

# Oklahoma State Regents for Higher Education

655 Research Parkway, Suite 200  
Oklahoma City, Oklahoma 73104

**Bobby LeFlore**

**Comptroller**

Tele: (405) 225-9417

Fax: (405) 225-9230

# Polycom, Inc.

# C070005

**CONTRACT TITLE:** Polycom, Inc. Video, Audio and Network Conferencing Products and Services

**CONTRACT PERIOD:** January 16, 2007 through January 15, 2008

**WEB SITE ADDRESSES:** **OneNet:** [www.onenet.net/ops](http://www.onenet.net/ops)

**Polycom:** [www.polycom.com](http://www.polycom.com)

**AUTHORIZED CUSTOMERS:** All state entities identified as counties, school districts, municipalities, vocational-technical schools, institutions within the state system, other state agencies, and any entity eligible for direct connection to OneNet under its Client Connection Policy.

<http://www.onenet.net/clientservices/category1/sub2/clientconecpolicy.htm>

**CONTRACT PRIORITY:** This is a noncompetitive contract with established education and government discounts. Prior to issuing any orders against this contract, end user customers should ensure that they have followed their appropriate internal purchasing procedures, including any required documentation of a market value comparison or a competitive process leading to the selection of this particular vendor.

**CONTRACT TERMS AND CONDITIONS:** All end users agree to abide by the terms and conditions outlined in the attached agreement and agreed to by the State Regents.

**CONTRACT PRICING:** A fixed discount schedule is attached.

**SHIPPING:** F.O.B. Destination.

**CONTRACT PERFORMANCE:** Contract performance will be monitored and any infractions of the contract by either agencies or vendor will be reported to the Purchasing Agent at the Oklahoma State Regents for Higher Education.

**CONTRACT ADMINISTRATOR:**

POLYCOM, INC  
FEI#: 94-3128324  
ATTN: Barbara Marshall

Tele: 770.646.6389  
FAX: 770.333.0798  
Email: [Barbara.Marshall@polycom.com](mailto:Barbara.Marshall@polycom.com)

**AUTHORIZED RESELLER CONTACT INFORMATION:**

SKC

Tele: 800.882.7779 x219

FAX: 831.303.3979

FEI#: 31-1056628

ATTN:Greg Maniss

EMAIL:  
Greg.Maniss@skccom.com

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I-2-I

Tele: 972.747.8458

FAX: 972.747.0737

FEI#: 45-0523941

ATTN: Chris Harmon

Email: [charmon@itwoi.com](mailto:charmon@itwoi.com)

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SBC-AES

Tele: 918.596.6626

FAX: 918.596.0525

FEI#: 43.1301883

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Email: [vp4567@sbc.com](mailto:vp4567@sbc.com)

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WireOne

Tele: 972.789.0000x225

FAX: 972.789.1662

FEI#: 33-1060512

ATTN: Tammy Gillham

Email: TGillham@wireone.com

**OKLAHOMA STATE  
REGENTS FOR HIGHER EDUCATION**

**NETWORKING PRODUCTS CONTRACT**

**POLYCOM, INC.**

This CONTRACT for the acquisition of audio, video and network conferencing hardware and software, and related services is entered in between the Oklahoma State Regents for Higher Education with its principal place of business at 655 Research Parkway, Suite 200, Oklahoma City, OK 73104, and Polycom, Inc., with its principal place of business at 4750 Willow Road, Pleasanton, CA 94588-27058.

**1. Contract and Term**

This Contract sets forth the terms and conditions governing the acquisition of audio, video and network conferencing hardware and software products and related services. Terms used in this document shall have the meanings set forth below in Section 2, Definitions. This Contract is available for use by all Customers.

The term of this Contract shall be one (1) year commencing on the date of approval by both parties with four (4) one-year renewal options. Upon termination of this Contract, all rights and obligations set forth herein shall survive in accordance with their terms as to procurements made by Customers prior to such termination.

**2. Definitions**

Terms used in this Contract shall have the following meanings:

**A. Regents** – the Oklahoma State Regents for Higher Education.

**B. Customer** – “Customer” means the entity who, for the purposes of this Agreement, is a purchaser or licensee of computer products who acquires such products for its own internal use rather than for distribution or resale. “Customer” includes counties, school districts, municipalities, vocational-technical schools, institutions within the state system, other state agencies, and any entity eligible for direct connection to OneNet under its Client Connection Policy.

<http://www.onenet.net/clientservices/category1/sub2/clientconnecpolicy.htm>

**C. Manufacturer** – Polycom, Inc.

**D. Reseller** – distributor, dealer, or value-added reseller designated by the Manufacturer who participates as a primary distribution source for the Manufacturer. Reseller must sell Polycom branded maintenance and support Services as outlined in Appendix C. Polycom offers various maintenance and service programs which will be sold by authorized resellers. This agreement

applies to only Polycom services and will not apply to any 3<sup>rd</sup> Party or reseller service programs.

- E. Product** - any video, audio and network conferencing hardware and software and related services items manufactured and produced by the Manufacturer. A hardware product may include any pre-loaded software or firmware necessary for operation.
- F. Services** – any value-added service offered by the Manufacturer that the Manufacturer and/or Reseller may perform as related to products available under this Contract. For example: warranty, support services, installation, and product training.
- G. State Contract Administrator** – the individual as appointed by the Regents Office to administer this Contract on behalf of the State Regents and the Customers.
- H. Manufacturer Contract Administrator** – the individual as appointed by the Manufacturer to administer this Contract on behalf of the Manufacturer and Resellers.
- I. Administrative Fee** – defined in section 12 b.
- J. Purchase Order** – The Customer’s fiscal form or format, which is used when making a purchase (e.g., formal written Purchase Order, Procurement Card, Electronic Purchase Order, or other authorized instrument).

**3. Entire Agreement and Order of Precedence**

This Contract; Appendix A, Manufacturer’s Software License Agreement; Appendix B Manufacturer’s Warranty; and Appendix C, Manufacturer’s Service Agreement; shall constitute the entire agreement between the parties hereto. In the event of a conflict between the documents listed in this paragraph, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C. No statement, promise, condition understanding, inducement or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid. This Contract shall not be changed, modified or altered in any manner except by an instrument in writing executed by both parties hereto, with the approval of the Regents Office.

The terms and conditions set forth herein shall govern all transactions by Customers under this Contract. Customers shall not have the authority to modify the terms of this Contract, except as to receive better terms or pricing for a particular procurement than those set forth herein. In such event, Manufacturer shall furnish a copy of such better offerings to the Regents’ Office upon request. No additional term or condition of a Purchase Order issued by a Customer can weaken a term or condition of this Contract. In the event of a conflict between a Customer’s Purchase Order and this Contract, the Contract term shall control.

