CROSSMATCH™

Account Manager: David Bronger

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Email: dave.bronger@crossmatch.com

Sales Channel: GSA

Status: Open

Type: Simple

Bill To Name: City Of Delray Beach

Contact: Marlo Dahl

Phone: +1 561 243-7865

Email: dahl@mydelraybeach.com

Bill To: Police Department, 300 West Atlantic
Avenue
DELRAY BEACH, Florida 33444
United States

Ship To Name: City Of Delray Beach

Contact: Marlo Dahl

Phone: +1 561 243-7865

Email: dahl@mydelraybeach.com

Ship To: Police Department, 300 West Atlantic
Avenue
DELRAY BEACH, Florida 33444
United States

Item	Product	Part Number	Quantity	Sales Price	Total Price	Price Basis
1	SOFTWARE, XML BASED DEMOGRAPHIC DATA INTERFACE, LIVE SCAN	850085	1	$1,500.00	$1,500.00	Open Market
2	INSTALLATION, IN FLORIDA - LIVE SCAN SYSTEM	930012	1	$1,500.00	$1,500.00	Open Market

Grand Total: $3,000.00

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Palm Beach Gardens, FL 33410
US HeadQuarters: 561 622 1650
http://www.crossmatch.com

Notes: This quote is to add Cross Match side of interface to work with Sungard OSSI and our FDLE Criminal print only software.

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STANDARD SALES TERMS AND CONDITIONS

Purchase Order #_____

1) **Terms of Order**. The terms contained herein shall govern unless Purchaser orders under Crossmatch's GSA Schedule Number GS-35F-0199R or if there is an existing signed agreement between Purchaser and Crossmatch with respect to the products to be purchased. Notwithstanding any term or provision to the contrary contained in any Purchase Order, upon Purchaser's written acknowledgement below, the terms of this Agreement shall apply to Purchaser's Purchase Orders for the quoted products. In no event shall the pre-printed terms and conditions of any Purchase Order alter, amend or supersede any provision of this Agreement. In the case of any conflict between the terms of a Purchase Order and the terms of this Agreement, the terms of this Agreement shall prevail. An omission of reference to this Agreement in a Purchase Order shall not affect the application of this Agreement to such Purchase Order.

2) **Prices.** Unless otherwise indicated, prices for products and associated support services are firm fixed price (FFP). Pricing remains valid for 90 calendar days from the date of quotation, unless otherwise specified by Quote Expiration above. All sales are final; no refunds, credits or exchanges will be accepted. The price for the products does not include sales, use, excise or similar taxes assessed at any time. All applicable taxes shall be paid by Purchaser including applicable sales tax unless a valid sales tax exemption certificate is provided.

3) **Shipment**: Shipment date(s) provided in the quotation or in confirmation of the Purchase Order is/are approximate and subject to change. Crossmatch shall not be liable for any delays in shipment which are caused by events beyond the control of Crossmatch including, but not limited to, delays caused by inaccurate or incomplete data, changes or revisions in the work to be performed, Purchaser's insufficient credit or financing, acts of Purchaser or Purchaser's agent, Force Majeure, accidents, strikes, inability to obtain labor or materials, or delay in transportation.

4) **Storage**: Once Purchaser has been notified that its order is ready for shipment, if Purchaser requests that the order (in whole or in part) not be shipped until a later date, the equipment will be segregated from other inventory. Purchaser will be required to execute Crossmatch's Transfer of Title form evidencing transfer of title and transfer of risk of loss from Crossmatch to Purchaser. Purchaser is responsible for all costs associated with shipping the equipment to a storage facility or from said storage facility to the destination point in addition to all costs associated with insurance and storage fees.

