Service Agreement Terms and Conditions

BY USING THE SERVICE, YOU ("CUSTOMER") AGREE TO BE BOUND BY THE TERMS OF THIS SERVICE AGREEMENT ("AGREEMENT") AND IT'S ADDENDUMS, SUBJECT TO ANY PROPOSAL OR ORDER FORM FOR THE SERVICE. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, PROMPTLY RETURN ALL MATERIALS (INCLUDING ANY ELECTRONIC OR PRINTED MATERIALS) TO FUTURA INTERNATIONAL ("Futura") AND NOTIFY US IMMEDIATEDLY AT accounting@futuraintl.com.

This Service Agreement ("Agreement") is effective on the first date of use of desire Products and Services ("Effective Date") between Bauer Software Group, Inc., a Virginia Corporation d/b/a **Futura International** ("Futura") with its principal place of business at 22047 US Hwy 19 North, Clearwater, FL, 33765 and the client ("Client") named in the Futura International Service Application. This Agreement, with the Service Application, Software and SAAS Service Pricing addendum ("SASSP"), End User Software License ("EUL") Addendum, and Business Associate Addendum, will govern Client's use of the Futura office management software service (the "Futura Service"). Futura will perform the following services for Client, and Client will have the following responsibilities in connection with Futura, as set forth below.

1. **Products and Services.** Client has indicated its desire for particular Products and Services, and its agreement to pay for such Products and Services in accordance with Futura's price list and the terms set forth herein, by its signature on the acceptance page of the application and initials on each page of the Futura Proposal or Software and SAAS Service Pricing addendum. Futura shall host on a hardware infrastructure owned and maintained by Futura (or on Client's own server equipment) a Client licensed copy of Futura's proprietary Office Management Software (the "Software") as outlined on www.futuraintl.com.

2. **SaaS System Access.** Futura shall provide Client with application level access to Software via an internet Uniform Resource Locator (URL) together with a User ID and password. No direct access to server hardware, operating system, database management system or other system resources shall be provided.

3. **Authorized Use.** Client agrees that access to the Software shall be restricted to only those users for which the Client has subscribed and to adhere to the EUL. Only one user may be logged into Futura's SaaS hosting Service for any single user name ("User ID") at any time, regardless of the number of User ID's associated with Client's account. In the event that more than one user is logged into a Futura User ID at any time, Futura may terminate the session or the account immediately, and/or charge the Client the full price applicable to the Futura User ID for each simultaneous user.

4. **Authorized Access by Futura.** Client agrees that authorized Futura support personnel may access system and data as required to diagnose and resolve technical issues.

5. **User Compliance**. Client shall (i) be solely responsible for the accuracy, quality, integrity and legality of data entered into the Software ("Data") and of the means by which Data was acquired, (ii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Futura promptly of any such unauthorized access or use, (iii) keep its User ID(s) and password(s) confidential, (iv) notify Futura immediately upon learning of any unauthorized use of its User ID(s) or password(s)Client's employ, (v) maintain commercially reasonable business practices in conjunction with use of the Services, and (vi) use the Services only in accordance with applicable use policies, laws and government regulations. Client shall not (a) make the Services available to anyone other than Client's employees, (b) sell, resell, rent or lease the Services, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or their related systems or networks.

6. **Billing.** Fees for the Service period and any associated services, as listed in the SASSP, shall be invoiced monthly. Client will pay Futura within thirty (30) days of receipt of such invoices to avoid late charges. Futura may adjust the service fees from time to time, upon twenty (20) days' advance written notice to Client.

7. **Late Payments**. If payment is not made within thirty (30) days of the invoice date, a one and one half percent (1.5%) per month interest charge shall be assessed until date of payment. If payment is not made within sixty (60) days of the invoice date, Futura reserves the right to terminate service until payment is received.

8. **Travel**. Client agrees to pay the travel charges for onsite installation and training of Futura Service to a location as designated by the Client.

9. **Upgrades**. Standard software upgrades (if any) to the Futura Service software ("Software Upgrades") are included in the Monthly Support Fees. Client must install any Software Upgrades within 72 hours of notice from Futura. Should the Software Upgrades not be installed within 72 hours of notice from Futura the Futura Service shall be automatically disabled until the Software Upgrade is installed. Additional fees may be required for non-standard upgrades. Software Upgrades may require Client to purchase and install, at Client's cost, upgrades to Microsoft Windows software.

10. **Term.** This Agreement is binding for three years from the Effective Date, or for the term listed on the SASSP, and thereafter shall automatically renew for successive one-year periods, unless either party gives the other party a minimum of sixty (60) days prior written notice of its election not to renew this Agreement beyond the then-current term.

