



## LICENSE

Licensor has developed and owns all right, title and interest in certain software programs used in connection with the operation and monitoring of cash automation and other devices and more particularly described in the CFM Software and Support Services Agreement Exhibit A (the "Software") and provides certain services in connection with the Software ("Software Services"). For all purposes under this Agreement, the term "Software" shall include any copies thereof or derivatives created therefrom.

Licensee is a consumer financial institution and uses, or desires to use, devices to provide certain services to its customers (the "Licensee Services").

Licensor is willing to grant to Licensee a license to use the Software and to provide Software Services, and Licensee is willing to accept such license and services on the terms and conditions set forth in this Agreement.

## TERM AND TERMINATION

**1.1. Term.** The initial term during which Licensor will provide Services will be set for 5 years from the Effective Date of this contract. Unless terminated earlier as provided herein, this Agreement shall continue from the Effective Date until terminated as provided for in this Agreement (the "Term"). Upon expiration of such initial term, Services will automatically renew for successive 1-year renewal terms unless and until terminated as provided in Section 4. Fees for each such successive renewal term are payable annually, in advance, by Licensee on the terms set forth in Section 3.2.

**1.2. Termination for Cause.** This Agreement has no stated term, but may be terminated by a Party for cause immediately upon the occurrence of and in accordance with the following:

**1.2.1. Insolvency Event.** Either may terminate this Agreement by delivering written notice to the other party upon the occurrence of any of the following events: (i) a receiver is appointed for either Party or its property; (ii) either makes a general assignment for the benefit of its creditors; (iii) either Party commences, or has commenced against it, proceedings under any bankruptcy, insolvency or debtor's relief law, which proceedings are not dismissed within 60 days; or (iv) either Party is liquidated or dissolved.

**1.2.2. Default.** Either Party may terminate this Agreement effective upon written notice to the other if the other Party breaches or violates any covenant, agreement, representation or warranty contained herein in any material respect or defaults or fails to perform any of its obligations or agreements hereunder in any material respect, which breach, violation, default or failure is not cured within 30 days after notice thereof from the non defaulting Party stating its intention to terminate this Agreement by reason thereof. Material breach, violation or default by Licensee will include but not be limited to, any of the following by Licensee or its contractor, agent, representative, affiliate or employee: (i) any attempt to reverse engineer or otherwise infringe Licensor's proprietary rights; (ii) violation of the License grant or restrictions hereunder; (iii) nonpayment of Fees or other amounts provided for hereunder within 60 days of Licensee's receipt of an Invoice therefore (iv) any attempt to assign this Agreement; or (v) breach of confidentiality obligations hereunder; and (vi) misuse of the source code of the Software.

**1.3. Termination and Return of Materials.** Upon termination of this Agreement, due to breach or default by Licensee, or termination under Section 4, Licensee shall immediately cease using the Software, and Licensor shall cease providing the Software Services, and any Maintenance Services, and any Support Services. Within 30 days after the termination or expiration of this Agreement, Licensee will return, or with Licensor's written consent, destroy all copies of the Software, all documentation, Confidential Information, and other materials delivered or furnished by Licensor to Licensee and cease use of the Software. Licensee will not make or retain any copies of any Confidential Information delivered to it.

**1.4. Equitable Relief.** Each Party acknowledges that a breach by the other Party of any confidentiality or proprietary rights provision of this Agreement may cause the non-breaching Party irreparable damage, for which the award of damages would not be adequate compensation. Consequently, the non-breaching Party may institute an action to enjoin the breaching Party from any and all acts in violation of those provisions, which remedy shall be cumulative and not exclusive, and a Party may seek the entry of an injunction enjoining any breach or threatened breach of those provisions, in addition to any other relief to which the non-breaching Party may be entitled at law or in equity.



**1.5. Severability.** If for any reason a court of competent jurisdiction finds any provision of this Agreement to be unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible so as to give effect to the stated intentions of the Parties, or, if incapable of such enforcement, shall be deemed to be deleted from this Agreement, while the remainder of this Agreement will continue in full force and effect.

