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NOVELL, INC.
NETSCAPE COMMUNICATIONS CORPORATION
SOFTWARE LICENSE AGREEMENT

This Software License Agreement ("Agreement") is between Novell, Inc., a Delaware corporation, with a place of business at 2180 Fortune Drive, San Jose, California 95131 ("Novell"), and Netscape Communications Corporation, a Delaware corporation, with a place of business at 501 East Middlefield Road, Mountain View, California 94043 ("Netscape"). This Agreement becomes effective when executed by an authorized Novell representative ("Effective Date").

RECITALS

- A. Novell designs, manufactures, markets, and distributes computer networking products under various trademarks, including its "NetWare," "WordPerfect," "LAN WorkPlace," and "LAN WorkGroup" trademarks. Novell has acquired extensive know-how and related technical information and owns certain proprietary rights with respect to those products.
- B. Netscape has created and/or acquired rights to certain computer software. Such rights or license allow Netscape to modify, manufacture, market, and distribute certain computer software known as Netscape Navigator ("Licensed Software").
- C. Novell is interested in acquiring license rights to include Netscape's Licensed Software in some of Novell's own product offerings. In addition, Novell is interested in receiving support and maintenance services from Netscape in connection with Licensed Software.
- D. Netscape is interested in providing Novell with the rights and services described above in return for certain fees.
- E. Novell intends to use commercially reasonable efforts to participate in certain standards bodies such as W3C and applicable security standards to enable Novell and Netscape products to interoperate.
- F. The above is intended only to summarize some of the major terms of this Agreement. The actual terms and conditions are stated below.

AGREEMENT

Novell and Netscape agree as follows:

1. **DEFINITIONS.** Capitalized terms in this Agreement have the meanings stated below or defined elsewhere in this Agreement. A reference to a particular exhibit is to an exhibit to this Agreement. A reference to a particular section is to a section of this Agreement.

1.1 *Platform(s).* "Platform(s)" means those operating system software listed on Exhibit A.

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attached hereto.

- 1.2 *Licensed Software.* "Licensed Software" means, collectively, the object code form of any release of the LAN-based Netscape Navigator (and derivative works thereof created by Novell in the event a source code license is executed between the parties) and all Corrections, Upgrades, and Enhancements provided to Novell by Netscape under this Agreement. In addition, Licensed Software includes any end user documentation associated with the Licensed Software in hard copy form and magnetic media.
- 1.3 *Confidential Information.* "Confidential Information" means the information and materials which are marked or noticed by either party as confidential or proprietary, and any trade secrets or know-how of either party disclosed to the other under this Agreement but does not include information that has been publicly known or available without breach of this Agreement or independently developed without reference to Confidential Information.
- 1.4 *Correction.* "Correction" means a fix, modification or revision, other than an Upgrade, to correct known functional errors or defects or which provides other incidental corrections made generally available by Netscape.
- 1.5 *Novell Bundled Products.* "Novell Bundled Products" means the software products developed, marketed and distributed by Novell that incorporate Licensed Software.
- 1.6 *Enhancement.* "Enhancement" means the addition of a new function or feature made generally available by Netscape.
- 1.7 *Upgrade.* "Upgrade" means an improvement in the performance, other than a Correction, of an existing function or feature made generally available by Netscape. Upgrade does not include software releases reasonably designated by Netscape as new products.

2. LICENSES.

2.1 *Licensed Software.* In consideration of the fixed fee ("Fixed Fee") paid by Novell under this Agreement, Netscape grants Novell, and Novell accepts, a nonexclusive, nontransferable, worldwide license to use, reproduce, distribute, combine and integrate the Licensed Software with Novell Bundled Products and to sublicense the right to use, reproduce and distribute the Licensed Software with Novell Bundled Products.

2.2 *Corrections, Upgrades, and Enhancements.* Pursuant to a separate support agreement attached hereto as Exhibit C ("Exhibit C") which is incorporated into and made a part of this Agreement by this reference, Netscape grants Novell, and Novell accepts, a nonexclusive, nontransferable, royalty-paid (pursuant to Paragraph 6.3 of this Agreement), worldwide license to use object code form of Netscape's Corrections, Upgrades, and Enhancements to Licensed Software to which Novell has purchased license rights pursuant to Sections 5, 6.3 and 6.6 to use, reproduce, distribute, combine and integrate the Corrections, Upgrades, and Enhancements with Novell Bundled Products and to sublicense the right to use, reproduce and distribute the Corrections, Upgrades, and Enhancements with Novell Bundled Products.

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2.3 *Restrictions.* Novell will include and/or not alter Netscape' or Netscape' licensor's copyright, trade secret, proprietary and/or other legal notices contained on or in copies of the Licensed Software as provided to Novell by Netscape. Finally, all copies of the Novell Bundled Products will bear the following or other appropriate legend as amended from time to time:

U.S. Government Restricted Rights. Use, duplication, or disclosure by the United States Government is subject to restrictions as set forth in FAR § 52.227-14 (June 1987) Alternate III(g)(3) (June 1987), FAR § 52.227-19 (June 1987), or DFARS § 52.227-7013 (c)(1)(ii) (June 1988), as applicable. Contractor/Manufacturer is Novell, Inc., 122 East 1700 South, Provo, Utah 84606.

Novell agrees not to decompile, disassemble, or otherwise determine or attempt to determine source code for the executable code of the Licensed Software or to create any derivative works (except as otherwise stated in the source code license agreement) based upon the Licensed Software and agrees not to permit or authorize anyone else to do so.

2.4 *Trademark License.* Novell is authorized to use the "Netscape Navigator" trademark or "Netscape" tradename in connection with the Licensed Software licensed under this Agreement in its marketing of the Novell Bundled Products during the term of this Agreement. Novell and its employees and agents shall not remove or alter any trademark, trade name, copyright or other proprietary notices, legends, symbols, or labels appearing on or in copies of the Licensed Software delivered to Novell by Netscape and shall use the same notices, legends, symbols, or labels in and on copies of the Licensed Software as are contained in and on such Licensed Software. In addition and notwithstanding any Novell Bundled Products in Novell's channel at the time of termination of this Agreement provided such termination is not related to Novell's misuse of Netscape's trademark or trade name, upon the termination of this Agreement Novell agrees to cease all display, advertising and use of any and all Netscape trademarks or tradenames. Novell recognizes Netscape's ownership and title to the trademarks and tradename and the goodwill attaching to each. Novell agrees that any goodwill which accrues because of its use of the trademarks or trade name will become Netscape's property. Such trademark or tradename usage may not apply to any derivative works created by Novell provided, however, the parties may agree to address this provision in a subsequent source code license agreement.