5) **Title & Risk of Loss**: Crossmatch's prices are F.O.B. Crossmatch's Factory and are exclusive of taxes, shipping, handling and insurance. Title to all equipment and risk of loss, deterioration or damage shall pass to Purchaser upon delivery to a carrier; except that a security interest in the equipment or any replacement shall remain in Crossmatch's name until the full purchase price has been received by Crossmatch. Any claim by Purchaser against Crossmatch for shortage or damage occurring prior to delivery must be made in writing within ten (10) calendar days after receipt of shipment and accompanied by an original transportation bill signed by the carrier noting that carrier received goods from Crossmatch in the condition claimed. Crossmatch shall have the right to ship all goods at one time or in portions, within the time for shipping provided in such order, unless specifically requested in writing by the Purchaser that these shipments be made in total by a date certain. Any shipments returned to Crossmatch as a result of Purchaser's unexcused delay or failure to accept delivery will require Purchaser to pay all additional costs incurred by Crossmatch, including any storage costs as discussed above.

6) **Excusable Delays:** Crossmatch shall not be liable for any failure to continue to perform as required or meet the delivery date if such failure is due to the non-performance of the Purchaser or third party and/or due to a reason beyond its reasonable control. Such events also include without limitation, acts or omissions of carriers, labor difficulties, shortages, Force Majeure, lack of, incomplete or inaccurate information provided by the Purchaser, or any other cause that is outside of Crossmatch's control. In any such event the Parties will mutually develop a critical path in which performance and/or schedule is re-defined and any equitable adjustment in price is finalized.

7) **Changes:** Purchaser may make changes to the specific products/services being ordered, quantity, schedule and/or, the customization requirements of a product or service or any other provision of the Purchase Order or quotation providing such change is communicated in advance and in writing to Crossmatch. If any such change causes a change in the price, schedule or other provision of the quote or Purchase Order, Crossmatch shall notify Purchaser in writing no later than five (5) days from the date of receipt by Crossmatch of such request from Purchaser. Crossmatch will submit a Request for Equitable Adjustment or Change Order proposal which the Parties shall mutually negotiate and such will be incorporated into the Purchase Order or quotation by written bi-lateral Amendment or Change Order ("Change Order").

8) **Installation and Training**. If installation and training services are purchased, Purchaser shall appoint a contact person to coordinate the installation to be performed by Crossmatch, its agent or contractor. The number of days allocated, and charges for installation and training are stated herein. If Crossmatch cannot complete the installation or extensions into additional days or additional trips are caused by Purchaser's failure to complete its assigned tasks, or issues beyond the reasonable control of Crossmatch such as, but not limited to, Purchaser network problems, Purchaser firewall problems or delays of schedule due to unavailability of Purchaser resources, Purchaser shall be responsible for additional charges required to complete the installation. Such charges shall be billable at Crossmatch's rates in effect at the time of the service extension or additional trip. A minimum charge of $500 will be assessed if Purchaser cancels or re-schedules on-site installation and/or training within 14 days of the originally scheduled installation. Upon completion of installation and training (including delivery of the training materials), Purchaser agrees to sign Crossmatch's Professional Services Acceptance Form acknowledging receipt of installation and training services within fifteen (15) days from the completion date. If Purchaser fails to respond within fifteen (15) days from the completion date, installation and traiing will be deemed accepted.

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9) **Limited Warranty:** Crossmatch warrants that the hardware products purchased will be free from defects in material and workmanship in normal service and under normal conditions for a period of one (1) year from the date of shipment. Normal service and normal conditions are defined within the product documentation. The Limited Warranty is subject to the specific terms and conditions set forth in the warranty documentation, which is hereby made part of and incorporated into the quotation.

10) **Silicon Product Use Restrictions**: TouchChip Silicon Fingerprint Sensor Products, including but not limited to touch and swipe products, related software, developer kits and tools ("TouchChip Product Line") are subject to field of use restrictions ("Field of Use Restrictions") attached hereto as Appendix 1 and incorporated by reference herein. When applicable products are purchased, Purchaser shall adhere to the Field of Use Restrictions set forth in Appendix 1 and shall require any of its distributors, resellers, developers or sales representatives to comply with such Field of Use Restrictions. Any material or repetitive breach of the restrictions contained in Appendix 1 by Purchaser or Purchaser's direct or indirect distributors, resellers or sales representatives shall constitute a material breach.

