

SARATECH SOFTWARE AND MAINTENANCE TERMS AND CONDITIONS

These terms and conditions (“**Terms**”) govern the sale of products (“**Products**”), including software (“**Software**”), and the provision of services (“**Services**”) by Paydarfar Industries, Inc. dba Saratech and its divisions, subsidiaries and affiliates (“**SARATECH**”), to the party to whom the applicable Quote is addressed (“**Customer**”). These Terms take precedence over Customer’s subsequent, supplemental or conflicting terms and conditions to which notice of objection is hereby given, regardless of whether or when Customer has submitted its request for quote, order, or such terms. Neither SARATECH’s commencement of performance or delivery shall be deemed or constituted as acceptance of Customer’s subsequent, supplemental or conflicting terms and conditions. These Terms, along with the Quote and License Agreement, constitute the entire agreement (“**Agreement**”) between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. In the event of any conflict between these Terms and the Quote, the Quote shall govern. Customer’s issuance of a purchase order, tender of payment by Customer, or acceptance of the Products and/or Services from SARATECH, whichever comes first, shall be deemed to constitute acceptance of the terms and conditions of the Agreement. THESE TERMS MAY ONLY BE WAIVED OR MODIFIED IN A WRITTEN AGREEMENT SIGNED BY AN AUTHORIZED REPRESENTATIVE OF SARATECH.

1. Definitions. As used in this Agreement:

- a. **Maintenance Service** consists of (a) the provision of Software updates, (b) the provision of telephone support in connection with the Software, (c) new versions of software and update patches during the Maintenance Term, (d) technical software license support, (e) SARATECH Technical Support, and (f) mentoring.
- b. **Maintenance Term** shall mean the period of time commencing on the first date of the annual maintenance cycle as indicated on the Quote and expiring on the maintenance expiration date indicated on the Quote.
- c. **Quote** shall mean the Quote provided to Customer, including these terms and conditions.

2. Term of Agreement. The term of this Agreement shall be the Maintenance Term as designated in the Quote and shall automatically renew for successive one (1) year terms unless terminated by Customer by providing notice of termination in writing at least sixty (60) days prior to the expiration of the initial term or any renewal term. If Customer purchases additional Software licenses during the term of this Agreement, SARATECH reserves the right to adjust the annual maintenance term and pro rate the annual maintenance fees for such add-on Software to be coterminous with the initial Software maintenance term and billing cycle. Should there be no Maintenance Term, this agreement shall commence on the date of Customer’s signature on the Quote or the issuance of a purchase order, and shall continue for a period of one year.

3. License Agreements and Software Purchases. Any Software or Services provided to Customer by SARATECH are subject to the terms and conditions of the License Agreement (including but not limited to the Shrink Wrap Agreement, End User License Agreement, Licensed Software Designation Agreement, and/or Software License and Services Agreement) between Customer and the product manufacturer (hereinafter, “**License Agreement**”). Nothing herein shall be construed or interpreted to alter, eliminate, or change in any manner the rights and obligations thereunder.

- a. For orders involving Siemens Product Lifecycle Management Software, Inc. Software and Services, the following License Agreement shall apply:
 - Siemens EULA
- b. For orders involving Mentor Graphics Software and Services, the following License Agreement shall apply:
 - Mentor EULA

4. Payment and Taxes. Customer agrees to pay the sum in the Quote. Advertised prices are in U.S. dollars and exclude shipping, handling and taxes unless otherwise noted. **All sales are final and all payments hereunder are non-refundable.** Any amounts payable pursuant to the applicable Quote are exclusive of all federal, state, local, municipal or other excise, sales, use, property or similar taxes and fees, now in force or enacted in the future and all such taxes and fees shall be

paid by the Customer. Please be advised that many manufacturers will not accept returns, which may affect Customer's ability to return or exchange newly purchased Product(s). Customer agrees to indemnify Saratech against all claims and that Customer will promptly address and settle tax payment with authorities.

5. Maintenance Renewal Payment Terms. All Maintenance Renewal payments must be paid prior to the commencement of the renewal term. If all sums due hereunder are not received by Saratech at least five (5) days before the renewal date stated in the quote, customer will be subject to a five percent (5%) late fee on the pre-tax subtotal of the invoice.

6. Successive Maintenance Terms. Saratech reserves the right to increase the price of successive Maintenance Terms in accordance with any increases imposed by Siemens.

7. Late Maintenance Renewal. Customer must renew its maintenance agreement prior to the expiration of the Maintenance Term indicated on the Quote. If Customer has allowed its maintenance payment to lapse, Customer's new maintenance term will be charged from the date of the expiration of the prior Maintenance Term as indicated on the Quote. Additionally, Customer will be subject to a reinstatement fee of twenty-five percent (25%) of the total maintenance owed for the period between the date of expiration of their prior maintenance agreement and the effective date of the reinstatement. The start of the new maintenance agreement will be backdated to the original maintenance agreement's expiration date.

