4. **Indemnification; Warranty; Limitation of Liability**. For the purposes of determining the amount of license fee refund in the Indemnification and Warranty Sections of the LA, and the amount of license fees subject to the Limitation of Liability Section of the LA, the applicable license fee amount shall be the Annual License Fee Installment paid for the Annual License Period when the claim arose, as specified above.

**ATTACHMENT II**

1. **RESERVED**.

2.1 **Services, Deliverables, Work Product and Fees.**

    2.1 <u>Work Product.</u>  In exchange for Customer paying the fees and any applicable taxes arising under this LA, SAS agrees to provide (a) the services described in Section 2.2 below ("Services") related to Customer's use of the Software and (b) a limited license as described in Section 3.1 below in relation to any documentation, computer code or other materials delivered by SAS in connection with the Services (collectively, "Work Product").  As used herein, the term "Time and Materials" means a consultative model where SAS provides Services at the hourly rates identified below.  SAS' time and a limited license to any Work Product resulting from performance of the Services are the only deliverables to be provided to Customer hereunder.

    2.2 <u>Description of the Services:</u>  SAS shall provide Services directed toward the services described on Exhibit B to the Integration Agreement.

    2.3 <u>Hourly Rates; Customer Funds; Travel and Living Expenses; Invoicing</u>.

        2.3.1 <u>Hourly Rates</u>. The hourly rate(s) for the Services shall be as follows:

| Resource | Hourly Rate |
|---|---|
| Senior Consultant | $190 |
| Consultant | $150 |
| Project Manager | $170 |

        2.3.2 <u>Customer Funds</u>.  Customer has made available funds in the amount of One Hundred Forty Six Thousand One Hundred Ten Dollars ($146,110) (U.S.) for Services ("Customer Funds"), which is based on the estimated budget for labor for the Services determined by SAS.  Travel and living expenses and applicable taxes are additional and are not reflected in the Customer Funds.  Neither party shall have any obligation with respect to the performance of, or payment for, Services beyond the depletion of the Customer Funds.  Customer may make additional Customer Funds available for the performance of the Services by amendment to this LA.

        2.3.3 <u>Travel and Living Expenses</u>. Travel and living expenses, and any applicable taxes, are additional and are not reflected in the rates above.

        2.3.4 <u>Invoicing</u>. SAS will invoice Customer monthly for any Services fees due. Payment terms shall be net thirty (30) days.

3. **TERMS AND CONDITIONS.**

    3.1 <u>Ownership of Work Product</u>.  SAS grants Customer a nonexclusive, nontransferable, non-assignable, royalty-free license to use the Work Product only with the Software with which the Work Product operates and only for as long as Customer maintains a license for such Software.  Nothing herein shall be construed as granting Customer a license to any SAS Software, which shall be licensed separately pursuant to a license agreement between SAS and Customer.  SAS has no obligation to provide continued support or maintenance for any Work Product. Ownership of the Work Product, including any intellectual property embodied therein, and any techniques, skills, concepts or know-how that are utilized or developed while performing the Services remains with SAS.  Prototype systems and sample programs furnished by SAS are designed to help Customer learn to use the Software and for demonstration purposes; they are not intended to be used for production purposes without appropriate Customer testing.

    3.2 <u>Confidential Information.</u> SAS agrees to use reasonable efforts to prevent any Confidential Information from being revealed to third parties for a period of three (3) years from the date of disclosure. As used herein, the term "Confidential Information" shall mean only that information of Customer provided to SAS in connection with and related to the Services.  This restriction does not apply to information which is:  (1) generally available to the public; (2) released by Customer without restriction; (3) independently developed or acquired by SAS; or (4) known to SAS prior to receipt from Customer. In the event the Confidential Information must be disclosed pursuant to judicial order or requirement of law, SAS shall make reasonable efforts to notify Customer of such order or requirement.  For the purposes of this Section, SAS' subsidiaries and subcontractors performing Services shall not be deemed "third parties." No proprietary source code or individually identifiable information will be disclosed under this LA.

    3.3 <u>Change Management</u>. "Change Management" refers to a process for the parties to agree on a change or modification to the scope of Services, and "Change Order" refers to the document reflecting the change or modification. Requests by Customer or SAS for such changes will be made in writing to the other party.  SAS will prepare the Change Order, which will contain the following information:

a. A description of any additional work to be performed and/or any changes to the performance required of either party.

b. A statement of the impact of the work or changes on the Services and the project schedule.

c. The estimated timetable to complete the work specified in the Change Order.

d. The estimated time and cost of any additional work associated with the Change Order.

SAS will provide the proposed Change Order to Customer's project manager for review, and if additional fees will be charged, SAS will provide the proposed amendment to this LA. Customer's project manager will respond in writing to the proposed Change Order within five (5) business days. Each party must agree in writing to the Change Order. Pending such written agreement (and if additional fees will be charged, execution of the associated amendment), SAS will continue to perform as if such Change Order had not been requested or recommended. If Customer provides its acceptance of the proposed Change Order in writing and, if applicable, executes the proposed amendment, SAS' project manager will update the project plan to reflect the change(s).

3.4 <u>Warranties; Disclaimers; Limitation of Liability.</u> SAS warrants that the Services will be performed by qualified personnel in a workmanlike manner and in accordance with the requirements set forth in this LA. The exclusive remedy for breach of this warranty is refund of fees paid for the Services at issue. SAS warrants that it has the right to license the Work Product to Customer. The exclusive remedy for breach of this warranty is provided in the section of the LA addressing SAS' indemnification obligations for intellectual property infringement claims. SAS' indemnification obligations and the disclaimers of warranty and exclusions of consequential damages and limitations of liability contained in the LA also apply to any Work Product and Services under this LA. For purposes of this LA, with respect to SAS' indemnification obligations and the limitations of liability contained in the LA, the term "Work Product" shall replace "Software," "IPPs," "Micro-IPPs" or any other defined term for the SAS software products licensed under the LA. The parties acknowledge and agree that Customer may use the Work Product in connection with its work for a third party on behalf of Customer ("Client"), or other third parties whom SAS has no contractual relationship. Accordingly, except for claims for which Customer is entitled to reimbursement pursuant to the LA, Customer shall defend, indemnify, and hold SAS harmless from and against any liability for claims by Client or any other third party arising from use of the Work Product.

3.5 <u>Reserved</u>.

3.6 <u>Customer Responsibilities; Equipment; Personnel</u>. Customer is responsible for furnishing facilities, equipment, information and access to Customer personnel required to perform the Services. SAS may subcontract all or portions of the Services. Customer agrees not to solicit for hire any individual who provides the Services to Customer within six (6) months after the Services are performed. Notwithstanding the foregoing, responses to general advertisements in the media or on the Internet or Customer's intranet shall not be deemed to be a solicitation for hire within the context of this Section 3.6.