11. **Termination for Cause.** Futura may terminate this Agreement immediately without notice to Client under any of the below listed circumstances:

    (a) Breach of this Agreement by Client; (b) An ACH of Client's accounts for fees due hereunder is returned for any reason, or Client fails to pay all invoiced amounts due to Futura in accordance with this Agreement within 30 days of the date of the invoice; (c) Any representation or warranty made by Client in this Agreement not true and correct; (d) Client files a petition under any bankruptcy or insolvency law. Upon any termination of this Agreement the Futura Service will be disabled and the computer portion of the Futura system will be inaccessible until Futura can remove the Futura software and associated Futura data from the system. Additionally, the Client shall be immediately assessed a termination fee based on calculation set forth in Section 19 plus $500. In no event shall any termination relieve Client of the obligation to pay any fees payable to Futura for the period prior to the effective date of termination.

12. **Convenience; Early Termination.** Client may terminate this agreement early, in writing, by paying an early termination fee based on the greater amount of the remaining unused term months times the total monthly subscribed fees (at termination) times 5, or $1500. Accordingly, the amount set forth in the preceding sentence represents Client's agreement to pay and Futura's agreement to accept as liquidated damages such amount for any such Client termination.

13. **Return of Data.** No later than thirty (30) days prior to termination of Service, Client shall provide written notification to Futura as to the disposition of any Client data that is stored as part of Hosting Service. Futura shall provide data to Client no later than sixty (60) days after such notice. Following Client acknowledgement of receipt of data, Futura shall delete any and all Client data still in Futura's possession. In the event no disposition instructions are provided or payment of the service charge is not made, any Client data may be deleted by Futura 60 days after termination.

14. **Agreement Reactivation.** Following any termination, Client may request reactivation of their Futura Service and this Agreement. Futura, at its sole discretion, may approve such request in which case, Client shall be assessed a one-time reactivation fee of $250 due immediately. Upon reactivation, all terms of this Agreement shall be reinstated with the Effective Date being the date of Client payment of the reactivation fee.

15. **Exclusive Ownership.** Futura is and at all times shall be the sole and exclusive owner of Hosting Servers and of all hardware and software that Futura has developed, uses or makes available to provide the Services, and of any development thereof.

16. **Reservation of Rights.** Subject to the limited rights expressly granted hereunder, Futura reserves all rights, title and interest in and to the Services, including all related Intellectual Property Rights. No rights are granted to Client hereunder other than as expressly set forth herein.

17. **Ownership of Data.** As between Futura and Client, and except as otherwise provided in this agreement, Client exclusively owns all rights, title and interest in and to all of Client's Data.

18. **Enhancements.** Futura shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by Client, including Users, relating to the operation of the Services.

19. **Entire Agreement, Governing law, Jurisdiction and Venue.** This Agreement constitutes the entire Agreement between the parties, upon Futura's authorized acceptance hereof, as evidenced by issuance of Client's User IDs and passwords.. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Virginia, without reference to its conflict of laws provisions. The undersigned understand and agree that any dispute arising out of and/or in the course of the relationship established by this Agreement, or by the Agreement itself, shall be decided, unless mutually resolved by the parties hereto, in the Federal and/or State Courts of the Commonwealth of Virginia, and specifically in the county of Loudoun,

and the undersigned hereby submit to said jurisdiction. This agreement, together with EUL and BAA, constitute the complete and exclusive agreement between the parties and supersedes all proposals, oral or written, and all other communications between them relating to the subject matter of this agreement.

20. **Fees; Right to Charge Fees.** Client agrees to pay Futura fees for Futura's services and licenses rendered hereunder in accordance with the schedule of fees stated on the SASSP or delivered Invoice or as amended by Futura thereafter upon not less than 30 days' notice to Client. Client agrees that any such payment may be made by means of ACH debit of Client's account. Client may elect to be paper invoiced for fee payments for an invoicing fee of $20 per month.

21. **Notices.** Any notice required or permitted hereunder shall be deemed given three business days after deposited in the United States Mail, Federal Express or similar courier, postage prepaid, addressed to the addressee thereof at the last address for such addressee as shown on the records of the sender.

22. **Client Warranties.** In connection with this Agreement, Client has executed and delivered to Futura documents entitled "Futura Service Application" containing, among other things, certain information regarding the nature of Client's business, its form of business organization, and the individuals who are the principal contact for Client. Client represents and warrants that all information and all statements contained in such documents are true, correct and complete. Client further agrees to notify Futura promptly of all changes which may occur from time to time regarding any information contained in such documents, including but not limited to any changes in Client's commercial checking account number of depository or any change in identity of principals. Client shall be and remain fully liable for any and all losses, costs and expenses suffered or incurred, arising out of or resulting from Client's failure to report all such changes to Futura in accordance herewith. Client represents and warrants that it shall comply with all applicable privacy, consumer and other laws and regulations with respect to its (i) provision, use and disclosure of the Data; (ii) dealings with the Users providing the Data; and (iii) use of the Services.

23. **Amendments.** No amendment to this Agreement shall be valid unless made in writing and signed by both parties.

