

**PACIFIC SYSTEMS GROUP
SOFTWARE LICENSE AGREEMENT**

This Software License Agreement between Pacific Systems Group, LLC ("Licensor"), and the Licensee named below consists of the Product Schedule below and the Licensor's General Terms and Conditions, which are incorporated by this reference.

PRODUCT SCHEDULE

1. SITE(S) AND CPU(S)

The Product(s) specified below will be used by Licensee only in the computing facilities at the following site(s), and on the specified CPU(s):

<i>CPU Serial ber(s)</i>	<i>CPU Model(s)</i>
<i>CPU Site(s) (address)</i>	

2. PRODUCT(S)

The Product(s) to be provided are:

Product	License Term (check one)		Fee from Price Schedule	Quantity	Total Fee
	Annual	Monthly			
Spectrum Mainframe Exporter					
Add DB2 Option					
Total License Fees (exclusive of applicable taxes):					

3. EFFECTIVE DATE OF LICENSE

The License Effective Date shall be (end of trial period) :

4. SPECIAL TERMS

5. ACCEPTED BY LICENSEE:

Company Name: _____
 Address: _____

Signature: _____
 Name (print): _____
 Title: _____
 Date: _____

ACCEPTED BY PACIFIC SYSTEMS GROUP:

Pacific Systems Group, LLC
 32533 Regents Boulevard
 Union City, CA 94587

Signature: _____
 Name (print): _____
 Title: _____
 Date: _____

PACIFIC SYSTEMS GROUP

GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

a) **AGREEMENT.** The term "Agreement" means these General Terms and Conditions and the Product Schedule. More than one Product Schedule may reference these General Terms and Conditions. Each separate Product Schedule, taken together with these General Terms and Conditions, constitute a separate Agreement.

(b) **AUTHORIZED CPU.** The term "Authorized CPU" means any central processing unit or attached processor complex, including associated peripheral units, identified in the Product Schedule by a Site location and a CPU serial number.

(c) **PRODUCT.** The term "Product" means one or more proprietary computer software programs identified in the Product Schedule, and all related materials, documentation and information provided to Licensee from Licensor.

2. LICENSE

(a) **GRANT OF LICENSE.** Licensor hereby grants to Licensee and Licensee hereby accepts from Licensor a nonexclusive, nontransferable license to use the Product in accordance with this Agreement during the term specified in the Product Schedule. Licensee acknowledges and agrees that the Product is the proprietary information and a trade secret of the Licensor, and that this Agreement grants Licensee no title or rights of ownership in the Product. The rights and license granted Licensee under this Agreement are restricted solely and exclusively to Licensee and may not be assigned, sub-leased, sub-licensed, sold, or otherwise transferred.

(b) **SCOPE OF USE.** Licensee may use the Product only for Licensee's internal purposes and only on the Authorized CPU. A separate License is required for each CPU on which the Product is used, except as specifically provided in this Section. Licensee agrees that it will not use or permit the Product to be used in any manner, whether directly or indirectly, that would enable Licensee's customers or any other person or entity to use the Product on other than the Authorized CPU.

(c) **USE ON OTHER THAN AUTHORIZED CPU.** Licensee may use the Product on other than the Authorized CPU in the following circumstances: (1) if the Authorized CPU cannot be used because of equipment or software malfunctions, Licensee may temporarily use the Product on another CPU; and (2) if the Authorized CPU is replaced by Licensee, Licensee may designate a successor CPU, and may use the Product on that CPU provided any associated upgrade fee has been paid and further provided that use on the predecessor CPU has been discontinued. Licensee must give Licensor prompt written notice, including the location and serial number of the successor CPU, and Licensor must give its written consent (which shall not be unreasonably withheld) before such other use is permitted.

3. TERM

When the license term specified in the Product Schedule is perpetual, the term of this Agreement starts on the License Effective Date specified in the Product Schedule and continues in perpetuity. When the license term specified in the Product Schedule is yearly, the term of this Agreement starts on the License Effective Date specified in the Product Schedule and continues initially for a period of one year. Thereafter the terms of this Agreement automatically shall continue for successive periods, each of one year, unless and until this Agreement is terminated in accordance with the provisions of Section 9.

