Mekorma End User License Agreement

1. **Services.** Mekorma is engaged in the business of designing and developing computer-related software and has created this software package ("Software"). By downloading or installing or registering or using this Software, Licensee agrees to be bound by this End User License Agreement ("Agreement") in its entirety. If Licensee does not agree with the terms of this Agreement, Mekorma is unwilling to license the software to the Licensee and Licensee must immediately, as applicable, uninstall, not use, and return the software (retaining no copies) for a full refund.

2. **License**. Subject to the terms and conditions of this Agreement, Mekorma grants Licensee a personal, non-exclusive, non-transferable license, without right of sublicense, to use the Software and any associated documentation in connection with its business on its computers, computer system, and computer servers.

3. **Copies**. Licensee may make backup copies of the Software and documentation as needed and as deemed reasonable. All copies are subject to the provisions of this Agreement. Licensee must maintain an accurate record of the location of the copies of the Software which may be inspected by Mekorma at any time. Licensee must include Mekorma's copyright notice on all copies.

4. **Conditions to Grant of Licenses.** No grant of any license or right with respect to such Software shall be effective, and the Licensee shall have no license or right to use such Software, unless all license fees have been paid in full in accordance with the payment terms set forth in Section 6.

5. **Restrictions on Use**.

   5.1. Company Restrictions. Licensee may use the Software only to process the data for Licensee or Licensee's affiliates that currently exist or are later acquired that directly or indirectly (i) control, (ii) are controlled by, or (iii) are under common control with Licensee ("Affiliates"). An entity will be deemed to control another entity if it maintains ownership of at least 50% of the voting shares or has the power to direct or cause the direction of the management or policies of such entity, whether through the ownership or voting securities, by contract, or otherwise. The Licensee shall not use the Software and shall not permit any third party to use the Software, for processing data of any entity other than the Licensee. This license does not permit Licensee to process the data of any other entity or to operate a service bureau ("Outsource Processing"). Outsource Processing requires a separate license.

   5.2. Transfer Restrictions. Licensee shall not grant sublicenses, assign or transfer (including transfer by rental) the Software or documentation or use these to benefit any third party; provided that, such restriction will not apply to a transfer of substantially all the assets of Licensee or with the written consent of Mekorma.

6. **Payment**.

    6.1. Terms. Licensee will pay to Mekorma the license fees net, thirty (30) days as set forth in a separate agreement between the parties to this Agreement.

    6.2. Licensee Information. If Licensee's payment and registration information is not accurate, current, and complete, and Licensee does not notify Mekorma promptly when such information changes, Mekorma, in its sole discretion, may suspend or terminate Licensee's account, terminate Licensee's license, or refuse any further use of the Software.

    6.3. Delinquency. If Licensee does not timely pay the license fees, and such payment becomes sixty (60) days past due, Mekorma, in its sole discretion, may suspend or terminate Licensee's account, terminate Licensee's license, or refuse any further use of the Software.

7. **Taxes and Duties**. All taxes, duties, fees and other governmental charges of any kind (including sale and use taxes, but excluding taxes based on the gross revenues or net income of Mekorma) that are imposed by or under the authority of any government or any political subdivision thereof on Licensee payment obligations under this Agreement, shall be borne and paid solely by Licensee.

8. **Ownership**. Mekorma retains ownership of the Software and accompanying documentation and of all rights not specifically granted to Licensee. Licensee may not modify, adapt, translate, reverse engineer, decompile, disassemble or create derivative works based on the software or the accompanying documentation. Licensee agrees to take any step necessary to protect the proprietary rights of Mekorma. Licensee will, at Licensee's own cost and expense, protect and defend the ownership of Mekorma in the Software and documentation against all claims, liens and legal processes of third parties of Licensee, including creditors of Licensee, and must keep the Software free and clear of any such claims, liens and licenses.

9. **Enhancement Plan**. Subscription to the Enhancement Plan by Licensee is required at all times during the use of the Software. The Enhancement Plan will provide Licensee with all improvements, modifications, refinements, and added features to the software that are released from time to time. As set forth in Section 1, If Licensee does not subscribe to an Enhancement Plan or does not renew an Enhancement Plan at any time during its use of the Software, then Licensee shall immediately, as applicable, uninstall, not use, and return the Software (retaining no copies).

10. **Installation and Acceptance**. Only the Licensee, and not Mekorma or any other third party, shall be permitted to install the Software on its server. At the time of such installation, Mekorma will provide Licensee with appropriate documentation for the Software. In the event that Licensee fails to notify Licensor of any difficulties or problems with the Software within fifteen (15) days after installation thereof, Licensee shall be deemed to have accepted the Software. Prior to acceptance of such Software, Licensor shall have the right to repair or replace the Software at its discretion. Upon acceptance of such Software, Licensor shall be under no obligation to repair or replace such Software except as provided for in the Warranty provision in this Agreement.