**4. Product and Service Offerings**

Products available under this Contract are set forth as any audio, video or network conferencing hardware or software items manufactured and produced by the Manufacturer. Services include any value-added service offered by the Manufacturer that the Manufacturer and/or its Reseller may perform as related to products available under this Contract.

**A. Products**

Manufacturer shall maintain a product list including pricing, product descriptions, and product specifications for all products offered under this Contract. The product list may be updated at any time during the term of this Contract to incorporate product model changes or product upgrades, addition of new products, and removal of obsolete or discontinued products.

**B. Services**

Examples of service include, but are not limited to: warranty, support services, installation, and product training. Manufacturer shall maintain a list including pricing and descriptions for all services offered under this Contract. The services list may be updated at any time during the term of this Contract to incorporate changes to the service offering. Service offerings available are further defined in Exhibit A attached hereto.

**5. Contract Administration**

The Regents' Office and the Manufacturer will each provide a Contract Administrator to support this Contract. Information regarding the Contract Administrators will be posted on the Manufacturer's Internet web site designated for this Contract.

**A. Regents' Office Contract Administrator**

The Regents' Office will provide a Contract Administrator whose duties will include but not be limited to: i) management of this Contract, ii) advising of Manufacturer's performance under the terms and conditions of this Contract, and iii) periodic verification of product pricing and quarterly reports submitted by Manufacturer.

**B. Manufacturer Contract Administrator**

Manufacturer shall provide a dedicated Contract Administrator whose duties shall include but not be limited to: i) supporting the marketing and management of this Contract, ii) facilitating dispute resolution between a Reseller and a Customer, and ii) advising Regents' Office of Resellers performance under the terms and conditions of this Contract. Regents' Office may reserve the right to require a change in Manufacturer's then-current Contract Administrator if the administrator is not, in the opinion of Regents' Office, adequately serving the needs of the State.

**6. Use of Resellers**

Manufacturer shall provide service, sales and support resources to serve Customers at multiple geographic purchasing locations throughout the State of Oklahoma. Regents' Office agrees to permit Manufacturer to utilize designated Resellers so that sufficient resources are available to insure maximum service capability throughout the State. Such participation is subject to the following conditions:

**A. Designation of Resellers**

Manufacturer shall designate Resellers to participate under this Contract, without the approval of Regents' Office. At any time, Regents' Office reserves the right to rescind any such participation or request that Manufacturer name additional Resellers should Regents' Office determine it is in the best interest of the State.

Manufacturer shall have the right to qualify Resellers and their participation as fulfillment agents under this Contract by product line, contracting program (i.e., government/educational sales), geographic region, size/sales volume, technical training or other criteria, provided that: i) such criteria are uniformly applied to all potential Resellers based upon Manufacturer's established, neutrally applied commercial/governmental program criteria, and not to a particular procurement; and ii) all general categories of criteria are fully covered by participating Resellers to meet the needs of of customers.

All Resellers who have been approved by the Manufacturer in accordance with the foregoing paragraph shall be eligible to quote lower pricing for procurements under this Contract which meet their qualifying criteria. Manufacturer warrants and represents that it shall not, directly or indirectly, by agreement, communication or any other means restrict any Reseller's participation or ability to quote a particular order; or prohibit Reseller from participating in other procurement opportunities offered through Regent's Office.

**B. Changes in Reseller List**

Manufacturer may add and/or delete Resellers throughout the term of the Contract. However, the participating Resellers must geographically provide adequate coverage to the entire State.

**C. Conditions of Reseller Participation**

All participating Resellers must meet applicable State Regents' qualifying requirements.

**D. Responsibility for Reseller Performance and Reporting**

Manufacturer shall be fully liable for Resellers performance and compliance with all Contract terms and conditions herein. Manufacturer shall be responsible for reporting all products and services purchased through resellers, in accordance with Section 12, Reporting and Administrative Fees.

**E. Available Products and Services**

Products and services ordered directly through Resellers shall be limited to products and services previously approved for inclusion under this Contract in Section 4, Product and Services Offerings, and shall be subject to all terms and conditions of this Contract as a condition of Reseller participation.

**7. Pricing**

**A. Price Reduction**

Price Decreases shall take effect automatically during the contract term where:

1. *List Price is Reduced.* Contractor lowers its pricing for Product and/or services to its customers during the contract term. In such case the Contractor shall lower Contract pricing in accordance with the established pricing structure as outlined in Exhibit A; or
2. *Special Offers/Promotions.* Contractor offers any customer generally during the term of the Contract other more advantageous special promotions or special discount pricing, in which case the maximum discount associated with such offer or promotion, if greater than the discount otherwise available under this Contract (“Contract discount”), shall, for transactions on the same terms or for the life of such special offer or promotion, be used in lieu of the Contract discount in the calculation of the Contract Price.
3. *Special Offers/Promotions to Authorized Users Under/Outside of Contract.* Contractor may offer Customers, under either the Contract or any other contracting vehicle, competitive pricing which is lower than the rates set forth herein at any time during the Contract term and such lower rates shall not be applied as a global price reduction under the Contract pursuant to the foregoing paragraph (2).

## B. Customer Discount

Based on a quantity of one (1), the Customer discount from the Resellers for all core products will conform to the following pricing outline.

Discount Tier	Category Code	State of Oklahoma Direct Discounts	Planned Product Slottings
Tier.2	Trn.1	0%	Training
Tier.3			
Tier.4			
Tier.4		0%	Maintenance
Tier 5	Acc.1	9%	Video, Audio Accessories
Tier 5	Acc.2	9%	Video, Audio Accessories
Tier 5	Acc.3	9%	Video, Audio Accessories
Tier.6	Aud.2	14%	SoundPoint and VoiceStation 100
Tier 6	Aud.3	14%	SoundPoint
Tier.7	*Sw.1	29%	Software; PathNavigator, GMS, NetAware Scheduler, Video Network Mgmt, Conference Suite
Tier.7	Vid.2	29%	ViaVideo Desktop Systems
Tier.7	Vid.3	29%	ViewStations SPs and Exs
Tier.7	PDC.8	29%	iPower 9000 VS4000 Executive Collection
Tier.8	Aud.4	29%	Installed Voice Systems
Tier 8	Vid.4	29%	VSX 7000
Tier.8	NS.2	29%	MGC 25
Tier.8	iPWR.1	29%	iPower Systems (9000, Desktop Exec Collection)
Tier.8	iPWR.3	29%	iPower Systems (9000, Desktop Exec Collection)
Tier.9	Aud.5	35%	SoundPoint IP
Tier.9	NS.1	35%	MGC 50/100
Tier 9	NS.1	35%	NSD Software; WebOffice, WebCommander and Network Svcs Site Licenses (negotiated separately than NSD hardware due to GSA SIN #s) Combine with NSD HW under Tier 9
Tier.10	Aud.6	32%	SoundStation IP
Tier.11	Aud.1	40%	SoundStations
Tier.11	Aud.7	40%	SoundStations
Tier.11	Aud.10	40%	SoundStations
Tier.12			
Tier.13	Vid.1	44%	ViewStations (except SP/EX)
Tier.99	Vid.99	0%	Accessories - All Divisions, Global Service Products
Tier.99	Aud.99	0%	Accessories - All Divisions, Global Service Products
Tier.99	SW.99	0%	Accessories - All Divisions, Global Service Products
Tier.99	iPWR.99	0%	Accessories - All Divisions, Global Service Products
Tier.99	NS.99	0%	Accessories - All Divisions, Global Service Products