4. WARRANTY

Licensor warrants its ownership and marketing rights to the Product and that at the time of delivery, and for a period of one year from the License Effective Date, the Product, as delivered, is capable of operating substantially in conformance with the Product's technical documentation. If it is determined that the Product does not operate according to such specifications due to Licensor's fault, Licensor will undertake good faith efforts to cure the defect, provided written notice of such defect is given to Licensor during the warranty period. **EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION, LICENSOR MAKES NO WARRANTIES EITHER EXPRESS OR IMPLIED AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE PRODUCT, ITS MERCHANTABILITY, OR ITS FITNESS FOR ANY PARTICULAR USE.**

5. MAINTENANCE AND SUPPORT

(a) **MAINTENANCE AND SUPPORT SERVICES.** Subject to the terms set forth in this Section, Licensor offers maintenance and support services for the Product as follows: (1) Licensor will provide code corrections as required to correct substantial deviations of the Product from the specifications of the then current applicable technical documentation; (2) Licensor will provide such improvements, enhancements, extensions and other changes to the Product as Licensor, at its sole discretion, deems to be logical improvements or extensions; (3) Licensor will provide a reasonable amount of technical assistance in the event of difficulties in the use of the Product to the extent of mail and telephone contact.

(b) **CHARGES FOR LIMITED TERM LICENSES.** Where the license term specified in the Product Schedule is not perpetual, charges for the maintenance and support services are included in the license fee.

(c) **CHARGES FOR PERPETUAL LICENSES.** Where the license term specified in the Product Schedule is perpetual, there is no additional charge for the maintenance and support services during the first year of the term.

(1) **CHARGES FOR SUBSEQUENT YEARS.** For each year after the first year of a perpetual license, Licensor will continue to provide Licensee with maintenance and support services as described in subsection (a) above, provided Licensee pays Licensor in advance the annual maintenance and support charges then in effect.

(2) **RENEWAL.** For each subsequent year, Licensor's obligation to provide maintenance and support services, and Licensee's obligation to pay the maintenance and support charges then in effect shall be automatically renewed on the anniversary of the Effective Date of this Agreement, unless either Licensee or Licensor has given the other at least 30 days prior written notice canceling Licensor's maintenance and support. If there is an increase in annual maintenance and support charges over the preceding year, Licensee may also prevent such automatic renewal by giving Licensor written notice of cancellation within 30 days of receipt of Licensor's invoice showing such increase.

(d) **REINSTATEMENT.** Licensee may elect to cancel its subscription to the maintenance and support services effective as of the next anniversary date by written notice to Licensor received at least 30 days prior to the anniversary date. Licensee may reinstate maintenance and support at a later time by paying the maintenance and support services fee in effect at the time of reinstatement multiplied by the number of years (including the year of reinstatement) for which payment for maintenance and support services was not made.

(e) **LIMITATIONS ON LICENSOR'S OBLIGATIONS.** Licensee understands and agrees that Licensor may develop and market new or different computer software programs which use part or all of the Product and which perform all or part of the functions performed by the Product. Nothing contained in this Agreement gives Licensee any rights with respect to such new or different computer software programs. Any failure by Licensor to provide ongoing annual maintenance and support on the anniversary date of the Agreement shall not constitute grounds for terminating this Agreement but shall be only a basis for terminating the parties' future obligations with respect to maintenance and support. Nothing in this Agreement shall be construed to require Licensor to maintain obsolete versions of the Product.

6. LIMITATION OF LIABILITY

(a) **MODIFICATION OF PRODUCT BY LICENSEE.** Any modification of the Product by Licensee or any failure by Licensee to implement any improvements or updates to the Product as supplied by Licensor shall void Licensor's maintenance and support obligations under Section 5, and Licensor's warranty under Section 4, unless Licensee has obtained prior written authorization from Licensor permitting such modification or failure to implement.

(b) **LIMITATIONS ON LICENSOR'S LIABILITY.** LICENSOR SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL OR ANY OTHER DAMAGES ARISING OUT OF LICENSEE'S USE OF THE PRODUCT OR THE MARKETING, DELIVERY, INSTALLATION, FURNISHING, MAINTAINING OR SUPPORTING OF THE PRODUCT BY LICENSOR. If for any reason any of the foregoing limitations of liability is voided or is not effective, Licensee agrees that Licensor's liability for any damages, if any, shall not exceed the charges paid to Licensor by Licensee for use of the Product under this Agreement. No action, regardless of form, arising out of any of the transactions under this Agreement may be brought by Licensee more than one year after the cause of such action has accrued.

7. PAYMENT AND TAXES

(a) **PAYMENT.** Upon delivery of the Product, Licensor will invoice Licensee for the amount due as specified in the Product Schedule. Subsequent charges will be invoiced separately. All invoices shall be due and payable within 30 days after Licensee's receipt of an invoice from Licensor. Licensee's obligation to pay all accrued charges shall survive the expiration or termination of this Agreement.

(b) **YEARLY LICENSE FEE.** When the license term specified in the Product Schedule is yearly, the annual license fee may not be increased by more than forty percent over the preceding year unless at least 60 days prior written notice is given to Licensee.