24. **Assignability.** This Agreement may be assigned by Futura, but may not be assigned by Client directly or by operation of law, without the prior written consent of Futura. Any attempted assignment in violation of the provisions shall be null and void.

25. **Attorney's Fees and Costs.** Client shall be liable for and shall indemnify and reimburse Futura for any and all attorneys' fees and other costs and expenses paid or incurred by Futura in the enforcement hereof, or in collecting any amount due from Client to Futura hereunder or resulting from any breach by Client of any of the terms or conditions of this Agreement.

26. **Assistance in Remedying Errors of Consumer Issues.** In the event an error or apparent error exists in the Futura data that has been supplied to Client, Client agrees to fully cooperate with Futura in an effort to clarify and rectify the accuracy of the data of concerns.

27. **Confidentiality.** Neither party shall disclose to any third party the Confidential Information of the other party and shall not use any such Confidential Information for any purpose other than the purpose for which it was originally disclosed to the receiving party. "*Confidential Information*" means any information of a party disclosed to the other party, which is identified as, or should be reasonably understood to be, confidential to the disclosing party, including, but not limited to know-how, trade secrets, technical processes and formulas, software, Client lists, unpublished financial information, business plans, projections, contracts and marketing data. The terms and conditions and commissions associated with this Agreement are specifically included in the definition of Confidential Information. The obligations of the parties under this Section will survive termination of this Agreement for whatever reason, and will bind the parties, their successors and assigns. The terms and conditions set forth in this Agreement and any discussions between the parties relating to the business of Futura or the relationship between Futura and any other person and/or entity are private and confidential. The parties hereto covenant to preserve and protect the privacy and confidentiality of the relationship and not to disclose to any third person any information relating thereto.

28. **Severability & Waiver.** The invalidity or unenforceability of any part of this Agreement shall not affect the validity or unenforceability of any other provision and all remaining provisions will continue to govern the rights and obligations of the parties. No waiver by any party of any condition or the breach of any term, covenant, representation or warranty contained in this Agreement (whether by conduct or otherwise) in any one or more instances shall be deemed a further or continuing waiver of that or any other condition or covenant, representation or warranty of this Agreement.

29. **Claims.** No action or claim relating to this Agreement shall be made by Client or on Client's behalf against Futura more than one (1) year after the event giving rise to such action or claim.

FUTURA INTERNATIONAL
End User Software License Addendum

This End User Software License Addendum (this "License") contains rights and restrictions associated with the usage of the software that you are installing (including all upgrades, modifications, and new versions thereto, collectively, the "Software"). Read this License carefully before using the Software. By using the Software, you acknowledge that you have read and understood, and agree to comply with, each and every term and condition of this License. The Software contains copyrighted material, trade secrets, and other proprietary information, and is protected by both United States copyright law and international treaty provisions. Unauthorized use, reproduction, or distribution of the Software is subject to civil and criminal penalties.

1. <u>Limited License</u>. Bauer Software Group, Inc., a Virginia Corporation d/b/a Futura International (the "Company"), grants you a non-exclusive, non-assignable, non-transferable, limited license, without the right of sublicense, to use the Software for your own personal and internal business purposes, subject to the terms and conditions of this License. You may not rent, lease, lend, sublicense, redistribute, export, import, act as an intermediary or provider, or otherwise allow third parties to use the Software directly or indirectly, whether on a time sharing, remote job entry, or service bureau arrangement or provide commercial hosting services to third parties. Your licensed right to use the Software does not include any right to copy, sell, license, distribute, perform, display, make derivative works of, or integrate the Software or use the Software in connection with any third party software, hardware, or firmware. This License is for the use of the Software in object code form only. You may not (a) modify or alter the Software, or otherwise decompile, disassemble, decrypt, extract, hack, or reverse engineer the Software, or make any attempt to accomplish any of the foregoing; (b) use the Software in connection with any hardware, other than the hardware that accompanies the Software; (c) use the Software for any unlawful purposes; or (d) use the Software in any manner inconsistent with the terms and conditions of this License. You agree to take all reasonable precautions to secure the Software from distribution to any third party. You shall use the Software only to support your own activities and shall not use the Software, directly or indirectly, for the benefit of any third parties, other than your affiliated entities.

2. <u>License Fees</u>. You shall pay the License Fees set forth on Futura International Service Application.

3. <u>Ownership of Software; Marks; Logos; Marketing</u>. You acknowledge and agree that the Software is the sole and exclusive property of the Company, and the Company retains all, and has not transferred to you any, intellectual property rights in and to the Software, except for the limited license expressly granted herein. You shall use the Software only as expressly permitted by this License and shall keep confidential and use your best efforts to prevent and protect the contents of the Software (or any part thereof) from unauthorized disclosure. You shall neither take nor permit any action which will delete, obscure or affect the Company's copyright, trademark notification, or other similar legend or identifying mark on any Software and any related documentation and materials. You agree to be identified as a customer of the Company, and you agree that the Company may refer to you by name, trade name, and trademark, if applicable, and may describe your business in the Company's marketing materials and website. You hereby grant the Company a license to use your name and any of your trade names and trademarks in connection with the foregoing sentence in perpetuity, worldwide, and in any media.