The price list in Appendix D details exact discounts by part number. Customer may negotiate more advantageous pricing for large volume or project purchases with participating Reseller. The Customer Discount set

forth herein shall adhere to Section 7 Paragraph 1, Reseller Pricing to the Customer product.

**C. Regents' Office Administrative Fee**

The Regents' Office administrative fee specified in Section 12, Reporting and Administrative Fees, shall be included in the pricing set forth herein. The Administrative fee shall not be broken out as a separate line item when Pricing or invoice is provided to Customer.

**D. Shipping and Handling Fees**

The price to the Customer under this Contract shall include all shipping and handling fees. Shipments shall be F.O.B. Customer's destination. No additional fees shall be charged to the Customer for standard shipping and handling. If the Customer requests expedited delivery, Customer will be responsible for any charges for expedited delivery.

**E. Tax-Exempt**

Customers are exempt from all federal and state sales tax.

**F. Changes to Prices**

Manufacturer may change the price of any product or service at any time, based upon changes to the Manufacturer's Suggested Retail Price, but discount levels shall remain consistent with the discount levels specified in Section 7 Paragraph A, Discounts. Price decreases shall take effect automatically during this Contract term and Manufacturer shall pass all price decreases on to the Customer.

Manufacturer may make product model changes and add new products or product upgrades at any time and the pricing for the same shall incorporate comparable price discount levels as specified in Section 7, Paragraph A.

**8. Order Processing and Payments**

All Customer Purchase Orders will be placed directly with the participating Resellers. Accurate Purchase Orders shall be effective and binding upon Reseller when placed in the mail or electronically transmitted prior to the termination of this Contract period.

The Reseller shall submit invoices directly to the Customer. All payments for products and/or services purchased under this Contract and any provision of acceptance of such products and/or services are made to the Reseller by the Customer. Payment terms shall be Net forty five (45) days from date of invoice.

Invoices shall be timely and accurate. Each invoice shall match Customer's Purchase Order and include any written changes that may apply, as it relates to products, prices and quantities. Invoices shall include the Customer's Purchase

Order number or other pertinent information for verification of receipt of the order by the Customer.

Payment under this contract shall not foreclose the right to recover wrongful payments.

**9. Software Licensing Agreement**

Customers purchasing software licenses under this Contract shall hold, use and operate such software subject to compliance with the Software Licensing Agreement set forth in Appendix A hereto. No changes to the License Agreement Terms and Conditions may be made unless previously agreed to between Manufacturer and Regents' Office. Customers may not add, delete or alter any of the language in Appendix A. Reseller shall make the Software Licensing Agreement terms and conditions available to all Customers at all times.

Compliance with the Software Licensing Agreement is the responsibility of the Customer. Regents Office shall not be responsible for any Customer's compliance with the Software Licensing Agreement. If Regents Office purchases software licenses for its own use under this Contract, it shall be responsible for its compliance with the Software Licensing Agreement terms and conditions.

**10. Service Agreement**

Customers purchasing services under this Contract shall execute a Service Agreement with Manufacturer as set forth in Appendix C hereto. No changes to the Service Agreement terms and conditions may be made unless previously agreed to by Manufacturer and Regents Office. The Service Agreement shall include Service Level Descriptions for related products.

**11. Internet Access to Contract and Pricing Information**

Access by Customers to Contract terms and pricing information shall be made available and posted on the Oklahoma OneNet website, [www.onenet.net](http://www.onenet.net). Internet access to this information shall be provided including all subsequent changes to the product and services offerings and pricing during the term of this Contract at no cost to Regents Office, the State, and Customers.

**A. Accurate and Timely Contract Information**

Manufacturer warrants and represents that Contract and related information will be accurately and completely posted, maintained and displayed in an objective and timely manner which renders it clearly distinguishable from other, non-Contract offerings at Manufacturer's web site. Manufacturer shall reconcile errors or inaccuracies in such information, or from any failure to maintain or timely post Contract information in accordance with this paragraph.

**B. Price Data Retention and Audit**

Periodic audits of the information posted for this Contract on Manufacturer's Web site may be conducted by Regents Office.

**C. Use of Access Data Prohibited**

If Manufacturer stores, collects or maintains data electronically as a condition of accessing State Contract information, such data shall only be used internally by Manufacturer for the purpose of implementing or marketing the State Contract, and shall not be disseminated to third parties or used for other marketing purposes. This Contract constitutes a public document under the laws of the State and Manufacturer shall not restrict access to this Contract terms and conditions including pricing, i.e., through use of restrictive technology or passwords.

**12. Reporting and Administrative Fees**

Manufacturer shall be responsible for reporting all products and services purchased through Resellers under this Contract. Regents Office will have the right to verify required reports and to take any actions necessary to enforce its rights under this paragraph, including but not limited to, audit of Manufacturer's applicable Contract books.

**A. Detailed Quarterly Report**

Manufacturer shall electronically provide Regents Office with a detailed quarterly report in the format required by Regents Office showing the dollar volume of any and all sales under this Contract for the previous quarter. Reports are due on the twenty-fifth (25<sup>th</sup>) day following the close of the previous quarter. It is the responsibility of Manufacturer to collect and compile all sales under this Contract from participating Resellers and submit one (1) quarterly report. The quarterly report shall include the participating individual Reseller's company name, Reseller's sales for the period, the name of each Customer, order date, ship date, quantity, unit price, extended price, product part number, Customer Purchase Order number, and other information as required by Regents Office.