11. **Data.** Licensee agrees that the Mekorma software will transmit pertinent and reasonable information from the licensee system where Mekorma MICR is installed. The type of information that will be transmitted includes, but is not limited to: information about the licensee's Microsoft license, information about the version of Microsoft Dynamics GP at the licensee site, metrics, and information about the data stored on the licensee system as it pertains to maintaining and improving the Mekorma software and the licensee user experience. Licensee hereby grants Mekorma, a worldwide, nonexclusive right and license to use any such Licensee information obtained through Licensee's systems, and to use the know-how and analytical results resulting therefrom in connection with the enhancement, improvement, and provision of the Service and derivatives thereof, provided that the foregoing is not a license to provide or disclose any Licensee information to any third party in raw or disaggregated form, or to identify Licensee as the source of any such Licensee information or analytical results.

12. **US Government Restricted Rights**. If Licensee is acting on behalf of any unit or agency of the United States Government ("Government"), the following provisions apply: (i) The Software and documentation are provided to the Government with RESTRICTED RIGHTS; and, (ii) Use, duplication or disclosure by the Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 and subparagraph (c)(2) of the Commercial Computer Software - Restricted Rights clause at FAR 52.227-19.

13. **Termination for Cause**. Either party may terminate this Agreement on thirty (30) days' written notice to the other party in the event of a material breach of any provision of this Agreement by the other party, provided that, during the 30-day period, the breaching party fails to cure such breach. Upon termination, (i) all rights granted to Licensee under this Agreement shall forthwith terminate and immediately revert to Licensor and (ii) Licensee shall promptly destroy or return to Mekorma all copies of the Software and documentation and shall discontinue all use of the Software and the like. Mekorma may terminate this Agreement immediately if Licensee fails to make payment as provided in Section 6.

14. **Limited Warranty**. Subject to the limitations below, Mekorma warrants that, (i) it owns all rights, title and interest in and to the Software, or has obtained the right to license the Software to Licensee, (ii) to Mekorma's knowledge, the Software as provided hereunder does not infringe the intellectual property rights of a third party; and (iii) for a period of one year from delivery of the Software to Licensee, the Software (a) will substantially conform to the accompanying documentation; and (b) is properly copied onto its media.

15. **Warranty Limitations**. The above warranty is null and void if Licensee or any third party modifies or changes the Software in any way beyond the customization options contained in the Software, or if failure of the Software has resulted from accident, abuse or misapplication. Mekorma does not warrant that the functions contained in the Software will meet Licensee's requirements or that the operation of the Software will be uninterrupted or error-free or that all defects will be corrected. This warranty does not apply to errors or malfunctions caused by (i) machine malfunction; (ii) equipment or software not licensed in this Agreement; (iii) use of incorrect procedures or data by Licensee; or (iv) any other cause not attributable to Mekorma.

16. **Remedies**. Mekorma' entire liability and Licensee's exclusive remedy relative to the Software shall be for Mekorma, at its sole option, to either: a) replace the defective media; or b) replace the Software that does not meet the limited warranty described above; or c) attempt to correct any errors which Licensee finds in the Software during the warranty period and which prevent the Software from substantially performing as described in the documentation. Any replacement Software will be warranted for the remainder of the original warranty period or for thirty (30) days, whichever is longer.

17. **Disclaimer of Warranty**. Except as stated above, Mekorma makes no other warranties regarding the software or documentation, including, without limitation, express or implied warranties, and expressly disclaims the warranties of fitness for a particular purpose or merchantability, and any other warranty, express or implied. Any statements made by a dealer or any other third party other than Mekorma are not warranties and cannot be relied on by Licensee.

18. **Limitation of Liability**. In no event shall Mekorma or anyone else who has been involved in the creation, production or delivery of the Software or the Documentation be liable for any incidental, special, indirect or consequential damages, loss of business, loss of profits, loss of goodwill or tortious conduct relating to, caused by or arising out of any breach of obligations or delay in delivery of software or documentation under this agreement or from Licensee's use or inability to use the Software, even if Mekorma has been advised of the possibility of such loss or damages. Any damages that Mekorma is required to pay for any and all causes, whether for negligence, breach of contract or otherwise, regardless of the form of action, shall, in the aggregate, be limited to the price paid by licensee for the Software.