11) **Software License**. The term "Software" refers to the Software installed on the equipment or hardware product, any custom software or interfaces developed by Crossmatch for Purchaser and if applicable, Crossmatch's Software Development Kit (SDK) software. Purchaser will be required to accept Crossmatch's standard license agreement prior to using any Software. The terms and conditions which govern the right and usage of the software are set forth in the license documentation, which is hereby made part of and incorporated into the quotation.

12) **Equipment Upgrade**: Equipment upgrades are not covered under the limited warranty and are subject to independent pricing and terms and conditions, as deemed applicable by the nature of the upgrade activity.

13) **Equipment Maintenance Plan:** Purchaser may purchase a Crossmatch Advantage Maintenance Plan for the hardware products. . The Maintenance Plan is contracted for annually at the then prevailing price and can be renewed for a period of years mutually agreed to by the Parties, The Maintenance Plan is subject to the specific terms and conditions set forth in the Maintenance Plan documentation, which is hereby made part of and incorporated into the quotation.

14) **Software Maintenance Plan:** Purchaser must buy the Crossmatch Advantage Software Maintenance plan for all applicable Crossmatch software products. Crossmatch will provide maintenance services for the current and future Major Release of the Software for a period of twelve (12) months for each term of the Software Maintenance plan. As used herein, a "Major Release" is any version of the Software that in Crossmatch's sole determination provides substantial new features, additional functionality, or makes use of different architecture. Crossmatch will receive Company reported defects or issues 24 hours a day, 7 days a week and acknowledge any such reported defect or issue within two (2) hours and use best efforts to address and remedy such defect or issue. At no additional cost to Company, Cross Match will deliver to Company, as made commercially available by Cross Match, bug fixes, Maintenance updates, state-mandated updates and Major Releases for the Software ("Updates")

15) **Invoicing and Payment**. Crossmatch will invoice Purchaser for all Products, (including services), and Maintenance Plans. All Maintenance Plans are invoiced annually in advance are are non-refundable. All Crossmatch invoices for Products must be paid in full by Purchaser prior to shipment. Any other payment arrangement must be pre-approved by Crossmatch in writing. All sales are final; no refund, credits or exchanges will be accepted Crossmatch. A late charge of the lesser of 1.5% per month or the maximum amount permitted by law, will be added to past due accounts. All reasonable costs and expenses, including but not limited to attorneys' fees, court costs and service charges incurred by Crossmatch in collecting payment will be an expense of and charged to Purchaser

Purchaser may be required to complete a credit application. Crossmatch reserves the right to extend credit to the Purchaser based upon credit determination. Specific financing arrangements will be considered on a case by case basis and the terms and conditions for such will be defined by Crossmatch and binding upon the Purchaser.

Crossmatch shall have the right to suspend performance, including the non-shipment of product, under a specific Purchase Order and/or any other Purchase Order(s) where Purchaser has failed to maintain its account within agreed to credit terms. Crossmatch shall resume performance under said Order(s) upon verified receipt of the required funds, as determined by Crossmatch. Purchaser hereby agrees to waive all rights to seek damages and/or other remedies against Crossmatch if Crossmatch's actions taken under this provision have an adverse impact upon Purchaser and/or its ability to perform and/or meet business obligations. In addition, Crossmatch shall have the right to cancel or hold any and/or all orders placed by Purchaser and any and/or all shipments of the Product, regardless of any prior confirmation or acceptance by Crossmatch, if: (a) Purchaser is or becomes insolvent, (b) Purchaser makes an assignment for the benefit of creditors, or a receiver or trustee is appointed to take charge of any of Purchaser's assets; or (c) Purchaser is the subject of a bankruptcy or reorganization proceeding, whether voluntary or involuntary.