2.5 *End User License Agreement.* Novell and its distributors or licensees shall distribute the Licensed Software under the terms and conditions of Novell's applicable end user license agreement ("EULA"). Novell and its distributors or licensees shall use commercially reasonable efforts to enforce each applicable EULA with at least the same degree of diligence used in enforcing similar agreements governing their own software products. Novell shall use commercially reasonable efforts to protect Netscape's copyright, shall notify Netscape of any breach of a material obligation under an EULA affecting the Licensed Software, and will use commercially reasonable efforts to cooperate with Netscape in any legal action to prevent or stop unauthorized use, reproduction or distribution of the Licensed Software.

3. DELIVERY.

Netscape shall, within five (5) days of the Effective Date of this Agreement, provide Novell one (1) complete copy of the released Licensed Software in object code form only. Netscape will bear all freight,

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shipping, and handling costs for delivery of Licensed Software. Netscape will also bear all risk of loss, including any insurance costs.

4. ACCEPTANCE.

Acceptance ("Acceptance") testing will be conducted by Netscape and Novell at Netscape's facility in Mountain View, California followed by testing by Novell at Novell's facility in San Jose, California. Within five (5) days of the Effective Date of this Agreement, Netscape shall submit to Novell a test plan ("Test Plan") and test specification ("Test Specification"). Based upon such Test Plan and Test Specification, Novell shall prepare and submit to Netscape its minimum requirements ("Minimum Requirements") and test plan scenario ("Test Plan Scenario") which shall be mutually agreed upon by both parties. Acceptance testing at Netscape's facility will be completed by the parties 35 days prior to shipping to Novell the Licensed Software in final form, and shall be conducted according to the Minimum Requirements and Test Plan Scenario delivered to Netscape by Novell. Upon the successful completion of the Acceptance test at Netscape's facilities, Netscape will deliver the test report to Novell. Novell may send engineers to Netscape's facility during the Acceptance test process to witness the testing. Acceptance of the Licensed Software as conforming to the Minimum Requirements and the Test Plan Scenario shall be mutually agreed upon by the parties.

Following the completion of the Acceptance testing at the Netscape facility, Netscape will send a test engineer to Novell for a period not to exceed one week to install the Licensed Software and the test code, and to assist Novell engineers in repeating the test procedures. The Licensed Software will be considered accepted at the earlier of successful completion, as reasonably determined by Novell, of the Acceptance testing at Novell's facilities or Novell's shipment of the Licensed Software with the Novell Bundled Products.

If any of the Licensed Software or any Platform(s) fails to pass the Acceptance test, Novell will promptly notify Netscape in writing, and Netscape will have fifteen (15) days to correct the defect(s) and deliver Licensed Software to Novell in a form that successfully passes the entire Acceptance testing process. If Netscape fails, as determined in Novell's reasonable judgment, to successfully correct the Licensed Software defects within fifteen (15) days of receiving Novell's written notice of such defect(s), Novell may elect to cancel this Agreement or delete certain Licensed Software from Exhibit A, in which case Novell will be entitled to a full refund of any license fee it paid in connection with the particular Licensed Software that failed to pass the Acceptance testing, and Novell will have: (a) no further payment obligations to Netscape in connection with such Licensed Software, and (b) no rights with respect to such Licensed Software, Corrections, Upgrades or Enhancements.

5. MAINTENANCE AND SUPPORT.

5.1 In exchange for applicable maintenance and support fees paid by Novell to Netscape under a separate support agreement attached hereto as Exhibit C, Netscape will provide Novell maintenance for the Licensed Software for which Novell has purchased license rights, including all applicable Corrections. Specifically, the parties contemplate establishing forums for quarterly meetings of representatives of both parties in order to mutually agree in writing to maintenance and update objectives and time frames ("Maintenance Objectives").

5.1.1 Netscape shall provide Novell with a telephone number which Novell may call to

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report program errors during Netscape's local California business hours. Novell shall identify 1 member of its customer support staff and an alternate to act as the primary technical liaisons responsible for all communications with Netscape's technical support representative. Netscape reserves the right to charge Novell at its then standard rates for services performed in connection with reported program errors which occur in the Licensed Software release which is not the then current release, and is reported later than 6 months after the release of a Correction or Upgrade. Novell, and not Netscape, shall be responsible for providing Corrections, Enhancements and Upgrades to the Licensed Software and technical support and replacement of defective media to its customers. Novell agrees that any Licensed Software documentation distributed by Novell will clearly and conspicuously state that end users should call Novell for technical support for the Licensed Software. If Netscape customer support representatives are being contacted by a significant number of Novell end users then, upon Netscape's request, the parties shall cooperate to minimize such contact.

5.2 During the term of this Agreement, Netscape shall provide Novell, at no charge, the following:

1. Netscape agrees to make the necessary modifications ^{to its license notice to be compatible} ~~to remove its license notice;~~ with Novell's licensing policy;
2. Netscape shall make any specifications reasonably required to maintain compatibility with releases of LAN WorkPlace, assuming such releases continue to adhere to the then current WinSock specification; and
3. Netscape shall support customization of installation required to be compatible with Novell Bundled Products.

At Novell's option, Netscape will provide to Novell mutually agreed upon customization in connection with Licensed Software at a rate that is at least as favorable as that Netscape charges its most favored licensees and under at least as favorable terms and conditions. However, Novell will have no obligations to purchase any additional Licensed Software compatibility engineering from Netscape.

6. CONSIDERATION.

6.1 *Licensed Software License Fee.* In exchange for the license rights granted from Netscape to Novell under Section 2.1 (Licensed Software), Novell will pay Netscape a Fixed Fee of \$1,250,000.00 for unlimited copies of the Licensed Software it distributes in accordance with the following payment schedule:

- \$500,000.00 due and payable on or before 31 March 1995;
- \$500,000.00 * due and payable on or before 31 March 1996; and
- \$250,000.00 due and payable on or before 31 March 1997.