8. Delaying Initial Purchase of Maintenance. If Customer purchases a new license without an initial maintenance contract, there is a ninety (90) day grace period within which Customer may purchase a new maintenance contract without incurring any fees or penalties. The new contract will be backdated to the delivery date of the original license. Should Customer purchase an initial maintenance contract after expiration of the ninety (90) day grace period, Customer will be assessed a twenty-five percent (25%) reinstatement fee on all back maintenance from the date of the delivery of the original license. No maintenance support is provided during the grace period.

9. Cancellation of Maintenance. Customer can elect not to renew maintenance for the next Maintenance Term by cancelling the maintenance contract with the submission of a written request no less than 60 days prior to the expiration of their Maintenance Term. Should Customer not provide at least 60 days prior written notice, maintenance will automatically renew as provided in Paragraph 2. SARATECH reserves the right to terminate this Agreement with written notice if Customer fails to comply with any terms of this Agreement or any terms of the License Agreement between Customer and the product manufacturer.

10. No Maintenance Reactivation. Should Customer allow their maintenance contract to lapse and fail to renew their maintenance contract within a 24-month period past the expiration date, Customer will not be eligible for maintenance reactivation; only the purchase of a new license will be possible.

11. Customer Acknowledgment and Responsibilities. Customer shall be solely responsible for all Services performed by SARATECH personnel for Customer. Customer shall not ask for Services beyond the scope of this Agreement. Customer shall accept sole liability for any and all Services performed outside the scope of this Agreement. SARATECH employees or personnel cannot accept management responsibilities under this Agreement nor shall they have signature authority. Customer agrees to direct the work of SARATECH personnel at all times and to provide all engineering inputs, assumptions, criteria, constraints or other information necessary to complete assigned project(s). SARATECH personnel shall not be responsible for any management of any kind including project management nor shall they have authority to approve final products. Customer acknowledges that such work is outside the scope of this Agreement. Customer shall defend, indemnify, and hold SARATECH harmless from any and all claims, fines, penalties, assessments, liabilities, losses, and expenses, including attorneys' fees, citation, fines and court costs, and liabilities of every kind arising from work performed under this Agreement.

12. Charges and Additional Fees. On-site mentoring has a minimum time charge of four (4) hours. Travel time as well as time spent at the Customer's site will be deducted from Customer's balance of mentoring hours. On-site visits requiring an overnight stay will incur an additional charge of three (3) mentoring hours per night. Each visit may last no

longer than five (5) consecutive overnight stays. Additional fees may apply including, but not limited to, fees for laptop rentals, training facilities, training and other costs relating to classes.

13. Assigning Personnel, On Site Service Calls and Cancellations. All onsite visits must be scheduled no less than three (3) weeks in advance. SARATECH will try to accommodate any requests for specific SARATECH personnel, but cannot guarantee a specific engineer for any project or call. Customer shall be responsible for all travel fees and/or costs resulting from Customer cancellation of an onsite visit.

14. Intellectual Property. SARATECH shall exclusively own all intellectual property rights to its own deliverables and any intellectual property rights derived therefrom.

15. Preexisting Work. Services articulated herein may require the use of SARATECH technical data (specifications, formulae, processes and/or computer software) developed at private expense and protected by copyright or other intellectual property rights or considered a trade secret by SARATECH or third parties ("Preexisting Works"). Such use or reference shall not constitute or imply a grant of a license, a transfer of any title or right, or any other right to use such Preexisting Works. All rights, titles and interest in any Preexisting Works, and in any modifications, enhancements or derivatives thereto utilized in the performance of this Agreement is and shall remain in SARATECH and its licensors. Preexisting Works provided are intended only for use in relation to the Services provided hereunder. Customer may not duplicate, redistribute or utilize Preexisting Works whether internally or externally.

16. No Warranties and Limitation of Liability.

- a. SARATECH makes no representations or guarantees as to the level of expertise, background and or skills of the SARATECH employees or contractors utilized in performance of Services hereunder. EXCEPT AS EXPRESSLY SET FORTH HEREIN, ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, ARE HEREBY DISCLAIMED AND EXCLUDED BY SARATECH, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. SARATECH SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY SARATECH IN FURNISHING PRODUCTS, SERVICES OR ANY OTHER PERFORMANCE UNDER OR PURSUANT TO THIS AGREEMENT. CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR BREACH OF ANY AND ALL WARRANTIES AND FOR SARATECH'S LIABILITY OF ANY KIND (INCLUDING LIABILITY FOR NEGLIGENCE) UNDER THIS AGREEMENT SHALL BE LIMITED TO THE REFUNDING OF THE SUM OF CUSTOMER'S MAINTENANCE AND PREMIUM MAINTENANCE SERVICE FEE SET FORTH IN THE QUOTE FOR THE MAINTENANCE TERM.
- b. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL SARATECH BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST DATA, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR OTHER PECUNIARY LOSS) REGARDLESS WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF WARRANTIES, FAILURE OF ESSENTIAL PURPOSE OR OTHERWISE, EVEN IF SARATECH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.
- c. SARATECH'S TOTAL LIABILITY UNDER THIS AGREEMENT FOR ANY REASON SHALL NOT EXCEED THE TOTAL AMOUNT RECEIVED BY SARATECH FROM CUSTOMER UNDER THIS AGREEMENT.
- d. FURTHERMORE, SARATECH MAKES NO WARRANTY THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE. UNDER NO CIRCUMSTANCES SHALL SARATECH BE LIABLE TO ANY THIRD PARTY HEREUNDER. Customer acknowledges that SARATECH shall not under any circumstances be liable or responsible in any manner for any malfunction of or defects in third party software, including, but not limited to third party software sold by SARATECH. SARATECH has not evaluated the suitability or compatibility of the Product(s) within the Customer's technology environment. Similarly, SARATECH does not warrant that the functions of the Product(s) will meet Customer's requirements or that the Product(s) will operate in combination with other Product(s) selected by Customer or Customer use. Customer's rights and remedies for all software sold by SARATECH are outlined in the respective Software License Agreement. Nothing contained herein shall be construed to confer additional rights or remedies on

