

Computer Management Sciences, Inc.  
634 Lakeview Drive  
Hartfield, Virginia 23071-3113 USA  
phone: (804) 776-7109 fax: (804) 776-7139

## MASTER LICENSE AGREEMENT

License Agreement Number \_\_\_\_\_

This agreement is between Computer Management Sciences, Inc., 634 Lakeview Drive, Hartfield Virginia 23071-3113 ("CMS") and \_\_\_\_\_ ("Customer").

### 1. License:

In exchange for paying license fees and applicable taxes arising under this Agreement, CMS grants to the Customer a non-assignable and nonexclusive license to use the CPEXpert™ Software delivered under this Agreement ("CPEXpert Software") for the initial one year period and additional periods, if renewed and renewal fees paid. CMS represents and warrants that it owns all CPEXpert Software provided under this Agreement. The CPEXpert Software is licensed only for use at, and using only data records that are created at, the computer site(s) identified on Supplement(s) to this Agreement.

### 2. What CMS will do:

- A. CMS will send the CPEXpert Software and related documentation to the Customer, and after the Customer pays the license fees, CMS will authorize the Customer to use the CPEXpert Software for the full license period as set forth in this Agreement.
- B. CMS will help the Customer solve problems installing and using the CPEXpert Software, at no additional charge. If error conditions (i.e., the SAS execution of the CPEXpert Software produces a return code or an ABEND) are the result of errors in the CPEXpert Software, CMS will correct the errors.
- C. As the CPEXpert Software components as identified in Supplement(s) to this Agreement are enhanced or modified, CMS will send the applicable updates for the Customer's operating system to the Customer at no additional charge for the license period as set forth in this Agreement. CMS reserves the right to determine the nature and scope of such updates.
- D. CMS represents and warrants that the CPEXpert Software will substantially conform to the current published specifications for said software. If any CPEXpert Software does not substantially conform to its specifications, CMS will choose either to make it conform or to refund the current license fee paid by the Customer for that product, prorated for the period during which the Customer has had use of the product. Distribution media will be replaced if defective upon delivery to the Customer.
- E. CMS warrants that it has the right to license the CPEXpert Software. CMS further warrants that so far as it is aware, the CPEXpert Software does not infringe the rights of any third party, but makes no further warranty in that respect.

**These warranties are in lieu of any other warranties, express or implied, including but not limited to any implied warranties of merchantability and/or fitness for a particular purpose.**

F. CMS shall defend or, at its option, settle any claim or proceeding brought against the Customer to the extent that it is based on an assertion that the materials provided hereunder constitute an infringement of any United States patent or copyright and shall indemnify the Customer against all costs, damages, and expenses finally awarded against the Customer which result from any such claim, provided that the Customer notifies CMS promptly in writing of any such claim or proceeding and gives CMS full and complete authority, information, and assistance to defend such claim or proceeding, and further provided that the Customer gives CMS sole control of the defense of any such claim or proceeding and all negotiations for its compromise or settlement.

**3. What the Customer will do:**

A. **Upon receipt of the CPEXpert Software, Customer has a 45-day, no-obligation trial period to evaluate the product. If the Customer is not satisfied, Customer will immediately remove the CPEXpert Software from Customer's system, communicate in writing to CMS that the CPEXpert Software has been removed, and return all materials including the CPEXpert Software distribution media and user documentation to CMS within 5 days after the trial period has completed. Having met these requirements, the Customer would have no further obligation and would owe nothing to CMS. If the Customer does not return the software during this 45 day period, Customer will pay the invoice provided by CMS as specified in the paragraph 3.B.**

B. The Customer shall pay to CMS all fees arising under this Agreement as invoiced after the 45-day, no-obligation trial period described above. The Customer is responsible for all federal, state, municipal, and other government excise, sales, use, customs, value added, or other taxes, fees or duties not in force or enacted in the future, except for taxes measured by CMS net income. Customer agrees that payment shall be made within 30 days following the trial.

C. **In case of cancellation of this agreement for whatever reason, Customer will remove the CPEXpert Software from Customer's system, communicate in writing that the CPEXpert Software has been removed and return all materials including all CPEXpert Software distribution media and CPEXpert Software user documentation to CMS.** Customer will pay a reinstatement fee equal to the full license fee in effect at the time of reinstatement in order to receive any future copies of the CPEXpert Software.