19. **Confidential Information**

   19.1. <u>Mekorma Confidential Information</u>**.** The Licensee agrees to maintain the confidentiality of any Mekorma Confidential Information (as defined below) and to treat such information with the same degree of care and security as it treats its own most confidential information. The Licensee shall not, without Mekorma's prior written consent, disclose such information to any person or entity other than to the Licensee's employees or consultants legally bound to abide by the terms hereof and having a need to know such information, or sell, license, publish, display, distribute or otherwise use such information except as authorized by this Agreement. The term "Mekorma Confidential Information" shall include all Licensed Software and any other Mekorma software applications (whether or not licensed to the Licensee) and all Derivative Works, Enhancements, Maintenance Modifications and Documentation with respect thereto as well as any written information of a confidential nature clearly labeled by Mekorma as being confidential or otherwise indicated by Mekorma in writing as being confidential. The Licensee understands and agrees that Mekorma Confidential Information constitutes a valuable business asset of Mekorma, the unauthorized use or disclosure of which may irreparably damage Mekorma. In the event of the Licensee's breach or threatened breach of any of the provisions in this Agreement, Mekorma shall be entitled to an injunction obtained from any court having appropriate jurisdiction restraining the Licensee from any unauthorized use or disclosure of any Mekorma Confidential Information.

   19.2. <u>Exclusions</u>**.** Notwithstanding Section 19.1 hereof, Mekorma Confidential Information shall not include information which the Licensee can demonstrate (a) is now, or hereafter becomes, through no act or failure to act on the part of the Licensee, generally known or available or otherwise part of the public domain; (b) is rightfully known by the Licensee without restriction on use prior to its first receipt of such information from Mekorma as evidenced by its records; (c) is hereafter furnished to the Licensee by a third party authorized to furnish the information to the Licensee, as a matter of right and without restriction on disclosure; or (d) is the subject of a written permission by Mekorma to disclose.

   19.3. <u>Exceptions</u>**.** Notwithstanding Section 19.1 hereof, disclosure of Mekorma Confidential Information shall not be precluded if: (a) such disclosure is in response to a valid order of a court or other governmental body of the United States or any political subdivision thereof; provided, however, that the Licensee shall first have given notice to Mekorma and shall have made a reasonable effort to obtain a protective order requiring that the information to be disclosed be used only for the purposes for which the order was issued; (b) such disclosure is necessary to establish rights or enforce obligations under this Agreement, but only to the extent that any such disclosure is necessary for such purpose; or (c) the Licensee received the prior written consent to such disclosure from Mekorma, but only to the extent permitted in such consent.

20. **Indemnification**. Licensee agrees to defend and hold harmless Mekorma against any loss, cost, or expenses incurred as a result of a claim based on modifications to the Software made by or for Licensee without Mekorma's prior written approval. In order to receive and maintain this warranty, Licensee must further (i) use the Software in accordance with the documentation; (ii) use the Software on the hardware and with the operating system for which it was designed; and (iii) use only qualified personnel to operate the system and the hardware. Mekorma will not be required to maintain compatibility between the Software and any other software not specified in this Agreement.

21. **Miscellaneous**

    21.1. Export Controls**.** The Licenses shall comply fully with all relevant export laws and regulations of the United States to assure that neither the Software nor any direct product thereof, are exported, directly or indirectly, in violation of United States law or other applicable export and import law.

    21.2. Audit**.** Mekorma shall have the right to audit the use of any Software for compliance with terms of this Agreement. Such audit may be conducted by Mekorma during normal business hours of Licensee after at least 24 hours prior notification to Licensee, and shall not unreasonably interfere with the operations of Licensee.

    21.3. Relationship. The relationship created hereby is that of Licensor and Licensee. Nothing herein shall be construed to create a partnership, joint venture, or agency relationship between the parties hereto. Neither party shall have any authority to enter into agreements of any kind on behalf of the other and shall have no power or authority to bind or obligate the other in any manner to any third party. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Each party hereto represents that it is acting on its own behalf and is not acting as an agent for or on behalf of any third party.

    21.4. No Rights in Third Parties**.** This Agreement is entered into for the sole benefit of Mekorma and the Licensee and, where permitted above, their permitted successors, executors, representatives, administrators and assigns. Nothing in this Agreement shall be construed as giving any benefits, rights, remedies or claims to any other person, firm, corporation or other entity, including, without limitation, the general public or any member thereof, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries, property damage, or any other relief in law or equity in connection with this Agreement.

21.5. <u>Entire Agreement</u>**.** This Agreement sets forth the final, complete and exclusive agreement and understanding between Mekorma and the Licensee relating to the subject matter hereof and supersedes all quotes, proposals understandings, representations, conditions, warranties, covenants, and all other communications between the parties (oral or written) relating to the subject matter hereof. Mekorma shall not be bound by any terms or conditions contained in any purchase order or other form provided by the Licensee in connection with this Agreement and any such terms and conditions shall have force or effect. No affirmation, representation or warranty relating to the subject matter hereof by any employee, agent or other representative of Mekorma shall bind Mekorma or be enforceable by the Licensee unless specifically set forth in this Agreement.