* in consideration for Novell's potential business costs associated with pursuing this Agreement with Netscape ("Business Costs"), Netscape grants Novell the right to take a maximum credit of \$220,000.00

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("Maximum Credit") against this payment obligation; but, Novell agrees to use its reasonable efforts to minimize such Business Costs. On or before 31 March 1996, Novell shall pay to Netscape the difference between \$500,000.00 and its actual Business Costs, but in no event less than \$280,000.00.

6.2. No Additional Royalty. There will be no restriction under this Agreement on the number of copies of the Licensed Software that Novell can use, reproduce, distribute and sublicense pursuant to the license grant in Paragraph 2.1.

6.3 Upgrade License Fees. Novell shall be entitled to Upgrades, at no charge, during the first year of this Agreement. Novell shall pay to Netscape an annual fee of \$200,000.00 a year for Upgrades and Enhancements released by Netscape during the remaining term of this Agreement. Such annual fee shall be due beginning 1 year from the Effective Date of this Agreement.

6.4 Source Code License Fee(s). Netscape agrees to offer Novell the non-exclusive option to license source code versions of the Licensed Software pursuant to the terms and conditions of a separate source code license agreement between the parties so Novell can create and distribute derivative works. Notwithstanding the foregoing, the parties acknowledge and agree that: (1) currently Netscape may have no right to grant source code sublicense rights in and to RSA's software and certain public domain software in the Licensed Software; and (2) Netscape may acquire limited rights to third party source code that do not include sublicense rights. If Netscape secures source code sublicensing rights to such RSA software, or any source code sublicensing rights to future third party software included in the Licensed Software, then Netscape agrees to offer such source code sublicense rights to Novell. Novell will pay Netscape \$100,000 on execution of such source code license agreement granting the rights in this section for any one of the Platforms listed in Exhibit A, at Novell's discretion. Novell will pay Netscape \$50,000 for each additional Platform on execution of a source code license agreement granting these rights. If source code is licensed by Novell, support for 1 or more of the Platforms specified in Exhibit A is \$50,000 per year for the first Platform and \$10,000 per year for each additional Platform. Source code support services shall be set forth in the source code license agreement. The source code license pricing set forth herein is based, in part, on Novell's commitment as set forth in Section 8. below. The parties agree that Novell will have full discretion as to whether it chooses to license source code for any Platform(s).

6.4.1 In the event Netscape can not provide source code sublicense rights to any third party portions of the Licensed Software because Netscape does not have the right to do so, Netscape shall submit to Novell the necessary information so Novell can negotiate independently Novell's source code sublicense rights.

6.5 Payment terms. All payments will be made in U.S. dollars by check mailed to Netscape's principal office identified in the preamble of this Agreement.

6.6. Maintenance and Support Fees. All maintenance and support fees shall be in accordance with and pursuant to a separate support agreement between the parties attached hereto as Exhibit C.

6.7 Taxes. All payments under this Agreement by Novell to Netscape are exclusive of all federal, state, local and foreign taxes, levies and assessments. Novell agrees to pay all taxes associated with the marketing, sublicensing and delivery of the Licensed Software licensed under this Agreement,

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including, without limitation sales, use excise, added value and similar taxes and all customs, duties or governmental impositions, but excluding taxes on Netscape's net income.

7. SOURCE CODE ESCROW.

Netscape will, at Netscape's cost for the initial set-up and deposit of the Licensed Software into escrow, deposit (the source code version of the Licensed Software) and maintain in an escrow account all current copies of the source code to each of the Licensed Software products to which Novell purchases license rights, including all Corrections, Upgrades, and Enhancements to those products. Novell shall share maintenance costs with other Netscape licensees for such deposit of Licensed Software. Such escrow arrangement shall be pursuant to a separate source code escrow agreement. The source code escrow agreement will provide Novell the right to obtain the source code in certain specific instances enumerated in the source code escrow agreement including Netscape's material failure to carry out its maintenance obligations under any separate support agreement or Netscape's failure to continue to do business in the ordinary course.

Should the release events enumerated in such source code escrow agreement for the Licensed Software occur and not be resolved by Netscape within one hundred twenty (120) days, Novell will have the option of (i) receiving the escrowed source code for the limited support and maintenance purposes further described in the source code escrow agreement, or (ii) purchasing the nonexclusive license rights to the Licensed Software as specified in Section 6 above. Novell will have the option, at any time, to purchase nonexclusive license rights to such source code for the Licensed Software, including future Corrections, Upgrades, and Enhancements as of the time of the purchase of such source code license rights, for One Hundred Thousand Dollars (\$100,000.00) for a specific Platform pursuant to a separate source code license agreement and as specified in Paragraph 6.4 of this Agreement.

Novell's nonexclusive license rights to the source code versions of the Licensed Software if purchased pursuant to the provisions of Section 6 will be unrestricted with the exception that Novell may not distribute the source code to third parties, other than contractors performing services for Novell under appropriate confidentiality agreements.

8. JOINT DEVELOPMENT

Subsequent to this Agreement, both parties intend to collaborate in developing NLM based server products. The parties shall negotiate a separate joint development agreement as soon as practicable which shall be mutually agreed upon. Netscape and Novell shall agree on terms for customization as part of such joint development agreement.

9. TERM, TERMINATION, RETURN OF TECHNOLOGY.

9.1 *Term.* The term of the license rights granted to Novell in Section 2 (*Licenses*) will be from the Effective Date of this Agreement through 31 March 1998 and shall automatically renew thereafter for 1 year term(s) unless terminated by either party in accordance with the provisions of this Section. The term of the maintenance and support services described in Section 5 (*Maintenance and Support*) shall be concurrent with Novell's license grant in Section 2.

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9.2 *Termination.* One (1) year from the Effective Date of this Agreement, Novell may terminate this Agreement at any time with or without cause, by providing Netscape with ninety (90) days prior written notice thereby ~~not~~ terminating this Agreement ~~more~~ than 1 year and 90 days after the Effective Date. In addition, either party may terminate at any time upon the other party's failure to cure a material breach of this Agreement following thirty (30) day's prior written notice of the breach. In the event of termination for breach by Netscape, Novell will be entitled to a refund of all maintenance and support fees on a *pro rated* basis. In addition, in the event of termination, Novell will have no obligation to pay any further fees (including royalty) to Netscape under this Agreement. Finally, Novell will discontinue its distribution of Novell Bundled Products following termination once its then current inventory has been exhausted; provided, however, that if this Agreement is terminated due to a breach by Novell, Novell will cease distribution of the Licensed Software as soon as practicable.