4. <u>Additional Hardware and Software Required</u>. You hereby acknowledge that you will need additional hardware and software (including internet access) to use the Software, and such hardware and software is not being licensed, sold, or otherwise provided to you by the Company, unless specific agreements are made by you and the Company. You agree to install the Software on only those computers and operating systems in which the Software is intended to run, and only in the manner prescribed by the Company.

5. <u>Disruptions</u>. The Company does not guarantee that you will always be able to use the Software, nor does the Company guarantee that you can use the Software without disruptions, delays, omissions, errors or flaws. The Company will not be liable for any disruptions, delays, omissions, errors or flaws experienced in connection with the Software or Company's failure to correct any such disruption, delay, omission, error or flaw. The Company is not obligated to notify you of any such disruption, delay, omission, error or flaw and is not liable for failure to provide you with such notification. Furthermore, in the event the Company provides you with any such notification, the Company shall not be responsible or liable in any way for your failure to read or follow such notification. In addition, you agree to back up your data using a method or tool designated by Futura to its site every night in the event of long-term outages. In the event of failure of such back-up medium, you agree to provide your back-up to Futura for the purpose of restoring service.

6. <u>Upgrades</u>. The Company may, in its sole discretion and without obligation to you or any third party, elect to provide customer support and/or upgrades, enhancements, additions or modifications for the Software. The Company may change, suspend, add to or discontinue any aspect of the Software at any time, including the availability or addition of any of the Software features, databases, or contents, with no obligation to notify you thereof and no liability for failure to provide you with such notification. The Company may also impose limits on certain features and services or restrict your access to parts or all of the Software without notice or liability to you. The Company reserves the right to update and change, from time to time, this License and all documents incorporated by reference without notice to you. Use of the Software after such change constitutes acceptance of such changes.

7. <u>Communications</u>. You acknowledge and agree that the Software sends information to, and receives information from, the Company's servers, which allows the Company to update, modify, and fix the Software and the firmware embedded in the hardware controlled by the Software, and collect information and monitor your usage of the Software and the hardware controlled thereby (the "Product"). You acknowledge and agree that you may not hinder, limit, or disable this feature of the Software or otherwise take steps to prevent the Company from monitoring your usage of the Product, and you further acknowledge that the Company shall have a non-exclusive license, with the right of sublicense, to collect, use, store, copy, display, modify, make derivative works of, and otherwise exploit any information collected by the Company regarding your usage of the Product. You acknowledge that the Software may enable you to exchange information with third parties (including third party websites) that are not operated or controlled by the Company. The Company does not endorse or warrant, and expressly disclaims any endorsement or warranty, with respect to any information or content provided to, or received from, such third parties through the Software. Furthermore, in the event the Company provides you with any electronic or other form of notification related to or in respect of the operation of the Product, the Company shall not be responsible or liable in any way for your failure to read or follow such notification.

8. <u>DISCLAIMER</u>. THE SOFTWARE, AND THE INFORMATION AND DATA THAT MAY BE OBTAINED BY USING THE SOFTWARE (COLLECTIVELY, THE "DATA"), IS MADE AVAILABLE AND PROVIDED TO YOU ON AN "AS IS", "WHERE IS", AND "WITH ALL FAULTS" BASIS, WITHOUT ANY WARRANTY OR REPRESENTATION OF ANY KIND. ANY SUGGESTIONS AND RECOMMENDATIONS THE COMPANY PROVIDES TO YOU ARE GENERAL GUIDELINES AND ARE HEREBY DISCLAIMED BY THE COMPANY. THE COMPANY IS NOT RESPONSIBLE OR LIABLE FOR ANY SUCH SUGGESTIONS AND RECOMMENDATIONS AND YOU ARE RESPONSIBLE FOR USING/ADJUSTING THE SOFTWARE FEATURES TO MEET YOUR INDIVIDUAL NEEDS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL REPRESENTATIONS, WARRANTIES, CONDITIONS, AND GUARANTEES WITH RESPECT TO THE SOFTWARE AND DATA, WHETHER EXPRESS OR IMPLIED, ARE DISCLAIMED BY THE COMPANY AND ITS AGENTS, REPRESENTATIVES, DISTRIBUTORS, AND SUPPLIERS, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, SATISFACTORY QUALITY, ACCURACY, TIMELINESS, FITNESS FOR A PARTICULAR PURPOSE, AND HIDDEN OR LATENT DEFECTS. NO DEALER, RESELLER, AGENT, OR REPRESENTATIVE OF THE COMPANY IS AUTHORIZED TO MAKE ANY REPRESENTATIONS, WARRANTIES, CONDITIONS, AND GUARANTEES IN CONTRADICTION TO THE DISCLAIMERS SET FORTH IN THIS PARAGRAPH. YOU HEREBY ACKNOWLEDGE THAT YOU ARE NOT RELYING UPON ANY SUCH REPRESENTATIONS, WARRANTIES, CONDITIONS, AND GUARANTEES AND HEREBY RELEASE AND WAIVE ALL RIGHTS TO SUCH REPRESENTATIONS, WARRANTIES, CONDITIONS, AND GUARANTEES. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE COMPANY DOES NOT WARRANT, AND HEREBY DISCLAIMS ALL WARRANTIES, THAT THE SOFTWARE AND DATA WILL MEET YOUR REQUIREMENTS, THAT THE SOFTWARE AND DATA WILL OPERATE IN COMBINATION WITH OTHER HARDWARE, SOFTWARE, SYSTEMS, OR DATA, THAT THE OPERATION OF THE SOFTWARE AND TRANSMISSION OF THE DATA WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ERRORS WILL BE CORRECTED. THE COMPANY IS NOT RESPONSIBLE FOR PROBLEMS CAUSED BY CHANGES IN THE OPERATING CHARACTERISTICS OF YOUR COMPUTER HARDWARE, NETWORK, VOICE, FAX BOARDS, OR OPERATING SYSTEMS. THE COMPANY RESERVES THE RIGHT TO MAKE CHANGES TO THE SPECIFICATIONS OF THE SOFTWARE WITHOUT OBLIGATION TO NOTIFY YOU OR ANY PERSON OR ORGANIZATION OF SUCH CHANGES.