16) **Indemnification**. <u>By Purchaser.</u> Purchaser shall indemnify, defend and hold Crossmatch and its respective directors, officers, employees and agents harmless against any and all losses, claims, damages or expenses (including reasonable attorneys' fees) arising out of or related to: (i) any personal injury to or death of any person or persons, any loss or damage of any property or any interruption of services which are caused or claimed to have been caused directly or indirectly from Purchaser's (including its employees or independent contractors) negligent operation and/or related use or misuse of the Product; (ii) use of any equipment not provided or approved for use with the Product by Crossmatch.

<u>By Crossmatch.</u> Crossmatch hereby agrees to indemnify, defend and hold Purchaser harmless from and against any and all claims, demands, actions, costs, liabilities and losses resulting from the Software or other Product infringing a United States patent, copyright or trademark or misappropriating the trade secret of a third party provided that: (i) Purchaser promptly notifies Crossmatch in writing of the claim; (ii) Crossmatch has control of the defense and all related settlement negotiations, provided however that Purchaser must approve in writing any settlements before they are executed (provided, however, that Purchase shall not unreasonably withhold its

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approval thereof); and (iii) Purchaser fully cooperates with Crossmatch, at Crossmatch's cost, in the defense or settlement of such actions. Crossmatch's obligation under this Article is conditioned on Purchaser's agreement that if the Software, or the use or operation thereof, becomes, or in Crossmatch's opinion is likely to become, the subject of such a claim, Purchaser will permit Crossmatch at Crossmatch's option and expense, either to procure the right for Purchaser to continue using the Software or to replace or modify the same so that it becomes non infringing. If neither of the foregoing alternatives is available on terms which are reasonable in Crossmatch's reasonable judgment, then (1) Purchaser will return or destroy the Software on written request of Crossmatch; and (2) Crossmatch shall pay Purchaser an amount equal to the amount paid for the Software less an amount equal to the current depreciation of such Software (such depreciation amount calculated on a straight line basis over four years commencing on the Effective Date). The foregoing indemnity extends to Purchaser only and states the sole and exclusive liability and remedy of the parties hereto for patent infringement, and is in lieu of all warranties, express, implied, or statutory, in regard thereto.

17) **Limitation of Liability**. IN NO EVENT SHALL Crossmatch BE LIABLE TO PURCHASER FOR ANY CONSEQUENTIAL OR SPECIAL DAMAGES, INCLUDING BUT NOT LIMITED TO ANY LOST PROFITS, LOST SAVINGS, BUSINESS INTERRUPTION OR OTHER INCIDENTAL DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE, OR THE DELIVERY OF, OR FAILURE TO DELIVER, THE PRODUCT, EVEN IF Crossmatch HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, THE ENTIRE LIABILITY OF Crossmatch FOR ANY CLAIM OR CAUSE OF ACTION ARISING HEREUNDER (WHETHER IN CONTRACT, TORT, OR OTHERWISE) SHALL NOT EXCEED THE PURCHASE PRICE PAID FOR THE PRODUCT THAT IS THE SUBJECT OF SUCH CLAIM OR CAUSE OF ACTION. Except as to title, all such liability shall terminate upon the expiration of the original applicable warranty period.

18) **Intellectual Property and Use Limitations**. The sale of the Product to Purchaser does not convey to Purchaser any intellectual property rights in the Product or Software, including but not limited to any copyright, patent or trademark rights (except for any license rights granted hereunder). Further, the sale of the Products confers on Purchaser no license, express or implied, by estoppel or otherwise, under any patents of Crossmatch or others covering or relating to any other product or invention or any combination, machine, or process in which such Product might be used. All intellectual property rights in the Products and Software, any documentation therefore, and other materials supplied by Crossmatch, are owned by Crossmatch and are protected by United States copyright laws, other applicable copyright laws, and international treaty provisions.

19) **Choice of Law and Forum**. This Agreement shall be governed by and construed under the laws of the State of Florida, without reference to its conflict of laws provisions. All disputes arising hereunder shall be heard only by a Florida State court or U.S. District Court with competent jurisdiction in Palm Beach County, Florida.