**B. Regents Office Administrative Fee**

All prices quoted to Customers shall include an administrative fee to accommodate costs and overhead associated with the maintenance of this Contract. This fee is incorporated into the price paid by the Customers to the Manufacturer.

Manufacturer shall remit to the State Regents' Office, no later than the thirtieth (30<sup>th</sup>) day following the close of the previous quarter, an administration fee equal to three percent (3%) based on the dollar value of all

sales to Customers pursuant to this Contract. The administrative fee shall be calculated for all sales, net of returns and credits. For example, the administrative fee for sales totaling \$100,000 X .03 = \$3,000.

Regents Office may reduce this fee during the term of this Contract, upon written notice to Manufacturer. Any change in the administrative fee shall be incorporated in the price to the Customer.

**13. Notices**

All notices, demands designations, certificates, requests, offers, consents, approvals and other instruments given pursuant to this Contract shall be in writing and shall be valid on i) the date of delivery if delivered by email, facsimile transmission, mailed by registered to certified mail, or hand delivered, or (ii) three business days after being mailed via United States Postal Service. The parties may from time to time, specify any address in the United States as its address for purpose of notices under this Contract by giving fifteen (15) days written notice to the other party.

If sent to the State:

Comptroller  
Oklahoma State Regents  
For Higher Education  
655 Research Parkway, Suite 200  
Oklahoma City, OK 73104  
Phone: 405-225-9100  
Fax: 405-225-9230  
Email : bleflore@osrhe.edu

If sent to the Manufacturer:

Barbara Marshall  
Polycom, Inc.  
184 Ben Davis Road  
Buchanan, GA 30113  
Phone: 770.646.6389  
Fax: 770.333.0798  
Email: [Barbara.marshall@polycom.com](mailto:Barbara.marshall@polycom.com)

**14. Handling of Written Complaints**

In addition to other remedies contained in this Contract, a person contracting with Regents Office may direct their written complaints to the following office:

Comptroller  
Oklahoma State Regents for Higher Education  
655 Research Parkway, Suite 200  
Oklahoma City, OK 73104  
Phone: 405-225-9100  
Fax: 405-225-9230  
Email : bleflore@osrhe.edu

**15. Captions**

The captions contained in this Contract are intended for convenience and reference purposes only and shall in no way be deemed to define or limit any provision thereof.

**16. Choice of Law**

The law of the State of Oklahoma shall govern the construction and interpretation of this Contract. Nothing herein shall be construed to waive the state's sovereign immunity.

**17. Termination.**

A. Termination for Convenience: The State Regents may terminate this Agreement, at will, at any time, with or without cause, by written notice to Contractor given not less than thirty (30) days prior to the effective date of such notice. After the first six months. Contractor may terminate this Agreement with 120 days written notice to Customer. In no event shall either party be liable for termination of this Agreement pursuant to this Subsection.

B. Termination for Cause. Either party shall have the right to terminate this Agreement for cause if the other party:

1. Fails to perform any material term or condition of this Agreement, and does not remedy the failure with thirty (30) days after receipt of written notice of such default given by the non-defaulting party; or
2. Becomes insolvent, files or has filed against it a petition under applicable bankruptcy or insolvency laws, proposes any dissolution, composition or financial reorganization with creditors, makes an assignment for the benefit of creditors, or if a receiver, trustee, custodian or similar agent is appointed or takes possession with respect to any property or business of the defaulting party.

C. Obligations upon Termination or Expiration. The termination or expiration of this Agreement shall in no way relieve either party from its obligations to pay the other party any sums accrued hereunder prior to such termination or expiration or affect the limitation of liability.

**18. Limitation of Liability**

To the extent any limitation of liability contained herein is construed by a court of competent jurisdiction to be a limitation of liability in violation of Oklahoma law, such limitation of liability shall be void.

**19. Oklahoma Open Records Act**

The State Regents is a governmental entity of the State of Oklahoma, by virtue of which it is subject to the Oklahoma Open Records Act (ORA), codified at 51 O.S. § 24.A.1, et seq. The parties agree that any provision of this Agreement that conflicts with the ORA is ineffective. The State Regents do undertake to protect

proprietary information provided by Polycom, Inc. to the full extent permitted by the ORA.

**20. Electronic and Information Technology Accessibility**

Products offered under this contract shall be accessible to persons with disabilities, and be fully compliant with the technical standards and functional performance criteria of Section 508 of the Workforce Investment Act of 1998, any other applicable federal law and the provisions of H.B. 2197, O.S.L. 2004, c. 128., codified at Title 62 O.S. §41.5t.2, and any implementing regulations.

Manufacturer shall indemnify and hold harmless the State of Oklahoma and any Oklahoma Government entity purchasing the products offered under this contract from any claim arising out of the Manufacturer's failure to comply with the aforementioned requirements.

The Manufacturer shall provide a description of conformance with the applicable Oklahoma Information Technology Accessibility Standards for the products offered under this contract by means of either completing a Voluntary Product Accessibility Template (VPAT) or other comparable document.

**21. Laws and Regulations:**

All applicable State and Federal Laws, Municipal Ordinances, and the rules and regulations of all authorities having jurisdiction over the project shall apply to the contract throughout and they will be deemed to be included in the contract the same as though written out in full in this proposal.

**22. Equal Opportunity Employer**

The Manufacturer must maintain the status of an Equal Opportunity Employer, a provider of services and/or assistance, and in compliance with the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, and Executive Orders 11246 and 11375.

**23. American with Disabilities Act**

The Manufacturer must comply with the Americans with Disabilities Act of 1990 (Public Law 101-336) and all amendments and requirements imposed by the regulations issued pursuant to this act.

**24. Federal, State, and Local Taxes, Licenses, and Permits**

The manufacturer will comply with all laws and regulations on taxes, licenses, and permits.

**25. Insurance Requirements:**

The Manufacturer warrants and represents that it has adequate insurance for the protection of itself and its officers, employees, agents, while carrying out their responsibilities, under the provisions of this Contract.

**26. Indemnification:**

Hold Harmless: The Manufacturer shall indemnify and hold the State Regents harmless from all performance or failure of performance under the resulting contract.

Liens: The Manufacturer shall keep the State Regents free and clear from all liens asserted by any person or firm for any reason arising from the furnishing of services or materials by or to the Manufacturer.

**IN WITNESS WHEREOF**, the parties therefore hereby execute their mutual agreement to the terms of this Contract. This agreement shall be executed and shall be a binding Contract between the parties.