9.   LIMITATION OF LIABILITY; WAIVER; RELEASE. THE COMPANY WILL NOT BE LIABLE TO YOU FOR ANY CLAIMS, COSTS, DAMAGES, LOSSES, LIABILITIES, OR EXPENSES OF ANY KIND ARISING OUT OF, OR IN ANY WAY RELATED TO, THE USE OF THE SOFTWARE OR THE DATA BY YOURSELF OR ANY THIRD PARTIES. IN THE EVENT OF ANY ACTUAL BREACH OF THIS LICENSE BY THE COMPANY, YOUR SOLE AND EXCLUSIVE REMEDY SHALL BE THE TERMINATION OF THIS LICENSE AND RECOVERY OF THE AMOUNT PAID BY YOU TO THE COMPANY FOR THE SOFTWARE (EXCLUSIVE OF THE AMOUNT PAID BY YOU TO THE COMPANY FOR ANY HARDWARE SOLD TOGETHER WITH THE SOFTWARE AND EXCLUSIVE OF ANY SHIPPING AND HANDLING CHARGES AND SALES TAXES PAID FOR THE SOFTWARE) DURING THE CALENDAR YEAR IN WHICH SUCH BREACH OCCURRED. MULTIPLE CLAIMS WILL NOT EXPAND THE AGGREGATE LIMIT DESCRIBED IN THIS PARAGRAPH. THE COMPANY SHALL NOT BE LIABLE FOR ANY DAMAGES SUFFERED BY YOU OR ANY THIRD PARTY AS A RESULT OF USING OR DISTRIBUTING THE SOFTWARE OR DATA. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, IN NO EVENT WILL THE COMPANY BE LIABLE FOR ANY LOST REVENUE, PROFIT, OR DATA, OR FOR DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE WHETHER IN TORT, CONTRACT, OR OTHER THEORY OF LIABILITY, ARISING OUT THE USE OF OR INABILITY TO USE THE SOFTWARE OR ANY OF THE DATA, EVEN IF THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NO CLAIM ARISING FROM OR RELATED TO THIS LICENSE MAY BE ASSERTED BY YOU MORE THAN SIX MONTHS AFTER THE EVENTS GIVING RISE TO YOUR CLAIM. YOU ACKNOWLEDGE AND AGREE THAT THE FOREGOING LIMITATIONS ARE REASONABLE AND AN ESSENTIAL PART OF THIS LICENSE AND REFLECT THE ECONOMIC TERMS OF THIS LICENSE. YOU EXPRESSLY WAIVE AND RELINQUISH, AND GENERALLY RELEASE THE COMPANY FROM, ALL CLAIMS, COSTS, DAMAGES, LOSSES, LIABILITIES, OR EXPENSES RELATED TO, ARISING FROM, OR IN CONNECTION WITH THE SOFTWARE, DATA, AND PRODUCT, INCLUDING YOUR USAGE THEREOF. IF YOU ARE A RESIDENT OF THE STATE OF VIRGINIA, YOU EXPRESSLY ACKNOWLEDGE THAT YOU ARE FAMILIAR WITH, AND EXPRESSLY WAIVE AND RELINQUISH, ANY RIGHTS OR BENEFITS THAT YOU MAY HAVE UNDER VIRGNIA CIVIL CODE SECTION 1542, WHICH SECTION PROVIDES AS FOLLOWS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

10.   Indemnity. You shall, and hereby do, indemnify, defend and hold the Company, and its members, managers, officers, directors, employees, agents, successors, and assigns, harmless from and against any and all claims, costs, damages, liabilities, and expenses, including attorneys' fees and costs, in connection with or arising out of your (a) violation or breach of any term of this License and any applicable law or regulation, whether or not referenced herein, (b) violation of any rights of any third party, and (c) use or misuse of the Software.