D. The Customer acknowledges that all copyright and other intellectual property rights whatsoever in the CPEXpert Software and associated documentation are and shall remain the property of CMS absolutely and that the Customer's only rights in relation to the CPEXpert Software are a non-transferable non-exclusive license to use the CPEXpert Software subject to and in accordance with the terms of this Agreement. The Customer is hereby authorized to make copies at the site(s) identified in Supplement(s) to this Agreement only for normal execution, use, maintenance, and backup purposes. Archived copies for backup purposes may be stored off-site. CPEXpert Software may be executed at an emergency backup site for disaster testing or actual disaster. Other than specified above, the Customer agrees NOT to copy, publish, display, or otherwise make available to any other person any of the copyrighted material or any part of it without the written consent of CMS. The Customer shall take all reasonable measures to ensure that the CPEXpert Software and associated documentation and any copies of the CPEXpert Software or documentation do not leave its possession or control whether by loan, theft or otherwise. The Customer's obligations under this paragraph shall survive any termination or expiration of this Agreement.

E. The Customer acknowledges that CPEXpert Software is licensed by physical site address (that is, a data center at a single physical address), as identified in Supplement(s) to this Agreement. The CPEXpert Software is to be executed ONLY at the supported site(s) and ONLY for the analysis of data created at the site(s). The use of CPEXpert Software as an execution service (i.e., executing CPEXpert

Software against data transmitted from a different physical data center) or execution for consulting services requires a separate Addendum to this Agreement.

- F. The Customer will designate installation and technical support contact(s) on Supplement(s) to this Agreement.
- G. The Customer will explain the terms of this Agreement to those affected by it.
- H. Customer certifies that funds exist to purchase this license if the CPEXpert product performs satisfactorily.

#### **4. General license terms:**

##### **A. Limitations of Liability:**

**THE CUSTOMER AGREES THAT THE LIABILITY OF CMS TO THE CUSTOMER BASED ON THIS AGREEMENT AND/OR USE OF THE CPEXpert SOFTWARE, EXCLUDING LIABILITY FOR COPYRIGHT, PATENT, OR TRADE SECRET VIOLATIONS UNDER SECTION 2(E) OF THIS AGREEMENT, WILL NOT EXCEED THE CUSTOMER'S CURRENT-YEAR LICENSE FEES PAID FOR CPEXPERT SOFTWARE DELIVERED UNDER THIS AGREEMENT.**

**NEITHER THE CUSTOMER NOR CMS WILL BE LIABLE TO EACH OTHER REGARDLESS OF THE FORM OF ACTION FOR ANY LOST PROFITS OR OTHER CONSEQUENTIAL DAMAGES, EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

**THE PARTIES FURTHER AGREE THAT NEITHER SHALL BE LIABLE TO THE OTHER FOR ANY CLAIM OR DEMAND REGARDLESS OF THE FORM OF ACTION AGAINST THE OTHER PARTY BY ANYONE ELSE, EXCEPT FOR A CLAIM OF COPYRIGHT, PATENT, OR TRADE SECRET VIOLATIONS UNDER SECTION 2(E) OF THIS AGREEMENT.**

**IN NO EVENT SHALL CMS BE LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES ARISING FROM OR IN CONNECTION WITH THE PERFORMANCE BY CMS HEREUNDER. NO OBLIGATION OR LIABILITY, EXCEPT IN THE EVENT OF NEGLIGENCE OR INTENTIONAL WRONGDOING BY CMS, SHALL ARISE FROM ANY RENDERING OF TECHNICAL OR OTHER ADVICE OR SERVICE BY CMS OR CPEXpert SOFTWARE IN CONNECTION WITH THIS AGREEMENT.**

- B. This Agreement is governed by the laws of the United States and of Virginia. If any part of the Agreement is held to be unconscionable or otherwise invalid, that part will be omitted, but the balance will remain in full force and effect.
- C. Any CPEXpert Software licensed under this Agreement may be renewed for additional periods if CMS and the Customer mutually agree in writing. License fees for any additional periods may differ. CMS will issue license renewal invoices approximately 60 days in advance of the current license termination date. Payment of the renewal invoice constitutes renewal of this agreement. Non-payment of the renewal invoice constitutes cancellation of this agreement.
- D. The Customer can cancel this Agreement or any CPEXpert Software licensed under it at any time for any reason. CMS can cancel this Agreement or any Software licensed under it and take other action if it believes the Customer has not complied with this Agreement.

E. This Agreement, its supplements, and invoices arising under it for CPExpert Software constitute the complete and exclusive statement of the agreement between the parties, which supersedes all prior communications relating to the subject matter of this Agreement. Additional or conflicting terms on any current or future Customer purchasing documents are rejected. This Agreement can be modified only in writing signed by both parties.

**IN WITNESS WHEREOF, the parties hereby acknowledge and accept the terms and conditions of this Master License Agreement.**

Signed for and on behalf of:

Computer Management Sciences, Inc.

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Name: Donald R. Deese

Position: President

Date: \_\_\_\_\_

Signed for and on behalf of:

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Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_