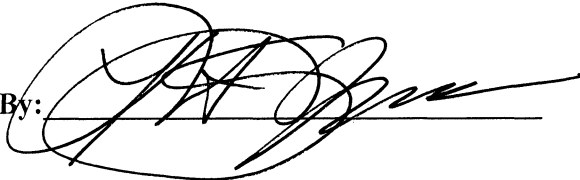
**Polycom, Inc.**

**The State of Oklahoma, acting by and through the Oklahoma State Regents for Higher Education**

Date: 12/12/06

Date: 1-16-07

By: 

By: 

Name: Mark Dickey

Name: Kurt A. Snodgrass

Title: VP, North American Sales

Title: Vice Chancellor, IT & Telecomm

Legal: Nancy E. Connelly

**EXHIBIT A**  
**Global Services Response:**  
**Oklahoma State Regents for Higher Education**

**Polycom Standard Product Warranties**

The chart below is a summary of the warranty periods applicable to Polycom's limited warranty for products. The terms and conditions applicable to Polycom's limited warranty are as set forth below (and are also included in the documentation packaged with new Polycom products).

<b>Product Family</b>	<b>Software Warranty</b>	<b>Hardware Warranty (Return to Factory Coverage RTF)</b>
<b>Video</b>		
VSX 8000 Series, VSX 7000 Series, VSX 3000 & V500	90 Days	1 Year RTF
iPower 600 Series, 9000 Series	90 Days	1 Year RTF
ViewStation 128, 323, 512, MP, 4000, FX	90 Days	1 Year RTF
ViewStation SP / SP384, EX	90 Days	1 Year RTF
ViaVideo / ViaVideo II	90 Days	1 Year RTF
<b>Voice</b>		
Voice Station, SoundStation / Voice Station IP,	90 Days	1 Year RTF
SoundStation IP	90 Days	1 Year RTF
SoundPoint Pro / SoundPoint IP	90 Days	1 Year RTF
SoundStation Premier	90 Days	1 Year RTF
SoundStation VTX1000, SoundStation2W	90 Days	2 Yr Advance
Installed Systems (Vortex)		Replacement
<b>Network Systems</b>		
MGC	90 Days	1 Year RTF
WebCommander	90 Days	NA
WebOffice	90 Days	NA
<b>Network Solutions</b>		
Global Management Systems	90 Days	NA
PathNavigator	90 Days	NA
Polycom Conference Suite	90 Days	NA
Network Aware Scheduler, Video Network Mgmt, Room Control	90 Days	NA
<b>Peripherals (Purchased Through Polycom)</b>		
Visual Concert		
Polycom Tablet		
Flat Panel Displays		
Standard Peripherals: Microphone, Monitor, VCR, Camera, Cart	NA	1 Year

<b>Upgrades</b>	90 Days or balance of original product warranty period, whichever is longer	90 Days or balance of original product warranty period, whichever is longer
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**LIMITED WARRANTY.** Polycom warrants to the end user (“Customer”) that the product will be free from defects in workmanship and materials, under normal use and service, for one year, or such longer period as Polycom may announce publicly from time to time for particular products, from the date of purchase from Polycom or its authorized reseller.

Polycom’s sole obligation under this express warranty shall be, at Polycom’s option and expense, to repair the defective product or part, deliver to Customer an equivalent product or part to replace the defective item, or if neither of the two foregoing options is reasonably available, Polycom may, in its sole discretion, refund to Customer the purchase price paid for the defective product. All products that are replaced will become the property of Polycom. Replacement products or parts may be new or reconditioned. Polycom warrants any replaced or repaired product or part for ninety (90) days from shipment, or the remainder of the initial warranty period, whichever is longer.

Products returned to Polycom must be sent prepaid and packaged appropriately for safe shipment, and it is recommended that they be insured or sent by a method that provides for tracking of the package. Responsibility for loss or damage does not transfer to Polycom until the returned item is received by Polycom. The repaired or replaced item will be shipped to Customer, at Polycom's expense, not later than thirty (30) days after Polycom receives the defective product, and Polycom will retain risk of loss or damage until the item is delivered to Customer.

**EXCLUSIONS.** Polycom will not be liable under this limited warranty if its testing and examination disclose that the alleged defect or malfunction in the product does not exist or results from:

- Failure to follow Polycom's installation, operation, or maintenance instructions.
- Unauthorized product modification or alteration.
- Unauthorized use of common carrier communication services accessed through the product.
- Abuse, misuse, negligent acts or omissions of Customer and persons under Customer's control; or
- Acts of third parties, acts of God, accident, fire, lightning, power surges or outages, or other hazards.

**WARRANTY EXCLUSIVE.** IF A POLYCOM PRODUCT DOES NOT OPERATE AS WARRANTED ABOVE, CUSTOMER'S SOLE REMEDY FOR BREACH OF THAT WARRANTY SHALL BE REPAIR, REPLACEMENT, OR REFUND OF THE PURCHASE PRICE PAID, AT POLYCOM'S OPTION. TO THE FULL EXTENT ALLOWED BY LAW, THE FOREGOING WARRANTIES AND REMEDIES ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, TERMS, OR CONDITIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES, TERMS, OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE,

SATISFACTORY QUALITY, CORRESPONDENCE WITH DESCRIPTION, AND NON-INFRINGEMENT, ALL OF WHICH ARE EXPRESSLY DISCLAIMED.

**SUPPORT & SERVICE AGREEMENTS.** If you purchased your product from a Polycom Authorized Reseller, contact the Authorized Reseller for information about support and service agreements applicable to your product. For information on Polycom service, go to the Polycom web site [www.polycom.com](http://www.polycom.com), products and services menu, or call 1-800-765-9266, outside the US call 1-408-526-9000, or your local Polycom Office, as listed on the Polycom Web site.

**Limitation of Liability.** To the full extent allowed by law, Polycom excludes for itself and its suppliers any liability, whether based in contract or tort (including negligence), for incidental, consequential, indirect, special, or punitive damages of any kind, or for loss of revenue or profits, loss of business. Loss of information or data, or other financial loss arising out of or in connection with the sale, installation, maintenance, use, performance, failure, or interruption of its products, even if Polycom or its authorized reseller has been advised of the possibility of such damages, and limits its liability to repair, replacement, or refund of the purchase price paid, at Polycom's option. This disclaimer of liability for damages will not be affected if any remedy provided herein shall fail of its essential purpose. To the extent any limitation of liability contained herein is construed by a court of competent jurisdiction to be a limitation of liability in violation of Oklahoma law, such limitation of liability shall be void.