11.   Termination. You may terminate this License by discontinuing use of the Software. This License will terminate automatically, and without any requirement for the Company to provide notice to you, if you violate any term of this License. The Company may, in its discretion post a written notice of termination on its website, or the Company sends a written notice of termination to you directly. Upon such termination, you must delete, destroy, remove, and cease using all copies of Software, and upon the Company's request, you shall certify in writing to the Company that such destruction has occurred. In the event of a termination of the License for any reason or by any party, you shall have no right to claim a refund for any sums paid by you to the Company. From and after the termination of the License for any reason or by any party, you shall not use the Software for any purpose whatsoever and shall not disclose or use the Software (or any part thereof) in any fashion. Notwithstanding any termination of this License, all of the provisions of this License, except the limited license granted to you in the first paragraph above, shall survive and continue in full force and effect.

12.   Authority. You represent and warrant to the Company that you are at least eighteen (18) years of age, have authority to enter into this License, and the terms of this License are enforceable against you. If you are installing this Software on behalf of the end user licensee of the Software, you represent and warrant to the Company that (a) you have authority to so install the Software on behalf of such end user licensee, and (b) the end user licensee of this Software has acknowledged and agreed to the terms and conditions of this License. You acknowledge that the end user licensee, and not the person installing the Software on behalf of the end user licensee, shall be the sole licensee hereunder, and all references to "you" or "your" in this License shall refer to such end user licensee.

BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum ("Addendum") supplements and is made a part of the Futura International Services Agreement ("Agreement") by and between _____, a _____ ("Covered Entity") and Bauer Software Group, Inc., a Virginia Corporation d/b/a Futura International, ("Business Associate") (individually, a "Party" and collectively, the "Parties").

        A.   The Parties have entered into that certain Agreement pursuant to which Business Associate will provide certain services to Covered Entity.

        B.   Covered Entity is a "covered entity" subject to the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, including the Standards for Privacy of Individually Identifiable Health Information ("Privacy Standards") and the Security Standards for the Protection of Electronic Protected Health Information ("Security Standards") (collectively, "HIPAA") and the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act").

        C.   Business Associate will provide certain services to Covered Entity that may cause Business Associate to be deemed a "business associate" as defined in and subject to HIPAA and the HITECH Act.

NOW, THEREFORE, in consideration of the mutual promises in this Addendum, the Parties' obligations under the Agreement, Covered Entity's compliance with HIPAA, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree to this Addendum that shall be incorporated into and shall modify the Agreement.

1. PERMITTED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

    1.1   <u>Permitted Uses of Protected Health Information by Business Associate</u>. Except as otherwise limited in this Addendum, Business Associate may use protected health information, as defined in HIPAA, that is received from, received on behalf of, or created on behalf of Covered Entity ("Protected Health Information") only (i) to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Agreement, (ii) for the proper management and administration of Business Associate, or (iii) to carry out the legal responsibilities of Business Associate. Notwithstanding the foregoing, Business Associate may use Protected Health Information only if such use is in full compliance with each section of this Addendum.

    1.2   <u>Permitted Disclosures of Protected Health Information by Business Associate</u>. Business Associate shall not disclose any Protected Health Information without the express written permission of Covered Entity; provided, however, that even with such authorization, Business Associate may disclose Protected Health Information only if such disclosure is in full compliance with each section of this Addendum. Notwithstanding the foregoing, Business Associate may disclose Protected Health Information if required by law, as that term is defined in HIPAA ("Required by Law"), provided that Business Associate promptly provides advance written notice to Covered Entity of its intent to so disclose Protected Health Information. Business Associate shall cooperate fully with Covered Entity in making a disclosure that is Required by Law, including but not limited to cooperating with Covered Entity in seeking a protective order or other remedy. In the event that such protective order or other remedy is not obtained, Business Associate shall disclose the minimum Protected Health Information necessary that is Required by Law and make reasonable efforts to obtain assurances that the Protected Health Information will be treated confidentially.

2. OBLIGATIONS OF BUSINESS ASSOCIATE

    2.1   <u>No Impermissible Uses or Disclosures</u>. Business Associate shall not use or disclose any Protected Health Information other than as permitted or required by the Agreement or this Addendum. Business Associate shall not use or disclose Protected Health Information if such use or disclosure would violate HIPAA if done by Covered Entity.

