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8. Maintenance. The initial fees paid by Licensee to SSI include one year of maintenance beginning on the date of delivery of the Software and ending on the first anniversary of the delivery date. The maintenance services provided by SSI include minor code upgrades, response to email with technical questions, and access to the MODTRAN technical website. Additional one year increments of maintenance services should be purchased from SSI. Such additional maintenance shall be subject to the terms of this Agreement.

9. Point of Contact. Licensee shall identify a point of contact (POC), who will be responsible for communicating with SSI in regards to the set-up, use and operation of the Software. SSI shall not have any obligation to instruct Licensee personnel other than the POC and registered Users in the use and application of the Software, including technical support. Licensee may, if available, purchase additional technical support from SSI to obtain expanded services.

10. Payment. For the license and maintenance provided hereunder, Licensee shall pay SSI the fees set forth on the MODTRAN E-commerce web site at www.modtran.com. The price for additional years of maintenance is also set forth. All pricing is subject to change. Certain additional ordering procedures and the terms of payment are set forth on the MODTRAN website. Ordering, payment and customer inquiries are administered through that website. Payment is due in full prior to delivery of the product. The software is provided to Government Purpose Users royalty free, however annual maintenance charges may be levied.

11. Force Majeure. SSI shall not be liable for any failure to perform hereunder to the extent that such failure arises by factors outside SSI's reasonable control, including but not limited to Acts of God, war, terrorism, natural disaster or third party transportation and communications failure.

12. Assignment. Licensee may not sell, license, assign, or otherwise transfer the Software or the documentation without the written permission of SSI, which may be withheld in SSI's sole discretion. Any such sale, license, sublicense, assignment, rental or transfer in breach of this provision shall be void.

13. Amendment; Waiver; Severability. No alteration, amendment, waiver, cancellation or other change to this Agreement shall be valid or binding unless agreed to in writing by both parties. No waiver by any party of a breach of any covenant or condition of this Agreement by any other party shall be construed to be a waiver of any succeeding breach of the same or any other covenant or condition. If any provision of this Agreement, or the application thereof, shall for any reason and to any extent be determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this

Agreement shall be interpreted so as best to reasonably effect the intent of the parties. The parties further agree to replace any such invalid or unenforceable provisions with valid and enforceable provisions designed to achieve, to the extent possible, the business purposes and intent of such invalid and unenforceable provisions.

14. Choice of Law; Jurisdiction and Venue. The terms of this Agreement shall be construed in accordance with the substantive laws of the Commonwealth of Massachusetts, without regard to its principles of conflicts of laws. Without limiting the generality of the foregoing, this Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods even if such Convention would otherwise be applicable in some respect to this license of software. The parties agree that construction and enforcement of this Agreement and disputes pertaining thereto shall be subject to the exclusive jurisdiction of state and federal courts located in the Commonwealth of Massachusetts and the parties consent to such jurisdiction and venue in such courts.

15. Compliance. Upon SSI request, but not more than annually, Licensee shall provide a letter certifying compliance with all terms and conditions of this Agreement, including number of Users or Seats.

16. U.S. Government Not a Party; Third Party Beneficiary. Although, as licensor to SSI, the U.S. Government is not a party to this Agreement and Licensee cannot enforce SSI's obligations hereunder against the U.S. Government, Licensee agrees that the U.S. Government is a third party beneficiary of the provisions that protect its interest in the Software and that it shall be entitled to enforce such provisions against Licensee. In case of such enforcement, Section 14 hereof shall be inapplicable and federal law shall control.

17. Acknowledgement; Entire Agreement. LICENSEE ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. LICENSEE FURTHER AGREES THAT IT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE LICENSE AGREEMENT BETWEEN LICENSEE AND SSI WHICH SUPERSEDES ANY PROPOSAL, OR PRIOR AGREEMENT, ORAL OR WRITTEN, AND ANY OTHER COMMUNICATIONS BETWEEN LICENSEE AND SSI RELATING TO THE SUBJECT MATTER OF THIS LICENSE AGREEMENT.