20) **Compliance with Laws**. Each party to the Agreement shall comply with all applicable laws and regulations. Purchaser will not directly or indirectly export or re-export any Products or "technical data" furnished to Purchaser under this Agreement without obtaining appropriate authorizations from the U.S. Department of Commerce or other U.S. government agency and will otherwise comply with all U.S. export control laws applicable thereto.

21) **Entire Agreement**. These terms and conditions constitute the entire agreement between Crossmatch and Purchaser with respect to the sale and purchase of the Products and license of the Software and shall supersede all prior agreements, understandings and representations between Purchaser and Crossmatch, both written and oral, with respect to the subject matter hereof. No additions or modifications of this Agreement or any Exhibit hereto shall be effective unless made in writing and signed by the authorized representatives of Crossmatch and Purchaser. Crossmatch's delay or failure to enforce at any time any provision of this Agreement shall not constitute a waiver of Crossmatch's right thereafter to enforce each and every provision of the Agreement. If any of the provision(s) of this Agreement is determined to be invalid, illegal, or otherwise unenforceable, the remaining provisions of the Agreement shall remain in full force and effect.

PURCHASER ACKNOWLEGEMENT:

By: _____

Name: _____

Title: _____

Date: _____

Quote Number: **01160258**

Quote Created: **December 07, 2015**

Quote Expiration: **July 29, 2016**

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CREDIT CARD AUTHORIZATION FORM

By signing this form you confirm you are an authorized representative to make binding commitments on behalf of your company/firm.

It is therefore by your signature below that you are authorizing Cross Match Technologies, Inc. to charge the below credit card for the amount stated below in addition to any applicable tax.

If your company is a tax exempt entity, please provide your tax exemption certificate.

Company Name: _____

Invoice/SO #: _____

Amount Authorized: USD$_____

Credit Card Type: ☐ Visa   ☐ Master Card   ☐ American Express

Is this a Government wide Commercial Purchase Card? ☐ Yes   ☐ No

Credit Card Number: _____

Expiration Date: _____

Sec Code: _____

Credit Card Complete Billing Address: _____

                                                                _____

                                                                _____

Signature: _____ Date: _____

Printed Name_____

Title _____

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END USER LICENSE AGREEMENT

Software License. Cross Match Technologies, Inc., and its affiliates, including but not limited to DigitalPersona, Inc. (collectively, "***Crossmatch***") hereby grants to End User a non-exclusive, non-transferable, revocable license to use the Software programs and associated documentation. Each licensed copy of the Software may be used only at one location, and on one End User controlled or owned computer or Crossmatch device which will meet Crossmatch's specifications for use with the Software. End User may terminate this EULA at any time. This EULA will terminate automatically upon breach of any of the provisions of this EULA. Upon termination or expiration of this EULA, all rights to use the Software will cease, and End User shall promptly destroy the original and all copies of the Software in End User's possession or under End User control.

Unauthorized Use of the Software. End User shall not, and shall not allow any third party to, (i) alter, modify or adapt the Software, including but not limited to translating, decompiling, disassembling, reverse engineering or creating derivative works; (ii) copy the Software (except that End User may make a reasonable number of copies of the Software, for inactive back-up and archival purposes and each such copy will shall contain any copyright notices); or (iii) remove any copyright notice; or (iv) sublicense, assign or transfer whether through a network, service bureau, lease, loan, or otherwise, the Software or its documentation, or any derivative work or copies thereof, in whole or in part.