**1.6. Controlling Law and Jurisdiction.** This Agreement and any action related thereto shall be governed, controlled, interpreted and defined by and under the laws of the State of Arizona and the United States, without regard to conflict of laws principles. In the event of litigation arising with respect to this Agreement, each of the Parties shall and hereby does submit itself to the sole and exclusive jurisdiction of, and agrees that proper venue shall be in, the Superior Court of Maricopa County, Arizona. The Parties specifically disclaim the UN Convention on Contracts for the International Sale of Goods.

**1.7 Use of Data.** Licensee agrees that Licensor and its affiliates may collect and use technical information gathered as part of the services provided, if any, related to the Software and Software Services. Licensor may use this information to improve upon products, analyze market trends and to provide customized services or technologies. Licensee shall comply with all privacy, confidentiality and other applicable laws and regulations when it uses or accesses the Software or provides the Licensee Services.

## 2. REPRESENTATIONS AND WARRANTIES.

**2.1. Limited Warranty.** Licensor hereby warrants to Licensee as follows: (i) for a period of ninety (90) days following initial delivery of the Software to Licensee (the "Warranty Period"), the Software will perform substantially in accordance with the Documentation; and (ii) to Licensor's knowledge, neither the Software, as delivered by Licensor to Licensee, nor the authorized use by Licensee thereof, infringes the rights of any third party.

**2.2. Limitations on Warranty.** Notwithstanding the warranty provisions set forth above, all of Licensor's obligations with respect to such warranties shall be contingent on Licensee's use of the Software in accordance with this Agreement, the Documentation and in accordance with any and all training materials and any instructions provided by Licensor in furtherance of this Agreement; and Licensor shall have no warranty obligations with respect to any failures in the Software that are a result of accident, abuse, misapplication, modification by or for Licensee, or combination with other software not provided by Licensor.

**2.3. Sole Remedy.** Licensor's entire liability and Licensee's sole and exclusive remedy for a breach of the limited warranty set forth in Section 5.1 shall be at Licensor's option: (a) to terminate this Agreement; or (b) repair or replacement of the Software (or any affected portion or component thereof); provided such remedies shall be available to Licensee only in the event Licensor receives written notice from Licensee during the Warranty Period of a breach of such warranty.

**2.4. Infringement.** In the event that the use of the Software by Licensee is enjoined, and/or the Software or any portion thereof is held to constitute an infringement, Licensor shall, at Licensor's sole expense and within a reasonable time: (i) modify the infringing Software without impairing in any material respect the functionality or performance thereof, so that it is non-infringing; (ii) procure for Licensee the right to continue to use the infringing Software; or (iii) replace said Software with equally suitable, non-infringing software.

**2.5. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 5, LICENSOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, AS TO ANY ASPECT OF THE SOFTWARE, ITS OPERATION OR THE SERVICES TO BE PERFORMED BY LICENSOR HEREUNDER, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, DESIGN, CONDITION, QUIET ENJOYMENT, CAPACITY, PERFORMANCE, TITLE, ACCURACY OF DATA, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. LICENSOR DOES NOT WARRANT THAT THE SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR-FREE OR THAT ALL ERRORS WILL BE CORRECTED. THIS PARAGRAPH IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.**



### 3. INDEMNIFICATION.

**3.1.** Each Party agrees to and hereby does defend, indemnify and hold harmless the other Party and such other Party's respective officers, directors, employees, shareholders, customers, agents, successors and assigns from and against any and all loss, damage, settlement, costs or expense (including reasonable legal expenses and reasonable expenses of other professionals), as incurred, resulting from, or arising out of or in connection with: (i) any third party claim alleging gross negligence or intentional misconduct by the indemnifying Party or its employees, contractors, officers, agents or representatives; or (ii) the breach or default of any of the indemnifying Party's respective obligations hereunder.