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- a. The Licensee understands that Spectral Sciences Inc. is not responsible for

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- c. Licensee understands that there may be restrictions on the ability to supply MODTRAN (and any direct product thereof) to specified end-users or for specified end-uses, as regulated by Part 744 (Control Policy: End-User and End-Use Based) of the EAR, unless there is prior authorization from the BIS. Licensee understands that MODTRAN must be used in compliance with the following regulations:

§744.2 Restrictions on Certain Nuclear End-Uses

§744.3 Restrictions on Certain Rocket Systems and Unmanned Air Vehicles End-Uses

§744.4 Restrictions on Certain Chemical and Biological Weapons End-Uses

Licensee agrees to limit use of MODTRAN to the end-uses disclosed in this Agreement.

- d. The obligations and requirements described in this section shall survive the expiration or termination of this Agreement.

Certification of End-Use:

____ This product is for US domestic end use and will not be exported.

____ This product is for export out of the United States. Destination/ end use application is: _____

IN WITNESS WHEREOF, the licensee has executed this Agreement.

Organization: _____

Signature: _____

Printed Name: _____

Title: _____

*Please return this document to Spectral Sciences Inc, 4 Fourth Ave, Burlington, MA
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EXHIBIT A

SOFTWARE LICENSE PURCHASE SCHEDULE Educational or Commercial Use

Description of MODTRAN Software:

The MODTRAN software ('Software') models atmospheric transmittance, radiation and scattering as a function of wavelength, based on user defined geometries, weather conditions, and models. The products of MODTRAN include spectral data ("Spectra") and atmospheric path concentrations. MODTRAN has served as the U.S. Air Force and DoD standard moderate spectral resolution radiative transport model for wavelengths extending from the thermal infrared (IR) through the visible and into the ultraviolet (0.2 to 10,000.0 μm). MODTRAN includes line-by-line and band-model calculation methods.

Type of License (Check applicable):

- Educational Use:** Educational Use licenses shall be used exclusively in connection with non-commercial research being performed by college and university researchers. Work being performed for commercial entities does not qualify as an Educational Use.
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 - Processing of 100 Gb to 1 Tb of spectral data per year.
 - Unlimited use for processing spectral data.
- Government Use.** Government Use licenses shall be used exclusively in connection with work being performed by or for the United States Government and the departments and agencies thereof (the "Government").

Scope of License:

Use of the Software is limited to Licensee’s internal uses at one physical site, or in the case of personal laptop use, users whose primary place of business is a single physical site. Licensee may report on results obtained with the Software and should duly reference the Software in reports and papers. Modification of the Software and databases is permitted for non-commercial use, including incorporation into Licensee’s *internal* software.

Type and Number of Units (check applicable):

Single User Desktop Use:

The licensee may install the Software on up to four fixed computers at a site per license, and allow it to be used by up to three personnel who are part of a workgroup or unit. Name and email address of each authorized user should be listed below. Additional installations on up to three portable devices, such as laptops, designated to the users and under permanent control of the workgroup are allowable, so long as use is limited to the authorized users.

Enterprise Use:

The licensee may install the Software on a server. A license manager will permit use of the software at any given time to a number of CPUs which may not exceed the purchased licensed seats.

Number of Seats: _____

Temporary Use:

The licensee may install the Software on desktops or laptops for temporary use by students taking a course at licensee’s organization. License management software and a license key limits usage to the agreed upon term.

Number of Seats: _____ Duration of Use: _____

Licensee Contacts:

POC name, address, phone and email: _____

POC is responsible for providing updates and customer technical support for non-registered Users. Only registered Users have direct access to online modtran5.com resources.

Names and email of authorized Users (Optional, for User Registration):

SSI Contacts:

Orders and inquiries: orders@spectral.com (use MODTRAN in subject line)

Technical support: modtran@spectral.com

Phone: 781-273-4770, request MODTRAN support

Fax: 781-270-1161

Online: www.modtran.com