Customer.

17. Indemnification. Customer shall defend, indemnify, and hold SARATECH harmless from any and all claims, fines, penalties, assessments, liabilities, losses, and expenses, including attorneys' fees, citation, fines and court costs, and liabilities of every kind arising from any acts or omissions committed by Customer or Customer's employees or agents. Customer shall be responsible for any and all liabilities of every kind and nature which may be imposed by reason of any asserted or established violation of law, order, rule or regulation by Customer, its employees, or agents.

18. Non-Exclusivity. Except as provided herein and except as otherwise expressly agreed to in writing by the parties, the relationship between the parties is non-exclusive. Nothing in this Agreement shall preclude SARATECH from entering into relationships with any other companies which are similar to the relationship with Customer, nor shall this Agreement preclude SARATECH from marketing or providing its products or services to any person or entity as SARATECH sees fit, or from independently developing, marketing or selling any products or services that are similar to or compete with the other party's products or services.

19. Survival. Customers obligations under Sections 3, 4, 5, 11, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 shall survive termination of this Agreement.

20. Relationship. In all matters relating to this Agreement, the Parties are acting as independent contractors. No partnership, joint venture or similar relationship is intended or created by this Agreement. Neither party: (a) is the agent of the other, (b) has the authority to bind the other, or (c) shall hold itself out to third parties as having any such authority.

21. Severability. If any provision of this Agreement shall be unlawful, void, or for any reason unenforceable, it shall be deemed severable from, and in no way shall affect the validity or enforceability of, the remaining provisions of this Agreement. If a court/arbitrator determines that part or all of this Agreement is not valid/enforceable, the Parties agree and request that the Agreement be reformed to make as much of it valid/enforceable as possible.

22. Assignment and Delegation. Neither Party shall assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that either Party may assign its rights or delegate its obligations without such consent to (a) affiliates, or (b) an entity that acquires all or substantially all of the business or assets of such party to which this Agreement pertains, whether by merger, reorganization, acquisition, sale, or otherwise. Any purported assignment or delegation in violation of this Section shall be null and void. However, Customer acknowledges and agrees that Saratech may utilize subcontractors in the performance of its duties hereunder.

23. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns.

24. Captions and Headings. Captions and headings used in Agreement are for convenience only, and are not part of this Agreement and shall not be used in construing its meaning.

25. Export. Customer acknowledges that property supplied or developed by either party under the Agreement may be subject to export controls under the applicable laws and regulations. Customer shall comply with such laws and regulations, and, agrees not to knowingly export, re-export, or transfer property without first obtaining all required governmental authorizations or licenses. Each party agrees to provide the other with such information and assistance as may reasonably be required by the other in connection with securing such authorizations or licenses, and to take timely action to obtain all required support documents.

26. 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, amendment or other modification of any provision of this Agreement will be effective only if in writing and signed by the parties.

27. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without reference to choice of law principles including, but not limited to, matters of construction, validity effect or performance.

28. Consent to Jurisdiction and Venue. In the event that any litigation or other legal proceedings shall arise under or in connection with this Agreement, and which are not subject to arbitration hereunder, such litigation or other legal proceeding shall be conducted in the federal, state or local courts located within Orange County, California. Furthermore, the Parties consent to jurisdiction and venue in any federal, state or local court located in Orange County, California, and the Parties hereby waives any defenses or objections thereto, including defenses based on the doctrine of forum non conveniens.

29. Solicitation of Employees. Customer agrees that during the term of the Agreement and for a period of twelve (12) months immediately following the termination of the Agreement for any reason, whether with or without cause, Customer shall not either directly or indirectly solicit, induce, recruit or encourage any of SARATECHs employees to leave their employment with SARATECH.

30. Force Majeure. Neither party will be in default of this Agreement or be liable for any delay or failure in performance resulting directly or indirectly from any cause beyond its reasonable control; provided, however, that either party who fails because of force majeure to perform its obligations hereunder will, upon the cessation of the force majeure, take all reasonable steps within its power to resume compliance under the Agreement with the least possible delay.

31. Hazardous Materials. The scope of SARATECH's services for this Agreement does not include any responsibility for detection, remediation, accidental release, or services relating to waste, oil, asbestos, lead, or other hazardous materials, as defined by Federal, State, and local laws or regulations.