**3.2.** As a condition to either Party's indemnity obligations set forth in this Section 6, the indemnified Party will provide the indemnifying Party with prompt written notice of the claim and permit the indemnifying Party sole control over the defense, settlement, adjustment or compromise of any such claim. The indemnified Party may employ counsel at its own expense with respect to any such claim.

**3.3.** The provisions of this Section 6 and the indemnity obligations hereunder shall survive any termination or expiration of this Agreement and the License.

### 4. CONFIDENTIALITY.

**4.1. Confidential Obligations.** Each party hereby agrees now and always in the future to hold the other party's Confidential Information (as defined below) in strict confidence and take all reasonable precautionary steps to protect it. A party may disclose Confidential Information when required by operation of law or pursuant to the lawful order of a governmental agency; provided, however, that the receiving party gives prior written notice of such disclosure to Discloser and takes reasonable and lawful actions to avoid and/or minimize the extent of such disclosure. Each party may disclose Confidential Information to its own contractors, agents and related corporate entities, but only to the extent reasonably necessary to support Recipient's use of such information as contemplated herein and subject to Recipient's assumption and acceptance of full responsibility for any unauthorized disclosure made by such person(s) as though it had been disclosed by a Recipient employee. Each party agrees to notify the other in writing immediately upon the occurrence of any unauthorized release of the other party's information or other breach of this Agreement of which it becomes aware. Each party agrees to permit the other party and/or the other party's auditors and regulators to audit its compliance with this Agreement, and with all applicable laws and regulations, during regular business hours upon reasonable notice to the party being audited. Licensee will not reproduce the Licensor's Confidential Information in any form except as required to exercise its rights under this Agreement. Any copy of any of Licensor's Confidential Information remains the property of Licensor and will contain all confidential or proprietary notices or legends that appear on the original, unless otherwise authorized in writing by Licensor.

**4.2. Confidential Information.** For the purposes of this Agreement, "Confidential Information" means: (i) any and all technical and non-technical information, including, without limitation, the source code and functionality of the Software; (ii) all other information that Licensee knew, or reasonably should have known, was the confidential information of Licensor; (iii) the terms and conditions and the existence of this Agreement; and (iv) trade secrets, inventions, ideas, processes, computer source and object code, formulae, data, programs, other works of authorship, know-how, improvements, discoveries, developments, designs, and techniques; (v) information regarding products, plans for research and development, marketing and business plans, budgets, financial statements, contracts, prices, suppliers, and customers; and (vi) information regarding the skills and compensation of Licensor's employees, contractors, and other agents.

**4.3. Special Protection of Customer Information.** Without limiting the foregoing, with respect to Confidential Information that includes any Licensee's customer information that is nonpublic personal information, Licensor agrees, to implement prudent measures to: (1) ensure the security and confidentiality of the Licensee's customer information; (2) protect against any anticipated threats or hazards to the security or integrity of such information; and (3) protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any such customer. Licensor acknowledges that Licensee is subject to the GLBA, Title V, and that Licensor is considered a service provider under the GLBA. Licensor shall protect and keep confidential the Nonpublic Personal Information ("NPI") in a reasonable and appropriate manner to the same extent it protects the confidentiality of its own proprietary and