21.6. <u>Amendments</u>**.** No amendment or other modification of this Agreement shall be valid unless pursuant to a written instrument referencing this Agreement signed by duly authorized representatives of each of the parties hereto.

21.7. <u>Assignment</u>**.** Neither party hereto may assign its rights or obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld; provided, however, that Mekorma may assign this Agreement to its successor in connection with a sale of its business without obtaining consent of any party. Subject to the foregoing, each and every covenant, term, provision and agreement contained in this Agreement shall be binding upon and inure to the benefit of the parties' permitted successors, executors, representatives, administrators and assigns. Any assignment attempted in contravention of this section will be void.

21.8. <u>Governing Law</u>**.** All questions concerning the validity, operation, interpretation, construction and enforcement of any terms, covenants or conditions of this Agreement shall in all respects be governed by and determined in accordance with the laws of the State of Colorado without giving effect to the choice of law principles thereof. The United Nations Convention on the International Sale of Goods shall not apply to any transactions contemplated by this Agreement.

21.9. <u>Arbitration</u>**.** All questions concerning the validity, operation, interpretation, construction and enforcement of any terms, covenants or conditions of this Agreement, or the breach thereof, must be submitted to and resolved by final and binding arbitration by the American Arbitration Association in accordance with its Commercial Arbitration Rules then in effect. The parties understand and agree that the arbitration will be instead of any civil litigation, except that either party may petition a court for a provisional remedy pursuant to Code of Civil Procedure Section 1281.8, and that the arbitrator's decision will be final and binding to the maximum extent permitted by law and enforceable by any court having jurisdiction thereof.

21.10. <u>Venue</u>. The parties agree that all legal proceedings brought in connection with this Agreement may only be brought in a state or federal court located in the State of Colorado. Each party hereby agrees to submit to the personal jurisdiction of those courts for any lawsuits filed there against such party arising under or in connection with this Agreement.

21.11. <u>Waiver</u>. In order to be effective, any waiver of any right, benefit or power hereunder must be in writing and must be signed by an authorized representative of the party against whom enforcement of such waiver would be sought, it being intended that the conduct or failure to act of either party shall imply no waiver. Neither party shall by mere lapse of time without giving notice or taking other action hereunder be deemed to have waived any breach by the other party of any of the provisions of this Agreement. No waiver of any right, benefit or power hereunder on a specific occasion shall be applicable to any facts or circumstances other than the facts and circumstances specifically addressed by such waiver or to any future events, even if such future events involve facts and circumstances substantially similar to those specifically addressed by such waiver. No waiver of any right, benefit or power hereunder shall constitute, or be deemed to constitute, a waiver of any other right, benefit or power hereunder. Unless otherwise specifically set forth herein, neither party shall be required to give notice to the other party, or to any other third party, to enforce strict adherence to all terms of this Agreement.

21.12. <u>Severability</u>. If any provision of this Agreement shall for any reason be held to be invalid, illegal, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction over this Agreement, such provision shall be construed so as to make it enforceable to the greatest extent permitted, such provision shall remain in effect to the greatest extent permitted and the remaining provisions of this Agreement shall remain in full force and effect.

21.13. <u>Survival of Provisions</u>. All provisions of this Agreement that by their nature would reasonably be expected to continue after the termination of this Agreement, including but not limited to Sections 6, 14, 15, 16, 17, 18, 19, 20, and 21 will survive the termination of this Agreement.

21.14. <u>Notices</u>**.** All notices, requests, demands, or other communications required or permitted to be given hereunder must be in writing and must be addressed to the parties at their respective addresses set forth below and shall be deemed to have been duly given when (a) delivered in person; (b) sent by facsimile transmission indicating receipt at the facsimile number where sent; (c) one (1) business day after being deposited with a reputable overnight air courier service; or (d) three (3) business days after being deposited with the United States Postal Service, for delivery by certified or registered mail, postage pre - paid and return receipt requested. All notices and other communications regarding default or termination of this Agreement shall be delivered by hand or sent by certified mail, postage pre - paid and return receipt requested. Either party may from time to time change the notice address set forth below by delivering notice to the other party in accordance with this section setting forth the new address and the date on which it will become effective. Notices to Mekorma shall be sent to 8265 West Sunset Boulevard, Suite 207B, West Hollywood, CA 90046.

21.15. <u>Modification of Terms</u>. Mekorma may, at any time, and at its sole discretion, modify these terms and conditions of this Agreement, with or without notice to the User. Any such modification will be effective immediately upon public posting. Your continued use of our Software following any such modification constitutes your acceptance of these modified terms.

21.16. <u>Construction</u>**.** The paragraph and section headings used in this Agreement or in any exhibit hereto are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement. Any term referencing time, days or period for performance shall be deemed calendar days and not business days, unless otherwise expressly provided herein.