Warranties. For a period of ninety (90) days after initial delivery of the Software (the "***Software Warranty Period***"), Crossmatch warrants that the Software, when used as permitted under this Agreement, will operate substantially as described in the Documentation. Crossmatch will, as its sole and exclusive obligation and Company's sole and exclusive remedy for any breach of this warranty, use commercially reasonable efforts to remedy any reproducible error in the Software reported to Crossmatch by Company in writing during the Software Warranty Period, or, if such error is material and Crossmatch determines that it is unable to remedy the error, Crossmatch will refund to Company all License Fees paid by Company, in which case this Agreement will immediately terminate. EXCEPT FOR THE LIMITED WARRANTIES EXPRESSLY STATED HEREIN, THE SOFTWARE IS PROVIDED "AS IS", AND CROSSMATCH HEREBY EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES OF ANY KIND OR NATURE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CROSSMATCH DOES NOT WARRANT OR REPRESENT THAT THE SOFTWARE OR DOCUMENTATION WILL BE FREE FROM BUGS OR THAT THEIR USE WILL BE UNINTERRUPTED OR ERROR-FREE, OR MAKE ANY OTHER REPRESENTATIONS REGARDING THE USE, OR THE RESULTS OF THE USE, OF THE SOFTWARE OR DOCUMENTATION IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE.

Limitation of Liability. **IN NO EVENT SHALL CROSSMATCH BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR SPECIAL DAMAGES WHATSOEVER (INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION) ARISING OUT OF THE USE OF OR INABILITY TO USE ANY OF THE CROSSMATCH PRODUCTS OR SERVICES, EVEN IF CROSSMATCH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, THE ENTIRE LIABILITY OF CROSSMATCH FOR ANY CLAIM OR CAUSE OF ACTION ARISING HEREUNDER (WHETHER IN CONTRACT, TORT, OR OTHERWISE) SHALL NOT EXCEED THE PURCHASE PRICE PAID FOR THE SOFTWARE THAT IS THE SUBJECT OF SUCH CLAIM OR CAUSE OF ACTION.**

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Intellectual Property and Use Limitations. The license of the Software to End User does not convey to End User any intellectual property rights in the Software, including but not limited to any copyright, patent or trademark rights. Further, the sale of the Products confers on End User no license, express or implied, by estoppel or otherwise, under any patents of Crossmatch or others covering or relating to any other product or invention or any combination, machine, or process in which such Product might be used.

Third Party Software. The Software may contain third party software programs ("***Third Party Programs***") including programs that are available under either their own license, or open source or free software license (each a "***Third Party License***"). Third Party Licenses are typically found in a Readme file or the Third Party License file in the Software. This EULA does not alter any rights or obligations End User may have under Third Party Licenses. Third Party Programs are provided "AS IS" and notwithstanding anything to the contrary in their respective Third Party Licenses, the Disclaimer of Warranties and Limitation of Liabilities provisions shall apply to Third Party Programs.

Compliance with Laws. End User shall comply with all applicable laws and regulations. End User will not directly or indirectly export or re-export any Software or "technical data" furnished to End User under this Agreement without obtaining appropriate authorizations from the U.S. Department of Commerce or other U.S. government agency and will otherwise comply with all U.S. export control laws applicable thereto.

Audit Rights. End User agrees that from time to time, but no more frequently than once per year, and upon at least ten days' prior written notice, Crossmatch has the right to audit the use of the Software for compliance with the terms of this EULA.

Governing Law. This agreement shall be governed by the law of the State of Florida without reference to its conflict of laws provisions. The End User and Crossmatch consent and agree to the jurisdiction and venue of the state and federal courts located in Palm Beach County, Florida, USA.

U.S. GOVERNMENT RESTRICTED RIGHTS LEGEND. The Software and any accompanying materials are provided with Restricted Rights. Use, duplication, or disclosure by the U.S. Government and agencies thereof is subject to restrictions set forth herein and in subparagraphs (c)(1) and (2) of 48 CFR 52.227-19, Commercial Computer Software-Restricted Rights, as applicable (or, as applicable, similar regulatory restrictions on Rights in Technical Data and Computer Software, e.g., DOD FAR Supplement 252.227-7013 (c)(1)(ii)). Manufacturer is Cross Match Technologies, Inc., 3950 RCA Blvd, Suite 5001, Palm Beach Gardens, FL 33410.