9.3 *Return of Technology.* Within 30 business days after termination of this Agreement, Novell shall either deliver to Netscape or destroy all copies of the Licensed Software (except as otherwise stated herein) and any other materials provided by Netscape to Novell hereunder. Notwithstanding the foregoing, and provided Novell fulfills its obligations specified in this Agreement with respect to such obligations, Novell may continue to use and retain copies of the Licensed Software to the extent, but only to the extent, necessary to support and maintain Licensed Software rightfully distributed by Novell prior to termination of this Agreement. Notwithstanding the termination of this Agreement, all end user sublicenses which have been properly granted by Novell pursuant to this Agreement prior to its termination shall survive.

10. WARRANTIES.

10.1 *Ownership.* Title to and ownership of all copies of the Licensed Software whether in machine-readable or printed form, and including, without limitation, derivative works (unless otherwise stated in the source code license agreement), compilations, or collective works thereof and all related technical know-how and all rights therein (including, but not limited to rights in patents, copyrights, and trade secrets applicable thereto), are and shall remain the exclusive property of Netscape and its licensors. Novell shall not take any action to jeopardize, limit or interfere in any manner with Netscape's ownership of and rights with respect to the Licensed Software. Netscape warrants to Novell that it has a valid right to modify, distribute, and sublicense the Licensed Software. Netscape further warrants that the Licensed Software does not infringe any person's copyright, trademark, trade name or trade secret rights, that Netscape has the right to grant and assign to Novell all rights to Licensed Software granted herein without violating any rights of any third party, and that to Netscape's knowledge there is currently no actual or threatened suit by any third party based on an alleged violation of these rights by Netscape, and that the information contained in the Intellectual Property Rights Questionnaire (*Exhibit B*) is accurate to the best of Netscape's knowledge without extensive inquiry.

10.2 *Performance.* Netscape warrants that, for 6 months following Acceptance, the Licensed Software will perform in substantial compliance with all Netscape documentation and that all media containing Licensed Software and related materials delivered to Novell will be free from physical defects in materials and workmanship. In addition, Netscape specifically warrants that, for 6 months following Acceptance, the Licensed Software provided in accordance with Section 3 (*Delivery*) will perform in substantial compliance with the requirements set forth in Novell's Minimum Requirements and Test Specification.

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NETSCAPE MAKES NO OTHER WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY THAT THE LICENSED SOFTWARE IS FREE OF ERRORS. NETSCAPE AND ITS AUTHORIZED DEALERS SHALL NOT BE LIABLE FOR THE COST OF ANY REPAIR OR CORRECTION REQUIRED FOR DEFECTIVE LICENSED SOFTWARE MATERIALS EXCEPT AS STATED IN THIS SECTION. EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION, NETSCAPE AND ITS LICENSOR DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY EXPRESS OR IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF DESIGN, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE.

10.3 *Limitation of Liability.* Notwithstanding any other provision of this Agreement, Netscape's liability for damages will be limited to \$10,000,000.00 or 5 times the aggregate paid by Novell under this Agreement combined with the separate support agreement, whichever is greater. IN NO EVENT WILL NETSCAPE OR ITS LICENSOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL PUNITIVE, OR CONSEQUENTIAL DAMAGES, LOST REVENUES OR PROFITS, DATA, OR USE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY HOWEVER CAUSED, NO MATTER WHAT THEORY OF LIABILITY, EVEN IF NOVELL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11. INDEMNIFICATION.

11.1 Netscape agrees to indemnify and hold harmless Novell and its subsidiaries or affiliates under its control, and their directors, officers, employees, and agents, against any and all losses, liabilities, judgments, awards, and costs (including reasonable legal fees and expenses) arising out of or related to any claim that Novell's use or possession of Licensed Software pursuant to the rights granted in this Agreement, infringes or violates the copyright, trademark, trade name, trade secret, or patent rights of any third party. Netscape will defend at its sole expense all suits or proceedings arising out of the claims described above, provided that Novell gives Netscape prompt notice and control of any claim of which it learns: No settlement that prevents Novell from continuing to use Licensed Software will be made without Novell's prior written consent unless Netscape procures for Novell the right to continue using the Licensed Software, replaces or modifies the Licensed Software so that it becomes non-infringing. Netscape shall have the right to choose legal counsel reasonably acceptable to Novell and Novell shall have the right to participate in the defense of any claim involving the use of Licensed Software, provided that Netscape will not be responsible for indemnifying Novell for the cost of Novell's attorney's fees.

11.2 Netscape shall have no liability for any claim based upon (a) use of other than a current unaltered version of the Licensed Software, (b) use, operation or combination of Licensed Software with non-Netscape programs, data, equipment or if such infringement would have been avoided but for such use, operation or combination, (c) Novell's or its agent's activities after Netscape has notified Novell that Netscape believes such activities may result in such infringement, or (d) Novell's use of any trademarks other than those authorized by Netscape. If Netscape receives notice of a claim based upon Novell's breach or Novell's combination of the Licensed Software with programs not supplied by Netscape, Netscape will promptly notify Novell in writing of the claim and will permit Novell to have the sole control of the defense of any claim or action and all negotiations for its settlement and compromise, provided Novell can provide adequate assurances to Netscape that Novell will diligently pursue resolution of the claim.

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12. GENERAL PROVISIONS.

12.1 *Force Majeure.* If either party is prevented from performing any portion of this Agreement by causes beyond its control, including labor disputes, civil commotion, war, governmental regulations or controls, casualty, or acts of God, the defaulting party will be excused from performance for the period of the delay and for a reasonable time following the delay.

12.2 *Jurisdiction.* This Agreement will in all respects be governed by and interpreted in accordance with the laws of the State of California as applied to transactions taking place in California between California residents. Any action or proceeding brought by either party against the other arising out of or related to this Agreement may be brought in a state or federal court of competent jurisdiction located within Santa Clara County, California, and Novell and Netscape each consents to the personal jurisdiction of those courts.

12.3 *Waiver.* No waiver of any right or remedy on one occasion by either party will be deemed a waiver of that right or remedy on any other occasion.

12.4 *Entire Agreement; Amendments.* This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter of this Agreement and merges all prior discussions. Neither party will be bound by any conditions, definitions, warranties, understandings, or representations with respect to the subject matter other than as expressly provided in this Agreement, or as duly set forth on or subsequent to the Effective Date in writing and signed by a proper and duly authorized representative of the party to be bound thereby. No provision appearing on any form originated by either party will be applicable unless the provision is expressly accepted in writing by the other party.