**DISCLAIMER.** Some countries, states, or provinces do not allow the exclusion or limitation of implied warranties or the limitation of incidental or consequential damages for certain products supplied to consumers, or the limitation of liability for personal injury, so the above limitations and exclusions may be limited in their application to you. When the implied warranties are not allowed to be excluded in their entirety, they will be limited to the duration of the applicable written warranty. This warranty gives you specific legal rights which may vary depending on local law.

**GOVERNING LAW.** This Limited Warranty and Limitation of Liability shall be governed by the laws of the State of Oklahoma, U.S.A., and by the laws of the United States, excluding their conflicts of laws principles. The United Nations Convention on Contracts for the International Sale of Goods is hereby excluded in its entirety from application to this Limited Warranty and Limitation of Liability.

## **Polycom Maintenance & Support Services**

Polycom Branded Maintenance and Support Services are delivered by Polycom and sold by our authorized partners. These are the Premier Family of Support Services described below.

Polycom maintenance support programs include:

### *Unlimited telephone technical support during business hours:*

Provides access to expert technical support engineers who assist in solving issues by phone. The Polycom hotline is available during normal business hours in the designated support center's local time, Monday through Friday, excluding national and local holidays recognized by Polycom.

### *Escalations support*

Technical support that provides access to higher-level engineering expertise for resolution of more complex technical problems, if required.

### *On-line support*

Provides access to extensive technical information on the Polycom Resource Center available via the Polycom Web site. The Polycom Resource Center provides technical tips, search and query function on the Polycom Knowledge Base and FAQ's (Frequently Asked Questions).

### *Around-the-clock video test facility*

For users who want to test their system prior to an important video conference, Polycom's video test facility is available 24 hours a day, 365 days per year. Continuous motion and sound sources permit quick, easy confidence checks at any hour of the day or night. Live face-to-face testing with a Polycom support engineer is also available weekdays during normal business hours in the designated support center's local time.

Advance parts replacement

Provides expedited replacement of all covered, failed hardware parts. If telephone technical support determines that there is a hardware part failure or if there is an obvious malfunction, a replacement part will be dispatched on the same day for next business day delivery. Customs delays may affect actual delivery time in certain regions. The customer is required to return the defective part to Polycom.

30-day return to factory parts support

If telephone technical support determines that there is a part failure or if there is an obvious malfunction, the defective part is returned to the Polycom factory for repair or replacement, as needed. Within 30 days of receipt, the repaired or replacement part is then returned to the customer.

Software updates

Customers are entitled to receive software updates upon release to correct a software error that prevents the installed system from conforming to published specifications.

Software upgrades

Software upgrades provide you with major features and functionality releases for your current registered Polycom product. Software upgrades are available upon release.

On-site support, next business-day response.

For issues that cannot be resolved remotely, Polycom provides next business-day on-site technical engineer to resolve the issue.

**Programs at a Glance**

<i>Program Feature</i>	<i>Standard</i>	<i>Premier</i>	<i>Premier Plus</i>
<i>Telephone Technical Support</i>	<b>X</b>	<b>X</b>	<b>X</b>
<i>Escalation Support</i>	<b>X</b>	<b>X</b>	<b>X</b>
<i>On-Line Support</i>	<b>X</b>	<b>X</b>	<b>X</b>
<i>Around the Clock Test Facility</i>	<b>X</b>	<b>X</b>	<b>X</b>
<i>Advanced Parts Replacement</i>		<b>X</b>	<b>X</b>
<i>30-Day Return To Factory Parts Support</i>	<b>X</b>		
<i>Software Updates</i>	<b>X</b>	<b>X</b>	<b>X</b>
<i>Software Upgrades</i>	<b>X</b>	<b>X</b>	<b>X</b>
<i>On Site Support</i>			<b>X</b>

Other Available Services:

Extended Telephone Technical Support Hours

Additional options are available to augment all support programs. Contact your Polycom representative for additional information.

Installation

In addition to our Support Services, we also offer Installation Services on most Polycom products. Installation Services include pre-install coordination, on-site installation, live system test and hands-on user orientation. Contact your Polycom representative for additional information.

Training Services

The Polycom Learning Center offers a broad range of training classes on-site, at our facility and by video. Technicians, system administrators and end users benefit from our industry-leading classes and certification program. A complete listing of course is available upon request. Contact your Polycom representative for additional information.

## **Polycom Advanced Services**

Polycom Advanced Services are designed to help you execute your unified collaborative communications, visual communication technologies, and organizational goals and strategies seamlessly. Whether you are taking on a complex collaboration network transition project, adopting new collaboration products into your enterprise or looking to implement measurable performance and operational improvement initiatives, our support experts use world class tools and proven methodologies to develop and deploy service solutions, and help manage your collaboration infrastructure.

### **Programs at a Glance**

- Technical Consulting
  - ISDN to IP Transition Workshop
  - Video Conferencing Service Quality Assessment
  - Performance Benchmarking & Best Practices Assessment
  - Daily rate and custom engagements
- Implementation Service
  - For software products
  - For hardware and software solutions
  - Daily rate and custom project managements services
- Advanced Maintenance
  - For Small Enterprises
  - For Medium Enterprises
  - For Large Enterprises

All of these services are customized and quoted for the specific engagement. Contact your Polycom representative for additional information.

## APPENDIX A

### End User Software License Agreement

**Following is a sample of Polycom End User Software License Agreement. The actual license may vary by product. Products are shipped with shrink wrapped End User Software License.**

#### **END-USER LICENSE AGREEMENT FOR POLYCOM® SOFTWARE**

**IMPORTANT—READ CAREFULLY BEFORE USING THE SOFTWARE PRODUCT:** This End-User License Agreement ("Agreement") is a legal agreement between you (either an individual or a single entity) and Polycom, BV for the POLYCOM SOFTWARE PRODUCT licensed by Polycom, BV in Europe, the Middle East, Africa, and Asia Pacific, or the POLYCOM SOFTWARE PRODUCT licensed by Polycom, Inc. in the rest of the world (collectively referred to herein as "POLYCOM"). The SOFTWARE PRODUCT includes computer software and may include associated media, printed materials, and "online" or electronic documentation ("SOFTWARE PRODUCT"). By clicking "I agree" or by installing, copying, or otherwise using the SOFTWARE PRODUCT, you agree to be bound by the terms of this Agreement. If you do not agree to the terms of this Agreement, do not install or use the SOFTWARE PRODUCT, and return it to your place of purchase for a full refund.

The SOFTWARE PRODUCT is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. The SOFTWARE PRODUCT is licensed (not sold) to you, and its use is subject to the terms of this Agreement.