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CROSSMATCH ADVANTAGE SOFTWARE MAINTENANCE PLAN

1. SCOPE OF COVERAGE. The following sets forth the terms and conditions under which Cross Match Technologies, Inc., and its affiliates, including but not limited to DigitalPersona, Inc. (collectively, "***Crossmatch***"), will provide maintenance services ("***Maintenance Plan***"). Each Maintenance Plan is for a period of twelve (12) months.

2. MAINTENANCE SERVICES. Subject to the terms of this Maintenance Plan and Purchaser's payment of all Maintenance fees Crossmatch will provide the following:

2.1. Maintenance. Crossmatch will use commercially reasonable efforts to acknowledge and address reported and reproducible material defects in the Software which prevent the Software from performing substantially in accordance with the Documentation (each a "***defect or issue***"). Crossmatch will receive Purchaser's reported defects or issues 24 hours a day, 7 days a week and acknowledge any such reported defect or issue within two (2) hours and use best efforts to address and remedy such defect or issue. At no additional cost to Purchaser, Crossmatch will deliver to Purchaser, as made commercially available by Crossmatch, bug fixes, maintenance updates and Major Releases for the Software ("***Updates***"), which will thereafter be considered "Software". As used herein, a "Major Release" is any version of the Software that in Crossmatch's sole determination provides substantial new features, additional functionality, or makes use of different architecture. At its expense and as deemed appropriate by Crossmatch in its sole discretion, Crossmatch will furnish Purchaser with revised Documentation (including release notes identifying each change) with each Update.

 2.2 Resolution. Except as otherwise expressly set forth herein, Crossmatch will use commercially reasonable efforts to resolve each reported defect or issue with the Software by providing either: (i) a reasonable work around, which may consist of specific administrative steps or alternative programming calls; (ii) an object code patch to the Software; or (iii) a specific action plan regarding how Crossmatch intends to address the reported defect or issue and an estimate on how long it may take to remedy or work around the error or issue. Purchaser acknowledges that in order to perform Maintenance, Crossmatch may require access to and a copy of code in Purchaser's possession (or that of Purchaser's system integrator or consultants) relating to the Software or which may impact the performance of the Software. Purchaser agrees to provide access, assistance and information to Crossmatch as required to resolve defects or issues with the Software.

2.3 Other Defects and Issues. If Purchaser reports a defect or issue with the Software that is scheduled by Crossmatch to be addressed in a later Update, Crossmatch may address such defect or issue in such Update. Purchaser agrees to pay Crossmatch at Crossmatch's standard rates for all effort expended towards resolution of any defect or issue which is later determined to result from any cause other than an error or issue in the Software.

3. SUPPORT LINES.

3.1 First Line Support. Purchaser shall establish and maintain the organization and processes to provide first line support directly to any of Purchaser's customers and/or end users. Crossmatch shall have no obligation to provide any first line support to Company's customers and/or end users. First line support shall include: (a) a direct response to Company's customers and/or end users with respect to problems or inquiries concerning the performance,

functionality or operation of the Software; (b) a diagnosis of problems or performance deficiencies in the Software; and (c) a resolution of problems or performance deficiencies in the Software.

3.2 Second Line Support. Crossmatch shall maintain the organization and processes necessary to provide second line support for the Software to Purchaser. Such second line support shall be provided to Purchaser only if, after reasonable commercial effort, Purchaser is unable to diagnose and/or resolve problems or performance deficiencies in the Software. Second line support will be provided to designated and trained representatives of Purchaser. Crossmatch shall have no obligation to provide second line support directly to any of Company's customers and/or end users. In order to assist Crossmatch in providing such second line support, Purchaser will provide Crossmatch with the ability to access Purchaser's computer platforms which utilize the Software (including but not limited to access to configuration information and error logs) and provide assistance to Crossmatch in order to facilitate Crossmatch's use of remote administration tools relating to the Software. Second line support will be provided primarily through web-based support services and through telephone support in English utilizing VOIP or direct dial voice connection toll free in the United States and Canada at (866)276-7761, internationally at +1-561-622-9210 or by email at CMCC@crossmatch.com.