12.5 *Assignment.* Neither party may assign its rights or delegate its duties under this Agreement, in whole or in part, without the other's prior written consent. Any attempted assignment without written consent will be void, provided that either party may, without further consent from the other, assign its rights or delegate its duties under this Agreement in connection with a corporate merger by that party or a sale of substantially all of its assets. In addition, Novell may, without further consent from Netscape, assign its rights and delegate its duties under this Agreement, in the event of a sale or spin-off of Novell's product line that includes the Novell Bundled Products.

12.6 *Notice.* Unless otherwise agreed to by the parties, all notices required under this Agreement (except those relating to product pricing, changes, and upgrades) must be (A) registered mail or certified mail, return receipt requested, (B) overnight mail, or (C) personal delivery addressed and sent to the address first above written and to the attention of the party executing this Agreement or that person's successor. Notices will be effective on the earlier of receipt or three business days after dispatch. Either party may change its address for receipt of notice by notifying the other party.

12.7 *Severability.* If any provision of this Agreement is declared to be invalid, Novell and Netscape agree that the invalidity will not affect the validity of the remaining provisions of this Agreement and further agree to substitute for the invalid provision a valid provision which most closely approximates the intent and economic effect of the invalid provision.

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12.8 *Independent Contractors.* Each party acknowledges that both parties to this Agreement are independent contractors and that neither party will represent itself as an agent or legal representative of the other.

12.9 *Cumulative Remedies.* The remedies under this Agreement will be cumulative and not alternative and the election of one remedy for breach will not preclude pursuit of other remedies.

12.10 *Attorneys' Fees.* If any dispute arises between the parties with respect to the matters covered by this Agreement which leads to a proceeding to resolve the dispute, the prevailing party in the proceeding will be entitled to receive its reasonable attorneys' fees, expert witness fees, and out-of-pocket costs incurred in connection with the proceeding, in addition to any other relief it may be awarded.

12.11 *Publicity.* This Agreement is confidential and neither party will issue press releases or engage in other types of publicity of any nature dealing with commercial and legal details of this Agreement or its subject matter without the other's prior written approval, which will not be unreasonably withheld.

12.12 *Confidential Information.* Neither party will provide all or any portion of the other's confidential information to any third party or use such confidential information for any purpose other than the purpose for which it was disclosed.

12.13 *Compliance with Laws.* Novell will comply, at its own expense, with all statutes, regulations, rules, ordinances, and orders of any governmental body, department or agency which apply to or result from Novell's obligations under the Agreement. Novell agrees to not export Novell Bundled Products directly or indirectly, separately or as part of a system, without first obtaining proper authority to do so from the appropriate governmental agencies or entities, as may be required by law. In particular, Novell, absent any required prior authorization from the Office of Export Licensing, U.S. Department of Commerce, 14th and Constitution Avenue, Washington, D.C. 20230, OEM will not export or reexport (as defined in Section 779 of the Export Administration Regulations, as amended ("Regulations")) the Novell Bundled Products, any technical data or other confidential information, or direct product of any of the foregoing, to Afghanistan, Iraq, Iran, Syria, the People's Republic of China, Yugoslavia, or any Group Q, S, W, Y, or Z country specified in Supplement No. 1 to Section 770 of the Regulations.

12.14 *Survival of Promises.* The provisions of this Agreement which by their nature extend beyond termination of this Agreement shall survive and remain in effect until all obligations are satisfied.

NOVELL, INC.

NETSCAPE COMMUNICATIONS
CORPORATIONBy: Steven MarkmanBy: James L. BarksdaleName: Steve MarkmanName: JAMES L. BARKSDALETitle: Executive Vice President and
General Manager I.A.M.GTitle: PRESIDENT, CEODate: February 2, 1995

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Exhibit A

Platform(s)

1. Macintosh
2. MS Windows/Windows NT/Windows 95
3. X Windows

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EXECUTABLE
Working Draft

ORIGINAL

EXHIBIT B

Intellectual Property Rights Questionnaire (External)

One questionnaire can be used for each Licensed Software product and its related documentation, even if that product includes multiple modules.

Please answer each question. Write "not applicable" or N/A if a question is not relevant. If you have questions, please contact the Novell Legal Department for more information. If you can answer any question by providing an attachment, please so indicate in the space provided for the answer, identify the attachment in the same place and separately identify the attachment.

1. Name the Licensed Software product. Provide complete identification, including version, release and modification numbers for the Licensed Software product and documentation. This question may be better answered by attaching a copy of the bill of materials for the product. If an attachment is used, make sure it contains all of the information required for each of the programs and manuals.

Netscape Navigator 1.0 for Windows, MAC, X

2. Provide a brief description of what functions this Licensed Software product offers. If you would like to attach a product specification sheet, please do so. Please highlight any special functions or features you believe are different from those currently offered by others.

3. Was any part of the Licensed Software product (i) written by any person who at the time of writing that part not an employee of Your Company, No (ii) written by an employee of Your Company not working within his/her job assignment, or (iii) licensed to Your Company by a third party? An example of someone not working within his/her job assignment is someone in the Legal Department writing (as strange as it may seem) a piece of code that is

NO

LEGAL TRANSFER KAREN@NETSCAPE.COM

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January 26, 1995

RSA Data Sciences
R SAFE product

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later used in a Licensed Software product. "Contractor" will be used below to refer to (i) someone who was not an employee of Your Company at the time of writing part of a Licensed Software product or (ii) an employee of Your Company acting outside of his/her job assignment, or (iii) a third party licensor.

YES

NO

If YES, provide the following information:

a. Indicate what part of the Licensed Software product was written by the Contractor:

Not applicable

b. Specify for each Contractor involved:

i. Name:

ii. Address:

iii. Citizenship:

iv. If the Contractor is a company, how did it acquire title to the material (e.g., the material was written by company's employees as part of their job assignment, or the material was written by a consultant working for the company)?

v. If the Contractor is an individual, did he/she create the material while employed by or under contractual relationship with another party?

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YES NO

If YES, provide the name and address of the other party and explain the nature of the contractual relationship (e.g., written work-for-hire agreement).

c. Explain how Your Company acquired title from the Contractor. If Your Company acquired title through a written agreement, attach a copy of the agreement.