1. **GRANT OF LICENSE.** Subject to the terms of this Agreement, POLYCOM grants to you a non-exclusive license to install and use the SOFTWARE PRODUCT on the POLYCOM product with which this SOFTWARE PRODUCT is supplied (the "PRODUCT"). You may use the SOFTWARE PRODUCT only in connection with the use of the PRODUCT. You are not permitted to lease, rent, distribute or sublicense the SOFTWARE PRODUCT or to use the SOFTWARE PRODUCT in a time-sharing arrangement or in any other unauthorized manner. Further, no license is granted to you in the human readable code of the SOFTWARE PRODUCT (source code). Except as provided below, this License Agreement does not grant you any rights to patents, copyrights, trade secrets, trademarks, or any other rights in respect to the SOFTWARE PRODUCT.

2. **DESCRIPTION OF OTHER RIGHTS AND LIMITATIONS.**

**2.1 Limitations on Reverse Engineering, Decompilation, and Disassembly.** You may not reverse engineer, decompile, or disassemble the SOFTWARE PRODUCT, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation. The SOFTWARE PRODUCT is licensed as a single product. Its component parts may not be separated for use on more than one PRODUCT.

**2.2 Back-up.** Except as expressly provided for under this Agreement you may not copy the SOFTWARE PRODUCT; except, however, you may keep one copy of the SOFTWARE PRODUCT and, if applicable, one copy of any previous version, for back-up purposes, only to be used in the event of failure of the original. All copies of the SOFTWARE PRODUCT must be marked with the proprietary notices provided on the original SOFTWARE PRODUCT. You may not reproduce the supporting documentation accompanying the SOFTWARE PRODUCT.

**2.3 Modifications.** You may not modify, translate or create derivative works of the SOFTWARE PRODUCT.

**2.4 Proprietary Notices.** You may not remove or obscure any proprietary notices on or in the SOFTWARE PRODUCT or the supporting documentation.

**2.5 Software Transfer.** You may permanently transfer all of your rights under this Agreement, provided you retain no copies, you transfer all of the SOFTWARE PRODUCT (including all component parts, the media and printed materials, any upgrades, this Agreement, and, if applicable, the Certificate of Authenticity), and the recipient agrees to the terms of this Agreement. If the SOFTWARE PRODUCT is an upgrade, any transfer must include all prior versions of the SOFTWARE PRODUCT. However, if the SOFTWARE PRODUCT is marked "Not for Resale" or "NFR", you may not resell it or otherwise transfer it for value.

**2.6 Copyright.** All title and copyrights in and to the SOFTWARE PRODUCT (including but not limited to any images, photographs, animations, video, audio, music, text, and "applets" incorporated into the SOFTWARE PRODUCT), the accompanying printed materials, and any copies of the SOFTWARE PRODUCT are owned by POLYCOM or its suppliers. The SOFTWARE PRODUCT is protected by copyright laws and international treaty provisions. Title, ownership rights, and intellectual property rights in the SOFTWARE PRODUCT shall remain in POLYCOM or its suppliers. Title and related rights in the content accessed through the SOFTWARE PRODUCT is the property of such content owner and may be protected by applicable law. This Agreement gives you no rights in such content.

**2.7 Confidentiality.** The SOFTWARE PRODUCT contains valuable proprietary information and trade secrets of POLYCOM and its suppliers and you shall protect the confidentiality of, and avoid disclosure and unauthorized use of, the SOFTWARE PRODUCT.

**2.8 Dual-Media Software.** You may receive the SOFTWARE PRODUCT in more than one medium. Regardless of the type or size of medium you receive, you may use only one medium that is appropriate for your single PRODUCT. You may not use or install the other medium on another PRODUCT.

**2.9 Reservation.** POLYCOM reserves all rights in the SOFTWARE PRODUCT not expressly granted to you in this Agreement.

**3. SUPPORT SERVICES.** POLYCOM may provide you with support services related to the SOFTWARE PRODUCT ("SUPPORT SERVICES "). Use of SUPPORT SERVICES is governed by the POLYCOM policies and programs described in the POLYCOM-provided materials. Any supplemental software code provided to you as part of the SUPPORT SERVICES is considered

part of the SOFTWARE PRODUCT and is subject to the terms and conditions of this Agreement. With respect to technical information you provide to POLYCOM as part of the SUPPORT SERVICES, POLYCOM may use such information for its business purposes, including for product support and development. POLYCOM will not utilize such technical information in a form that personally identifies you.

4. **TERMINATION.** Without prejudice to any other rights, POLYCOM may terminate this Agreement if you fail to comply with any of the terms and conditions of this Agreement. In such event, you must destroy all copies of the SOFTWARE PRODUCT and all of its component parts. You may terminate this Agreement at any time by destroying the SOFTWARE PRODUCT and all of its component parts.

5. **UPGRADES.** If the SOFTWARE PRODUCT is labeled as an upgrade, you must be properly licensed to use the software identified by POLYCOM as being eligible for the upgrade in order to use the SOFTWARE PRODUCT. A SOFTWARE PRODUCT labeled as an upgrade replaces and/or supplements the software that formed the basis for your eligibility for the upgrade. You may use the resulting upgraded SOFTWARE PRODUCT only in accordance with the terms of this Agreement. If the SOFTWARE PRODUCT is an upgrade of a component of a package of software programs that you licensed as a single product, the SOFTWARE PRODUCT may be used and transferred only as part of that single SOFTWARE PRODUCT package and may not be separated for use on more than one PRODUCT.

6. **WARRANTY AND WARRANTY EXCLUSIONS.**

6.1 **Limited Warranty.** POLYCOM warrants that (a) the SOFTWARE PRODUCT will perform substantially in accordance with the accompanying documentation for a period of ninety (90) days from the date of receipt by you, and (b) any SUPPORT SERVICES provided by POLYCOM shall be substantially as described in applicable written materials provided to you by POLYCOM, and POLYCOM support engineers will make commercially reasonable efforts to solve any problem issues. POLYCOM does not warrant that your use of the SOFTWARE PRODUCT will be uninterrupted or error free, or that all defects in the SOFTWARE PRODUCT will be corrected. POLYCOM's sole obligation under this express warranty shall be, at POLYCOM's option and expense, to refund the purchase price paid by you for any defective software product which is returned to POLYCOM with a copy or your receipt, or to replace any defective media with software which substantially conforms to applicable POLYCOM published specifications. Any replacement SOFTWARE PRODUCT will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer.