4. WARRANTY.

4.1 Limited Warranty. Crossmatch represents and warrants that the Maintenance provided hereunder shall be provided in a professional and workmanlike manner; provided, however, that Purchaser's sole and exclusive remedy and Crossmatch's sole and exclusive obligation for a breach of the foregoing warranty shall be for Crossmatch to re-perform such Maintenance in accordance with the foregoing warranty.

4.2 Warranty Disclaimer. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 4.1, ALL DELIVERABLES AND SERVICES PROVIDED BY CROSSMATCH PURSUANT TO THIS MAINTENANCE PLAN ARE PROVIDED "AS IS", AND CROSSMATCH AND ITS SUPPLIERS HEREBY EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES OF ANY KIND OR NATURE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CROSSMATCH AND ITS SUPPLIERS DO NOT WARRANT OR REPRESENT THAT THE SOFTWARE OR MAINTENANCE WILL BE FREE FROM BUGS OR THAT THEIR USE WILL BE UNINTERRUPTED OR ERROR-FREE, OR MAKE ANY OTHER REPRESENTATION REGARDING THE USE, OR THE RESULTS OF THE MAINTENANCE OR THE USE OF THE SOFTWARE IN TERMS OF CORRECTNESS, ACCURACY, RELIABIILITY, OR OTHERWISE. COMPANY ACKNOWLEDGES THAT CROSSMATCH IS NOT RESPONSIBLE FOR AND WILL HAVE NO LIABILITY FOR HARDWARE, SOFTWARE OR OTHER ITEMS OR ANY SERVICES PROVIDED BY ANY PERSON OR ENTITY OTHER THAN CROSSMATCH, INCLUDING ITEMS SUPPLIED OR SERVICES PERFORMED BY COMPANY.

5. SERVICE LIMITATIONS. The Maintenance does not include, nor will Crossmatch be obligated to provide, services required as a result of: (a) any modification, reconfiguration or maintenance of the Software not performed or recommended by Crossmatch; (b) any use of the Software on a system that does not meet Crossmatch's minimum standards for such as set forth in the applicable Documentation; (c) any third party hardware or software not supported or embedded by Crossmatch; (d) any configuration of the Software (or hardware configurations) other than as recommended by Crossmatch; (e) changes in the communications network protocol and configuration parameters after the Software was installed; (f) Company's failure to back up data; (g) data recovery from back up due to hardware failure; (h) data loss, damage, destruction distortion, erasure, corruption or alternation from any cause

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http://www.crossmatch.com

whatsoever (including but not limited to computer virus); (i) upgrades or changes in the computer platform's hardware or software including but not limited to the operation system or storage control software or storage capacity; or (j) any error caused by Purchaser's or any third party's negligence, abuse, misapplication, or use of Software other than as expressly permitted under the Agreement. Purchaser is responsible for removing all Purchaser data and/or personally identifiable information from any files prior to providing them to Crossmatch. All data and or personally identifiable information received by Crossmatch will be erased by Crossmatch in a manner so as to be unrecoverable.

6. TERM AND TERMINATION. This Maintenance Plan shall remain in effect for one (1) year from the Delivery Date. This Maintenance Plan shall automatically renew for additional one (1) year periods, unless either party provides notice of cancellation of Maintenance to the other party at least thirty (30) days prior to the anniversary date of this Agreement. Purchaser may terminate this Maintenance Plan if Crossmatch materially breaches the terms of this Maintenance Plan and such breach remains uncured for thirty (30) days after written notice, in which case Purchaser's sole and exclusive remedy shall be to receive a refund in an amount equal to the most-recent maintenance fee paid by Purchaser to Crossmatch multiplied by a fraction, the numerator of which is the number of whole months remaining in the then current maintenance period and the denominator of which is twelve (12). The expiration or termination of this Maintenance Plan shall not terminate or otherwise affect the Agreement.