    2.2   <u>Safeguards</u>. Business Associate shall use all appropriate administrative, physical, technical, and procedural safeguards to: (i) prevent the use or disclosure of Protected Health Information other than as provided for by this Addendum; (ii) protect the confidentiality, integrity, and availability of Protected Health Information; and (iii) protect against reasonably anticipated threats to Protected Health Information.

    2.3   <u>Mitigation</u>. Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Addendum or the Agreement.

    2.4   <u>Reporting</u>. Business Associate shall report promptly to Covered Entity:

        2.4.1   any "security incident," as defined in the Security Standards, provided that any security incident that constitutes merely an attempt that did not represent a threat to Protected Health Information may be reported at mutually agreed to intervals;

        2.4.2   any use or disclosure of Protected Health Information not provided for by this Addendum; and/or

        2.4.3   any breach of unsecured Protected Health Information, as such terms are defined in the HITECH Act, provided that any such breach notification shall be in compliance with the HITECH Act.

    2.5   <u>Agents and Subcontractors</u>. Business Associate shall ensure that any of its agents, including a subcontractor, to whom it provides Protected Health Information, agrees to the same restrictions and conditions that apply to Business Associate with respect to such Protected Health Information and agrees to implement reasonable and appropriate safeguards to protect such Protected Health Information. Business Associate shall use such agents or subcontractor only with the advance consent of Covered Entity.

    2.6   <u>Access to Covered Entity</u>. Business Associate, at the request of Covered Entity and in the time and manner designated by Covered Entity, shall provide access to and copies of Protected Health Information to Covered Entity to allow Covered Entity to meet the requirements under 45 C.F.R. § 164.524 and the HITECH Act. If Business Associate receives a request for access to Protected Health Information from an individual, then Business Associate immediately shall notify Covered Entity of such request.

    2.7   <u>Amendments</u>. Business Associate shall make any amendment(s) to Protected Health Information that Covered Entity directs, in the time and manner designated by Covered Entity. All permitted and required disclosures by Business Associate thereafter shall reference such amendments and other information as required by Covered Entity. If Business Associate receives a request for amendment to Protected Health Information from an individual, then Business Associate immediately shall notify Covered Entity of such request.

    2.8   <u>Disclosure to the Secretary</u>. Business Associate shall make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information available to Covered Entity or to the Secretary of the Department of Health and Human Services (the "Secretary"), in a time and manner designated by Covered Entity or the Secretary, for purposes of determining Covered Entity's compliance with the Privacy Standards or of determining Business Associate's compliance with this Addendum and the Agreement. In the event that Business Associate is requested to make a disclosure to the Secretary, Business Associate immediately shall notify Covered Entity, cooperate with Covered Entity in coordinating the disclosure, and provide Covered Entity with a copy of all information and documents disclosed to the Secretary, at no cost to Covered Entity. Notwithstanding the foregoing, no legal privilege or protection shall be deemed waived by virtue of this provision.

    2.9   <u>Accounting of Disclosures</u>. Business Associate shall document disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to provide an individual with an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528 of the Privacy Standards and the HITECH Act. Business Associate shall provide to Covered Entity, in the time and manner designated by Covered Entity, such information related to disclosures to permit Covered Entity to meet the requirements under 45 C.F.R. § 164.528. If Business Associate receives a request for an accounting of disclosures from an individual, then Business Associate shall immediately notify Covered Entity of such request.

    2.10   <u>Additional Privacy and Security Obligations</u>. Each of the privacy and security provisions of the HITECH Act that is applicable to Covered Entity is hereby incorporated into this Addendum and shall apply to Business Associate.

    2.11   <u>Compliance with Applicable Law</u>. Business Associate shall comply with all federal, state, and local confidentiality, privacy, and security laws, specifically including, but not limited to, HIPAA and the HITECH Act. Without limiting the generality of the foregoing, subject to the HITECH Act, Business Associate shall comply with 45 C.F.R. § § 164.308, 164.310, 164.312 and 164.316 of the Security Standards as if Business Associate were a covered entity under HIPAA. Further, Business Associate shall not act or fail to act in a manner that would cause, directly or indirectly, Covered Entity to not be in compliance with applicable federal, state, or local law.

2.12   Ownership. The Protected Health Information is, and shall remain, the property of Covered Entity.

2.13   Remedies. The Parties acknowledge that the use or disclosure of Protected Health Information in a manner inconsistent with this Addendum or the Agreement will cause Covered Entity irreparable damage and that Covered Entity shall have the right to equitable and injunctive relief to prevent the unauthorized use or disclosure and to such damages as are occasioned by such unauthorized use or disclosure in addition to other remedies available at law or in equity.

2.14   No Limitations of Liability. No limitations of liability, limitations of remedy, or disclaimers by Business Associate contained in the Agreement shall apply to the obligations and subject matter of this Addendum and remedies sought by Covered Entity with respect to a breach of this Addendum by Business Associate or any of Business Associate's workforce, agents, or subcontractors.