confidential information of like kind or in accordance with applicable industry standards, but in no event, less than reasonable care or the standard of care required by law. Licensor agrees not to use any NPI for its own use or for any purpose other than to carry out Licensor Services under the Agreement. Licensor will not disclose any NPI to anyone other than its employees, subcontractors or agents under an appropriate burden of confidentiality and who are required to have the information to carry out the undertakings regarding the Agreement. Licensor agrees that it will take all reasonable measures to protect the secrecy of and avoid disclosure or use of NPI to prevent it from falling into the public domain or the possession of persons other than those persons authorized under this Agreement to have any such information. Licensor agrees to maintain NPI in strict confidence and use only as necessary to carry out its obligations under this Agreement and in accordance with all applicable privacy-related laws, including, but not limited to, the GLBA and Regulation S-P when applicable. Licensor agrees to implement, maintain and update an information security program to protect the security and confidentiality of NPI obtained hereunder, including administrative, technical and physical safeguards in accordance with all applicable laws. Such program will comply with NCUA Rule Part 748 A&B, and contain reasonable measures, including, but not limited to, requiring employees with access to NPI to agree to the similar confidentiality requirements of this section. At a minimum, Licensor's safeguards for the protection of NPI shall include: (i) limiting access of NPI to authorized employees; (ii) securing business facilities, data centers, paper files, servers, back-up systems and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability; (iii) implementing network, device application, database and platform security; (iv) securing information transmission, storage and disposal; (v) implementing authentication and access controls within media, applications, operating systems and equipment; (vi) encrypting NPI stored on any mobile media; (vii) encrypting NPI transmitted over public or wireless networks; (viii) strictly segregating NPI from information of Licensor or its other customers so that NPI is not commingled with any other types of information; (ix) implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with applicable law for all employees with access to NPI; and (x) providing appropriate privacy and information security training to Licensor's employees.

**4.4. Exclusions.** Licensee has no obligations under this Agreement with respect to any portion of the Licensor's Confidential Information if Licensee can demonstrate with competent evidence that such portion: (i) was in the public domain at the time it was communicated to Licensee by Licensor; (ii) entered the public domain through no fault of Licensee subsequent to the time it was communicated to Licensee by Licensor; or (iii) was in Licensee's possession free of any obligation of confidence prior to the time it was communicated to Licensee by Licensor. Any provision herein to the contrary notwithstanding, Licensee may disclose Licensor's Confidential Information, without violating the obligations of this Agreement, to the extent such disclosure is required by a valid order of a court or other governmental body having jurisdiction, provided that Licensee gives Licensor reasonable prior written notice of such disclosure and makes a reasonable effort to obtain, or to assist Licensor in obtaining, a protective order preventing or limiting the disclosure and/or requiring that the Confidential Information so disclosed be used only for the purposes for which the law or regulation required, or for which the order was issued.

**4.5. Ongoing Obligations.** Licensee's obligations under Section 7 will survive any termination or expiration of this Agreement and the License. All tangible information furnished hereunder by Licensor to Licensee shall remain the property of Licensor. Upon termination or expiration of this Agreement, or upon written request of Licensor, Licensee will: (i) cease any use of Licensor's Confidential Information; and (ii) promptly return to Licensor all documents and other tangible materials containing any portion of, or summarizing, Licensor's Confidential Information and all copies thereof. Upon Licensor's reasonable request, an officer of Licensee will provide a certificate attesting to compliance with the foregoing.

## 5. MISCELLANEOUS.

**5.1. Force Majeure.** Neither Party shall be liable to the other for delays or failures in performance resulting from causes beyond the reasonable control of that Party, including, but not limited to, acts of God, labor disputes or disturbances, material shortages or rationing, riots, acts of war, governmental regulations, communication or utility failures, or casualties.



**5.2. Export.** Licensee hereby acknowledges that the Software is subject to export or import controls under the laws and regulations of the U.S. Licensee shall comply with such laws and regulations, and agrees not to knowingly export, re-export, import or re-import or transfer the Software without first obtaining all required U.S. government authorizations or licenses. Licensor and Licensee each agrees, respectively, to provide the other Party such information and assistance as may be reasonably required by the other in connection with securing such authorizations or licenses, and to take timely action to obtain all required support documents.

**5.2.1.** Licensee agrees to maintain a record of exports, re-exports and transfers of the Software for five years and to forward within that time period any required records to Licensor or, at Licensor's request, the U.S. Government. Licensee agrees to permit audits by Licensor or the U.S. Government as required under the applicable regulations to ensure compliance with this Agreement.