4. Was the Licensed Software product, or any part of the Licensed Software product registered at the copyright office? In answering this question, please make sure you consider your answers to question 3, above. In other words, did a Contractor register a copyright?

YES

NO

If YES, provide a copy of any third party registrations with the questionnaire. You need not provide a copy of registrations Your Company has obtained.

5. Was the Licensed Software product or any part of the Licensed Software product ever published? "Published" in this context does not mean that the work is in the public domain. Instead it means that the Licensed Software product has been made available to the general public. In answering this question, consider if the source code of the Licensed Software product has ever been published, and if so, if the "publication" dates and locations are different. For example, some driver Licensed Software has been "published" in both object code and source code form.

YES

NO

Published Binaries - yes
Have not put Source Code - no

} ✓

If YES, provide the following information:

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a. When and where was it first published? In answering this question, give the date and the country where it was published, e.g., January 1, 1990, USA.

Dec 15, 1994 USA - First Commercial shipment Binaries only

b. Was any copyright notice present on the published material(s)?

YES

NO

If YES, provide the copyright notice, e.g., © 1990, Your Company, Inc. All Rights Reserved.

→ ask Jon M

6. Other than as identified in your answer to question 5, was the source code of any part of the Licensed Software product released by Your Company to any person or entity outside of Your Company? Companies which are wholly owned by Your Company need not be identified.

YES

NO

If YES, provide the following information:

a. When and where was the source code released (date and country of release)?

b. Why was the source code released?

c. Under what conditions (e.g., contract) was the source code released?

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7. Was any part of the Licensed Software product, including any "external characteristics," derived from any third party materials (referred to below as "preexisting materials")? This question is designed to determine if any part of the Licensed Software product was "based upon" any third party materials or if any "external characteristics" of the Licensed Software product were derived from the "external characteristics" of a preexisting materials. "External characteristics" include display screens, data formats, instruction or command format, operator messages, interfaces, etc.. A piece of Licensed Software may be "based upon" third party materials if its coding (structure, organization or sequence) or output (through printers, terminals, etc.) is substantially similar to that of the third party materials. Note that if the Licensed Software product incorporates any third party code, that question 3 needs to be answered in the affirmative and full details provided.

YES

NO

If YES, provide the following information for each of the preexisting materials:

- a. Name of the material:
- b. Author (if known):
- c. Owner (if known):
- d. Copyright notice appearing on the material (if any):
- e. Were any new functions added to the preexisting materials or were the "external characteristics" modified?

YES

NO

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If YES, briefly describe (or attach a brief description) of the new function(s) or the modifications.

f. State approximately:

i. Percent of preexisting material used .

ii. Percent of preexisting material modified .

iii. Percent of new material consisting of or deriving from preexisting materials .

g. Briefly describe (or attach a brief description of) how the preexisting material has been used:

8. Did any part of the Licensed Software product incorporate code that was written before the Licensed Software product ("preexisting Licensed Software"). For example, if I were filling out this questionnaire for NetWare v.3.11, I would answer "yes" and provide an attachment of all of the Licensed Software modules that were included in NetWare v.3.1.

YES

NO

Previous Beta versions

v 0.9 → 0.96

If YES, provide the following information for the preexisting Licensed Software:

a. Name of each of the preexisting Licensed Software programs:

b. Author (if known):

c. Owner (if known):

d. Copyright notice appearing on or in each of the preexisting Licensed Software programs (if any):

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e. Were any new functions added to the preexisting Licensed Software programs?

YES

NO

If YES, briefly describe (or attach a brief description) of the new function(s).

f. State approximately:

i. Percent of preexisting Licensed Software used

ii. Percent of preexisting Licensed Software modified

iii. Percent of new material consisting of or deriving from preexisting Licensed Software

g. Briefly describe (or attach a brief description of) how the preexisting Licensed Software has been used:

9. Identify below, or in an attachment, each employee of Your Company who has written code or largely contributed to the internal design and organization of this Licensed Software product:

Name

Address

Citizenship

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10. Identify below, or in an attachment, any other circumstance which might affect Your Company's or Novell's ability to reproduce and market this Licensed Software product, including:

a. Whether any third party confidential information or trade secrets were used in the Licensed Software product.

No

b. Known or expected royalty obligations to others:

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c. Whether the Licensed Software product contains any preexisting materials developed for another party or customer (including government) in which Your Company has retained less than full rights.

No

d. Materials acquired from a person or company possibly having no title to them:

No

e. Other circumstances:

11. For end user manuals accompanying the Licensed Software product (documentation), give the following information.

a. Was any portion of the documentation licensed or obtained from a third party?

No

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YES

NO

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If yes, identify the documentation and give the name and address of each third party.

12. Please sign and return the questionnaire.

Signature:

Name:

Title:

Date:

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January 26, 1995

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JAN 30 '95 02:43PM NETSCAPE LEGAL

Netscape Navigator (TM)

PX0268

version 1.0N

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Report any problems to win_cbug@mc.com.



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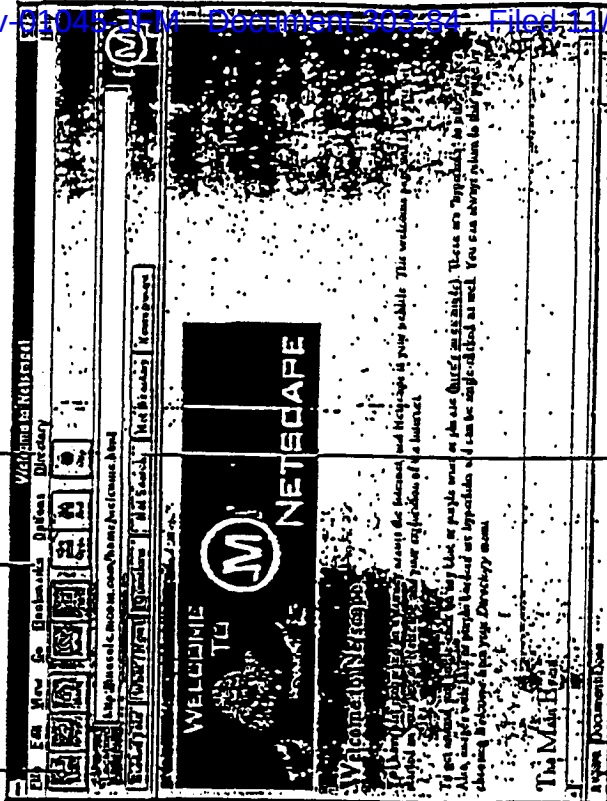
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PX0268

011-001-1000-1-0-0

NetScape can help you organize your favorite web pages in folders, or bookmarks. This way you can find them again.