3.   TERM AND TERMINATION

3.1   Term. The term of this Addendum shall commence as of the effective date of the Agreement and shall terminate when all of the Protected Health Information, in any medium, is destroyed or returned to Covered Entity.

3.2   Termination for Cause. Upon a Party's knowledge of a material breach by the other Party of any provision of this Addendum, the non-breaching Party may: notify the breaching Party of the breach, provide an opportunity for the breaching Party to cure the breach within the time specified by the Agreement (or such greater amount of time as specified by the non-breaching Party), and terminate the Agreement for cause, upon notice; or if the breaching party fails to cure the breach or end the violation, report the violation to the Secretary if neither termination nor cure is feasible.

3.3   Termination or Amendment as a Result of Government Regulation. The Parties acknowledge that legal requirements with respect to the subject matter of this Addendum are likely to change. Accordingly, Covered Entity may terminate or unilaterally amend this Addendum and/or the Agreement, without liability, to comply with any order issued or proposed to be issued by a federal or state department, agency, or court, or to comply with any provision of law or reimbursement that would: (i) invalidate or be inconsistent with this Addendum or the Agreement; (ii) cause a Party to violate the law; or (iii) jeopardize Covered Entity's licensure or participation in a federal health care benefit program. If Covered Entity amends this Addendum or the Agreement as provided in this Section and the amendment is unacceptable to Business Associate, Business Associate, within 10 days, may terminate the Agreement upon notice. Failure to provide such notice of termination within the time specified constitutes acceptance of the amendment.

3.4   Effect of Termination.

3.4.1   Except as provided in Section 3.4.2 below, upon termination of the Agreement for any reason, Business Associate shall return or destroy all Protected Health Information, in any medium, received from Covered Entity or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate (and any subcontractors or agents) shall retain no copies of Protected Health Information.

3.4.2   In the event that Business Associate and Covered Entity agree that returning or destroying all Protected Health Information is infeasible and/or to the extent that Business Associate retains knowledge of any Protected Health Information, Business Associate shall extend the protections of this Addendum and the Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for as long as Business Associate maintains such Protected Health Information. This Section 3.4 shall survive the termination of the Agreement for any reason.

4.   MISCELLANEOUS

4.1   Interpretation. The Parties intend for this Addendum to be interpreted consistently with their intent to comply with HIPAA, the HITECH Act, and other federal, state, and local law. This Addendum applies to and supplements, amends, and is made a part of the Agreement. Except where this Addendum conflicts with the Agreement, all other terms and conditions of the Agreement remain unchanged. In the event an inconsistency exists between the Agreement and this Addendum, the provisions of this Addendum will control. Any ambiguity in this Addendum or in determining controlling provisions shall be resolved in favor of an interpretation that permits the Parties to comply with HIPAA, the HITECH Act, and other federal, state, and local laws and that provides the greatest privacy and security protections for Protected Health Information. In the event of an inconsistency between the provisions of this Addendum and mandatory provisions of HIPAA and/or the HITECH Act, HIPAA and/or the HITECH Act, respectively, shall control. Where provisions of this Addendum are different than those under HIPAA and/or the HITECH Act, but are nonetheless permitted by HIPAA and/or the HITECH Act, the provisions of this Addendum shall control.

4.2   Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with this Addendum will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of Protected Health Information.

4.3   Assistance in Litigation or Administrative Proceedings. Business Associate shall make itself, and any subcontractors, workforce, or agents assisting Business Associate in the performance of its obligations under the Agreement or this Addendum, available to Covered Entity, at no expense to Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, its directors, officers, or workforce based upon a claimed violation of HIPAA or other privacy or security laws, except where Business Associate or its subcontractor, employee, or agent is a named adverse party.

4.4   No Third-Party Beneficiaries. Nothing express or implied in this Addendum is intended to confer, nor shall anything in this Addendum confer, upon any person or entity other than the Parties and their respective successors or assigns any rights, remedies, obligations, or liabilities whatsoever.

4.5   Regulatory References. A reference in this Addendum to a section in HIPAA and/or HITECH means the sections in effect or as amended.

4.6   Governing Law. This Addendum and the Agreement will be governed by the laws of the State of Virginia, without reference to the State's choice of law rules. Jurisdiction and venue for any dispute arising out of or in connection with this Addendum or the Agreement shall be in Leesburg, Virginia.

4.7   Waiver. No change, waiver, or discharge of any liability or obligation under this Addendum on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

4.8   Severability. In the event that any provision of this Addendum is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Addendum will remain in full force and effect.

4.9   Counterparts. This Addendum may be executed in counterparts.

IN WITNESS WHEREOF, the Parties have executed this Addendum as of the date(s) written below.

"Business Associate"   "Covered Entity"
FUTURA INTERNATIONAL

By:_____   By:_____

Its: _____   Its: _____

Date: _____   Date:_____