(c) **TAXES.** In addition to all charges specified in this Agreement, Licensee shall pay or reimburse Licensor for all federal, state, local or other taxes not based on Licensor's net income or net worth, including, but not limited to, sales, use, privilege and property taxes, or amounts levied in lieu thereof, based on charges payable under this Agreement or based on the Product, its use or any services performed hereunder, whether such taxes are now or hereafter imposed under the authority of any federal, state, local or other taxing jurisdiction, whether domestic or foreign.

8. NONDISCLOSURE

Licensee hereby agrees that: (a) the Product and supporting documentation received by Licensee from Licensor under this Agreement are and shall be treated as the confidential property of the Licensor; (b) Licensee shall exercise at least the same degree of care to safeguard the confidentiality of the Product as a reasonably prudent business person would exercise to safeguard its own similar confidential property; (c) Licensee will take all reasonable steps to assure that neither the Product, nor support documentation, nor any part thereof shall be reproduced (except for normal security backup purposes) or disclosed to others in whole or in part, without the prior written permission of Licensor; and (d) Licensee will not remove or destroy any proprietary markings of Licensor. Such prohibition of disclosure shall not apply to disclosures by Licensee to its agents, contractors or employees provided such disclosures are reasonably necessary to Licensee's authorized use of the Product, and provided further that Licensee shall take all reasonable steps to ensure that the Product is not reproduced or disclosed by such agents, contractors or employees in contravention of this Agreement. It is expressly understood and agreed that the obligations of this Section shall survive the expiration or termination of the Agreement or any provision hereof. If Licensee attempts to use or convey any items supplied by Licensor hereunder, in a manner contrary to the terms of this Agreement or in derogation of Licensor's proprietary rights, Licensor shall have, in addition to any other remedies available to it, the right to injunctive relief enjoining such action, Licensee hereby acknowledging that other remedies are inadequate.

9. TERMINATION

(a) **TERMINATION BY LICENSOR.** Licensor has the right to terminate this Agreement without further obligation to Licensee if: (1) Licensee is delinquent in making payments of any sum due under this Agreement and continues to be delinquent for a period of 30 days after the last day on which such payment is due; (2) Licensee commits any other breach of this Agreement and fails to remedy such breach within 30 days after written notice by Licensor of such breach; (3) immediately if Licensee violates Section 8 of this Agreement.

(b) **TERMINATION BY LICENSEE.** Licensee shall have the right, without further obligation to Licensor (except as specified in Sections 5, 7, 8 and 9(c) hereof) to terminate this Agreement: (1) if Licensor commits any breach of this Agreement and fails to remedy such breach within 30 days after written notice by Licensee of such breach; and (2) upon 90 days prior written notice for any reason if the license granted under this Agreement is for any term other than perpetual.

(c) **DISPOSITION OF PRODUCT UPON TERMINATION.** UPON the expiration or termination of this Agreement for any reason, the license and all other rights granted to Licensee hereunder shall immediately cease. Within one month after the expiration or termination of this Agreement, Licensee shall: (1) return the Product to Licensor together with all reproductions and modifications of the Product and all copies of documentation, notes and other materials respecting the Product; (2) purge all copies of the Product or any part thereof, from all CPUs and from any computer storage device or medium on which Licensee has placed or permitted others to place the Product; and (3) give Licensor written certification that Licensee has complied with all of its obligations under this Section.

10. GENERAL

(a) **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties in connection with the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions, whether written or oral, of the parties, and there are no warranties, representations or agreements between the parties in connection with the subject matter hereof except as specifically set forth or referred to herein.

(b) **WAIVER, MODIFICATION, FORCE MAJEURE.** The waiver, amendment or modification of any provision of this Agreement or any right hereunder shall not be effective unless made in writing and signed by the party against whom enforcement is sought. Neither party will be liable for delays in performance due to circumstances beyond its reasonable control.

(c) **NOTICES.** Any notice or other communication required or permitted under this Agreement shall be given in writing to the other party at the address stated in the Product Schedule, or at such other address as shall be given by either party to the other in writing, and shall be deemed to have been given or made when delivered by hand or when placed, properly addressed and postage prepaid, in the United States mail.

(d) **SUCCESSORS AND ASSIGNS.** All the terms and provision of this Agreement shall be binding upon and inure to the benefit of the parties hereto, and their successors and assigns and legal representatives, except that Licensee may not assign this Agreement nor any right granted hereunder, in whole or in part, without Licensor's prior written consent.

(e) **GOVERNING LAW AND SEVERABILITY.** This Agreement shall be governed by the laws of the State of New York. If any provisions of this Agreement or the application of any such provision shall be held by a tribunal of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement shall continue in full force and effect.