NetScape's built-in browser is designed to help you find the information you're looking for. It's easy to use and it's fast.



NetScape's built-in browser is designed to help you find the information you're looking for. It's easy to use and it's fast.

NetScape's built-in browser is designed to help you find the information you're looking for. It's easy to use and it's fast.

NETSCAPE NAVIGATOR

NetScape Communications Corporation

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Mountain View, California 94041

(415) 334-1300

http://www.mozilla.com

info@mozilla.com

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NetScape Communications Corporation

REISSUE NAVIGATION

With Netscape Navigator software from Netscape Communications, you no longer have to be technical without exchanging information and without resources on the Internet. Netscape Navigator's graphical interface and hypertext enable you to navigate the Internet's vast array of networked resources simply by clicking on a highlighted word or image with a mouse.

Netscape Navigator opens a world of new media applications, such as online publishing and information access, interactive shopping, and distance learning. It also allows organizations to communicate more effectively with customers, suppliers, partners, and employees.

Netscape Navigator and Netscape Communications' NetSite server software bring secure communications, high performance, and power and which simplify to companies and individuals who want to access or create information services on global networks. Netscape Navigator and NetSite server offer easy-to-use interfaces for setting and accessing multimedia, and hypertext information on the net, including formatted text, graphics, audio, and video. Together, they make communications and information exchange on the Internet as simple as point and click.

Netscape Navigator integrates all major Internet functions under one simple, easy-to-learn and use interface. It features several important means over other HTTP-compatible browsers.

It's fast. Netscape's primary design objective was to optimize performance using 14.4 kb modems, so end users can access the Internet with standard phone lines. And if you want the real speed, Netscape's 28.8 kb modem performance gives you will be substantially greater.

It's easy. Netscape Navigator features a menu of the net GUI, including a configurable mouse bar that includes one-click access to Internet search tools and other browsing aids.

It's compatible. Netscape Navigator software communicates seamlessly with virtually all popular Internet server protocols, including HTTP, FTP, and Gopher. If you use other business navigation tools, your technology investment is protected.

It's secure. As you explore the Internet, you'll find a world of information, products, and services. Netscape provides integrated, background security, so transactions with servers across the net can be fully protected against hackers and eavesdroppers.

It's consistent across platforms. Netscape Navigator is available—and is functionally identical—for Microsoft Windows, Apple Macintosh, and X Windows System platforms. This common look, feel, and behavior is a major advantage in selected computing environments, maintaining training and support.

Bring the world to your desktop with Netscape Navigator and NetSite server from Netscape Communications. For more information on our products, or to place your order, call us at 1-800-NETSITE, email us at info@netscape.com or visit our "hot site" at <http://first.netscape.com>.

TECHNICAL SPECIFICATIONS

- Server no drop in replacement for all HTTP-compliant network browsers, intranets and all common network access.

- Integrated capabilities and stream make all in one web browsing a reality.

- Native support for HTTP, FTP, and NNTP means top and server reading/writing utilities are no longer necessary.

- FTP (from network file servers) is as simple as point and click.

- Multiple search technologies are supported through Webpage browser links — no UNIX commands or separate utilities to learn as use.

- Performance-focused design means rapid response.

- Multiple, simultaneous image loading.

- Content-aware document viewing.

- Document and image caching.

- Native JPEG image decompression.

- Advanced interface design delivers more of the net ease of use.

- User-configurable GUI.

- Tools for frequently used commands.

- Bookmark facility for user favorites, index and search a hierarchical list of favorite Internet sites.

- Network transfer progress indicator.

- Multi-processed built-in security ensures your private information is protected.

- Data encryption ensures sensitive data you wish to protect (passwords) information.

- Server identification provides assurance your information is going where you planned.

- Provides a consistent look, feel, and behavior across platforms.

- Supported platforms include:

- Windows 3.11 or later (16 bit/32 bit), Windows for Workgroups 3.11 or later, Windows NT, Macintosh System 7 or later.

- UNIX: Windows: Digital Equipment Corp. Alpha (OS/386), Hewlett-Packard 700 series (HP-UX 1.1), IBM RS/6000 AIX 3.2, Silicon Graphics (IRIX 3.2), Sun SPARC (Solaris, SunOS 4.1.3).

HARDWARE REQUIREMENTS

Processor Requirements Minimum

Windows 386x

Mac 68030

Memory Requirements Minimum

Windows 4MB

Mac 4MB

UNIX 16 MB

Disk Space Requirements Minimum

Windows 1MB

Mac 2 MB

UNIX 3 MB

Recommended
8MB
8MB
16 MB

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EXHIBIT C

SUPPORT AGREEMENT

This Support Agreement made by and between Netscape Communication Corporation ("Netscape") and Novell, Inc. ("Novell") is incorporated into and made a part of this Agreement.

Background

WHEREAS, Novell has licensed the LAN-based Netscape Navigator (the "Licensed Software") and Novell desires to have Netscape provide support for the Licensed Software;

WHEREAS, Netscape is willing to offer support for releases of the Licensed Software that have been licensed to Novell.

1. Netscape' Obligations

Subject to payment of the Support Fee identified in this Exhibit, Netscape shall provide the following Support Services:

1.1 Problem reporting, tracking and monitoring by electronic mail via the Internet;

1.2 Reasonable telephone support for problem determination, verification and resolution on a call-back basis during Netscape's normal business hours of 9 a.m. to 5 p.m. Pacific Standard time; and

1.3 Periodic software Corrections which Netscape otherwise makes available to similarly situated licenses;

1.4 Shall work diligently to promptly resolve defects and errors in the Licensed Software and documentation in accordance with this Support Agreement.

1.5 Provide Novell with Corrections within ten (10) days from general availability to Netscape's similarly situated customers.

1.6 Upon execution of this Agreement by each of the parties, and for any subsequent Upgrades to the Licensed Software, Netscape shall train (not to exceed 3 classes per year) Novell's designated technical support engineers at its facility specified in the preamble to this Agreement.