**5.3. Notices.** Any notice required or permitted to be given by either Party under this Agreement shall be in writing and shall be personally delivered or sent by a reputable overnight mail service (e.g., Federal Express), or by first class mail (certified or registered), or by facsimile confirmed by first class mail (registered or certified), to the other party. Notices will be deemed effective: (i) 3 working days after deposit, postage prepaid, if mailed; (ii) the next business day if sent by overnight mail; or (iii) the same day if sent by facsimile and confirmed as set forth above. A copy of any notice shall be sent to the following:

**If to Licensor:**

Cash Flow Management, LLC.  
  
1232 E Baseline Rd, Unit 102  
  
Tempe, AZ 85283

**If to Licensee:**

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**5.4. Waiver and Modification.** Failure by either Party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision. Any waiver of any provision of this Agreement will be effective only if in writing and signed by the Party against whom such waiver is sought to be enforced. No modification or amendment of any provision of this Agreement shall be effective unless in writing and signed by both of the Parties. IN WITNESS WHEREOF, the Parties have executed this Agreement by persons duly authorized as of the Effective Date.

**5.5. Headings.** Headings used in this Agreement are for ease of reference only and shall not be used to interpret any aspect of this Agreement.

**5.6. Entire Agreement.** This Agreement, including all exhibits which are incorporated herein by reference, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes and replaces all prior and contemporaneous understandings or agreements, written or oral, regarding such subject matter.

**5.7. Counterparts.** This Agreement may be executed in two counterparts, each of which shall be an original and together which shall constitute one and the same instrument.

**5.8. Basis of Bargain.** EACH PARTY RECOGNIZES AND AGREES THAT THE WARRANTY DISCLAIMERS AND LIABILITY AND REMEDY LIMITATIONS IN THIS AGREEMENT ARE MATERIAL BARGAINED FOR BASIS OF THIS AGREEMENT AND THAT THEY HAVE BEEN TAKEN INTO ACCOUNT AND REFLECTED IN DETERMINING THE CONSIDERATION TO BE GIVEN BY EACH PARTY UNDER THIS AGREEMENT AND IN THE DECISION BY EACH PARTY TO ENTER INTO THIS AGREEMENT.

**5.9. Intellectual Property.** CFM solutions and services are proprietary and include patented or patent pending components.



**EXHIBIT A: INVESTMENT (LICENSE)  
PRODUCT LICENSES, FEES AND OTHER AMOUNTS PAYABLE BY LICENSEE**  
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## EXHIBIT B: SOFTWARE SUPPORT SERVICES

### SUPPORT SERVICES

**1.1. Support Services.** Upon payment of applicable fees, Licensor will provide Support Services pursuant to this Schedule. Licensor will provide the services described herein, which include (a) maintaining the licensed software in good working order, keeping it free from material defects so that the licensed software shall function in accordance with its documentation in all material respects and, (b) providing as available updates and enhancements to the licensed software. Software updates do not include other software products that are normally sold separately.

**1.2. Support Period.** The initial term during which Licensor will provide the Support Services (the "Support Period") shall be as set forth in Section 4.1. Upon expiration of such initial term, the Support Period will automatically renew for successive 1-year renewal terms unless and until terminated as provided in Section 4.1. Fees for each such successive renewal term are payable annually, in advance, by Licensee on the terms set forth in Section 3.2.

**1.3. Licensee Responsibilities.** Throughout the Support Period, Licensee shall: (i) cooperate with Licensor in investigating and seeking to identify the cause of any reported failure of the Software to perform in accordance with this Agreement (an "Investigation"); (ii) allow such other remote and/or on-site access to the Software and to Licensee's systems as may be reasonably required for Licensor to perform Support Services or to conduct an Investigation; and (iii) within a reasonable time after receiving such software, perform necessary installations or upgrades so that Licensee is running the most current version of the Software made available to Licensee. Licensor's obligation to provide the Support Services shall not apply to the extent Licensee is not in full compliance or if Licensee is in breach or default under this Agreement.