ERROR PRIORITY (1)

RESPONSE (2)

CLOSURE (3)

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Emergency (A)	24 hours	7 days
Critical (B)	2 days	14 days
Non-Critical (C)	30 days	Next Update

(A) Priority:

1. Catastrophic product or module failures that do not have a viable detour or work around available.
2. Problems that have been substantiated as a serious inconvenience to users. This includes any priority A failure for which a viable detour or work around is available.
3. All other problems which the user can easily avoid or detour for which there is no urgency for a resolution.

(B) Response:

Response consists of using reasonable efforts to provide, as appropriate, one of the following to the Novell: an existing correction; a new correction; a viable detour or work around; a request for more information to complete analysis of the problem; or, a plan on how the problem will be corrected.

(C) Closure:

Closure consists of using reasonable efforts to provide a final correction or work around of the problem including Updates of the Software and revised or new Documentation as necessary.

(D) Support:

Shall furnish the maintenance and technical support described above for the current release level of the Licensed Software and for a period of 6 months after the release of the current release the previous release level thereof.

2. Novell Obligations

Novell agrees:

2.1 that the designated contact person (or such other replacement individual as Novell may designate) shall be the sole contact for the coordination and receipt of the Support Services set forth in Section 1 of this Support Agreement, which person shall be knowledgeable and trained on the Licensed Software;

2.2 to maintain for the term of this Support Agreement, an electronic mail link-up with Netscape via the Internet;

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2.3 to provide reasonable supporting data to and aid in the identification of reported problems; and

2.4 to treat all periodic software updates delivered under this Support Agreement as Licensed Software in accordance with the terms of this Agreement under which Novell obtained rights to the Licensed Software.

3. Shipment of Upgrades to Existing Sublicensees

Novell shall have the right to ship Upgrades of the Licensed Software which includes the periodic software Corrections.

4. Term and Termination

4.1 For the Licensed Software covered by this Support Agreement, the Support Services will begin on the Effective Date of this Agreement and shall be concurrent with Netscape's license grant in Section 2. of this Agreement. IF Novell desires this Support Agreement to survive the term of the Agreement the Upgrade fees set forth in Section 6 shall also survive termination of the Agreement..

4.2 If either party is in default of its obligations hereunder (except for Novell's obligation to maintain valid licenses for the Licensed Software, in which case termination is immediate) and such default continues for thirty (30) days following receipt of written notice from the other party, the non-breaching party, in addition to any other remedies it may have, may terminate this Support Agreement on thirty (30) days notice. In such case, the breaching party will pay the non-breaching party all costs and expenses including reasonable attorneys' fees incurred by the non-breaching party in exercising any of its rights or remedies.

No delay or failure of the non-breaching party to exercise any right or remedy will operate as a waiver thereof.

5. Charges, Taxes and Payments

5.1 The support fee set forth in this Exhibit for the first year is payable Net 30 days from the Effective Date of this Agreement and Net 30 days from each anniversary thereafter for any renewal term of this Agreement.

the Initial Term and

5.2 The charges specified in this Support Agreement are exclusive of all federal, state, local and foreign taxes, levies and assessments. Novell agrees to bear and be responsible for the payment of all such taxes, levies and assessments imposed on Novell or Netscape arising out this Support Agreement excluding any income tax imposed on Netscape by a

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governmental entity of the United States. Such charges shall be grossed-up for any non-refundable, withholding tax imposed on Netscape by a foreign governmental entity.

5.3 Novell agrees that Netscape will have the right to charge, in accordance with Netscape then current policies for any services, Novell for any unauthorized modification of the Licensed Software or Novell's failure to utilize the release of the Licensed Software licensed under this Agreement.

6. Warranty and Limitation of Liability

6.1 EXCEPT AS STATED IN THIS SUPPORT AGREEMENT, THERE ARE NO EXPRESS OR IMPLIED WARRANTIES RESPECTING THIS SUPPORT AGREEMENT OR THE SERVICES PROVIDED HEREUNDER (INCLUDING THE FIXING OF ERRORS THAT MAY BE CONTAINED IN THE APPLICABLE LICENSED SOFTWARE), INCLUDING BUT NOT LIMITED TO BE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE WARRANTIES AND REMEDIES SET FORTH IN THIS SUPPORT AGREEMENT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED.

6.2 NETSCAPE WILL NOT BE LIABLE FOR ANY FAILURE OR DELAY IN PERFORMANCE DUE IN WHOLE OR IN PART TO ANY CAUSE BEYOND NETSCAPE'S REASONABLE CONTROL. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO ANY CUSTOMER FOR (a) ANY SPECIAL, INDIRECT, INCIDENT OR CONSEQUENTIAL DAMAGES; (b) ANY DAMAGES RESULTING FROM LOSS OF USE, DATA, OR PROFITS; OR (c) ANY CLAIM THAT AROSE MORE THAN ONE YEAR PRIOR TO INSTITUTION OF SUIT THEREON, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY. IT IS AGREED THAT LICENSEE WILL PAY NETSCAPE ALL COSTS AND EXPENSES INCLUDING REASONABLE ATTORNEYS' FEES INCURRED BY NETSCAPE IN EXERCISING ANY OF ITS RIGHTS OR REMEDIES.

7. General

7.1 In no event may this Support Agreement or any rights granted to Novell hereunder be assigned or transferred without the prior written consent of Netscape, which consent will not be unreasonably withheld or delayed.

7.2 The waiver by either party of a breach of or a default under any provision of this Support Agreement by the other party shall not be construed as a waiver of any subsequent breach of the same or any other provision of the Support Agreement nor shall any delay or omission on the part of either party to exercise or avail itself of any right or remedy it has or may have hereunder operate as a waiver of any right or remedy by such party.

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7.3 This support Agreement contains the full understanding of the parties with respect to the support of the Licensed Software and supersedes all prior understandings and writings relating thereto. No waiver, consent modification, amendment or change of the terms of this Support Agreement shall be binding unless in writing and signed by Netscape and Novell. If the terms and conditions of this Support Agreement are inconsistent with, or contrary to, the terms and conditions of this Agreement, the terms and conditions of this Agreement shall be controlling.

7.4 This Support Agreement shall be governed by the laws of the State of California.

7.5 Any notice or other communication in connection with this Support Agreement shall be furnished in writing and shall be effective upon receipt.

8. Support Fees

8.1 Novell shall pay to Netscape \$75,000 per year for a dedicated support engineer for the Platforms identified in Exhibit A to this Agreement.