**1.4. Termination and Reinstatement.** Either Party may terminate Support Services as of the end of the initial term of the Support Period, or as of the end of any renewal term, by written notice to the other Party at least 90 days prior to the end of the applicable term. If the License is terminated for any reason, Support Services will terminate automatically. Neither of the termination or expiration of the Support Services, by itself, shall cause the termination of the License or this Agreement. If Licensor terminates Support Services, other than in the circumstance of a breach of this Agreement by Licensee, Licensee will be entitled to receive a pro-rata refund of any prepaid Support Services fees for any period beyond the effective date of such termination. If, at any time, Licensee does not renew Support Services, and later desires to reinstate Support Services, as a condition to such reinstatement Licensee will be required to pay all fees that Licensee would have come due had such Support Services not been terminated or allowed to expire.

**1.5. Exclusions from the Support Services.** The Support Services will not include: (i) resolution of problems resulting from: (a) any modification of or damage to the Software or its operating environment not caused by Licensor; (b) Licensee's failure to operate the Software in an approved hardware and software environment or otherwise in accordance with applicable Licensor documentation; or (c) Licensee's failure to implement any versions as required in Exhibit B of CFM Software and Support Services Agreement; or (ii) the provision of any new product or "major release" by Licensor. (d) Licensees' failure to meet the minimum network requirements or network related issues that impact performance of the CFM Software.

**1.6. Returned Material Authorization (RMA).** In the atypical event the Hardware portion of a NORM device fails, Licensor will ship a new NORM device to the applicable branch as a replacement and Licensee will return the failed device to Licensor for repair and restocking. If such failure of the Hardware portion of a NORM device is caused by physical damage to the device or any alteration to the device, the cost of the replacement will be the responsibility of Licensee. During the Returned Material Authorization (RMA) process the defective NORM will be tested based off the return reason to determine root cause of the return. If the return is found not to be defective upon the review of the return, Licensee will be charged for the testing, and overnight shipping cost associated with the shipment and return of the device.

**1.7. Training and Additional Training.** Licensor shall provide initial, comprehensive training to qualified personnel of Licensees choosing based on products purchased. There will be no charge for the initial training, or the training material,



the contents of which will be determined by Licensor In connection with such initial, comprehensive training. In addition, Licensor may provide additional, follow-up training, as mutually agreed by the Parties. In connection with such follow-up training, Licensee will be billed at the outlined rate in Exhibit C of the or current market rate.

**1.8. Custom Development.** At times Licensor can be hired to provide custom development work based on Licensee requests. Licensor will provide all custom development requests through a separate Scope of Work (SOW)document.

**1.9. Additional Services and Fees.** Licensor reserves the right to bill for additional services that are rendered outside of the scope of this agreement as outlined in Exhibit C. Licensor will notify Licensee prior to services rendered possible fees related to additional services. Licensee agrees that if services are rendered the billing will be paid within 90 days before occurring additional charges for failure to pay. Licensor reserves the right, at it's discretion, to change, modify and add fees at any time without prior notice.





**EXHIBIT C: ADDITIONAL SERVICES RATE AND FEE SCHEDULE**

<b>Description</b>	<b>Billed By:</b>	<b>Rate</b>
NORM Configuration	Per Unit	\$50
Shipping to Multiple Locations	Per Location	\$75
Expedited Shipping	Per Location	\$325
Network Troubleshooting	Per Hour	\$285
NORM Restock	Per Unit	\$350
Dedicated Phone Support	Per Hour (4hr min)	\$285
Expedited Implementation	Within 30-90 days of contract signing	\$3,000
On-Site Implementation	Per Location	\$5,000 + travel exp

**ADDITIONAL TRAINING**

<b>Description</b>	<b>Billed By:</b>	<b>Rate</b>
Virtual Re-Training Session	Per Hour	\$175
Onsite Training Session	Per Location	\$5,000 + travel exp
Client Instructional Design	Per Hour (8hr min)	\$175

Licensor reserves the right, at its discretion, to change, modify and add fees at any time without prior notice.