6.2 **Warranties Exclusive.** IF THIS SOFTWARE PRODUCT DOES NOT OPERATE AS WARRANTED ABOVE, YOUR SOLE REMEDY FOR BREACH OF THAT WARRANTY SHALL BE REPAIR, REPLACEMENT, OR REFUND OF THE PURCHASE PRICE PAID, AT POLYCOM'S OPTION. TO THE FULL EXTENT ALLOWED BY LAW, THE FOREGOING WARRANTIES AND REMEDIES ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, TERMS, OR CONDITIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES, TERMS, OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, CORRESPONDENCE WITH DESCRIPTION, AND NON-INFRINGEMENT, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. .

POLYCOM SHALL NOT BE LIABLE UNDER THIS WARRANTY IF ITS TESTING AND EXAMINATION DISCLOSE THAT THE ALLEGED DEFECT OR MALFUNCTION IN THE SOFTWARE PRODUCT DOES NOT EXIST OR WAS CAUSED BY YOUR OR ANY THIRD PERSON'S MISUSE, NEGLIGENCE, IMPROPER INSTALLATION OR TESTING, UNAUTHORIZED ATTEMPTS TO MODIFY THE PRODUCT, OR ANY OTHER CAUSE BEYOND THE RANGE OF THE INTENDED USE, OR BY ACCIDENT, FIRE, LIGHTNING, POWER CUTS OR OUTAGES, OTHER HAZARDS, OR ACTS OF GOD.

7. **LIMITATION OF LIABILITY.** To the maximum extent permitted by applicable law, in no event shall Polycom or its suppliers be liable for any special, incidental, indirect, or consequential damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or any other pecuniary loss) arising out of the use of or inability to use the software product or the provision of or failure to provide support services, even if Polycom has been advised of the possibility of such damages. In any case, Polycom's entire liability shall be limited to the greater of the amount actually paid by you for the software product or U.S. \$5.00. Provided, however, if you have entered into a Polycom support services agreement, Polycom's entire liability regarding support services shall be governed by the terms of that agreement.

To the extent any limitation of liability contained herein is construed by a court of competent jurisdiction to be a limitation of liability in violation of Oklahoma law, such limitation of liability shall be void.

8. **DISCLAIMER.** Some countries, states, or provinces do not allow the exclusion or limitation of implied warranties or the limitation of incidental or consequential damages for certain products supplied to consumers, or the limitation of liability for personal injury, so the above limitations and exclusions may be limited in their application to you. When the implied warranties are not allowed to be excluded in their entirety, they will be limited to the duration of the applicable written warranty. This warranty gives you specific legal rights which may vary depending on local law.

9. **EXPORT CONTROLS.** The SOFTWARE PRODUCT may not be downloaded or otherwise exported or re-exported (i) into (or to a national or resident of) Cuba, Iraq, Libya, North Korea, Yugoslavia, Iran, Syria, Republic of Serbia, or any other country to which the U.S. has embargoed goods; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders. By downloading or using the SOFTWARE PRODUCT, you are agreeing to the foregoing and you are representing and warranting that you are not located in, under the control of, or a national or resident of any such country or on any such list. If you obtained this SOFTWARE PRODUCT outside of the United States, you are also agreeing that you will not export or re-export it in violation of the laws of the country in which it was obtained.

10. **MISCELLANEOUS.**

**10.1 Governing Law.** THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF OKLAHOMA AS SUCH LAWS ARE APPLIED TO AGREEMENTS

ENTERED INTO BETWEEN OKLAHOMA GOVERNMENTAL ENTITIES, AND BY THE LAWS OF THE UNITED STATES. The United Nations Convention on Contracts for the International Sale of Goods (1980) is hereby excluded in its entirety from application to this Agreement.

**10.2 General.** This Agreement represents the complete agreement concerning this license and may be amended only by a writing executed by both parties. If any provision of this Agreement is held to be unenforceable, such provision shall be reformed only to the extent necessary to make it enforceable.

**10.3 Contact.** If you have any questions concerning this Agreement, or if you desire to contact POLYCOM for any reason, please contact the POLYCOM office serving your country.

**10.4 U.S. Government Restricted Rights.** The SOFTWARE PRODUCT and documentation are provided with RESTRICTED RIGHTS. The SOFTWARE PRODUCT programs and documentation are deemed to be "commercial computer software" and "commercial computer software documentation", respectively, pursuant to DFAR Section 227.7202 and FAR 12.212(b), as applicable. Any use, modification, reproduction, release, performance, display or disclosure of the SOFTWARE PRODUCT programs and/or documentation by the U.S. Government or any of its agencies shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms of this Agreement. Any technical data provided that is not covered by the above provisions is deemed to be "technical data-commercial items" pursuant to DFAR Section 227.7015(a). Any use, modification, reproduction, release, performance, display or disclosure of such technical data shall be governed by the terms of DFAR Section 227.7015(b).

Polycom, Inc.  
4750 Willow Road  
Pleasanton, California 94588  
U.S.A.  
925/924-6000

## APPENDIX B

**Following is a sample of Polycom Warranty Agreement. The actual warranty may vary by product. Products are shipped with shrink wrapped Warranty Agreements.**

**It's all about optimizing your collaboration environment to deliver the most benefit to your business** — using Polycom technology to greatest advantage.

That's the focus of Polycom Support Services: maximizing system utilization; increasing investment returns, and helping you be more successful using Polycom conferencing and collaboration technology.

With thousands of Polycom systems and applications covered by service contracts worldwide, we have the knowledge and resources to provide you with high quality, responsive hardware and software

support for your Polycom products. Polycom maintains a global network of information, tools and most importantly, people — to deliver fast and effective support.

### *Services that meet technical and operational support needs*

Provided by Polycom and our authorized partners, Polycom Support Services are comprised of 2 families of service offerings: The Premier family, available on:

- Software products
- MCUs / Gateways
- VSX™ 7000

The PictureCare family of service offerings, available on:

- iPower™ products
- ViewStation® products
- PictureTel® legacy products
- Voice products

### *Benefits*

**Vast global services network** – provides consistent, quality support

**Quick resolution of support issues** – minimizes operational disruption

**Expert resources** – knows the conferencing and collaboration environment best

**Broad, flexible range of service offerings** – best meets your needs

**Efficient problem resolution** – skilled remote and on-site support

**Unlimited telephone technical support during business hours**  
**Software upgrades and updates**

### ***Comprehensive Support***

As a Polycom support customer, you have access to the world's foremost conferencing and collaboration support experts and extensive Services Web site. You have direct telephone access to our Help Desk, where Polycom support engineers provide unlimited support during local business hours. Polycom's extensive knowledge database is continuously updated with real-time information on technical issues and assists our support engineers in providing speedy resolution to your system problems. Polycom's Services Web site offers up-to-the minute technical information, tips, software downloads and security updates and advisories. In addition, you are entitled to receive the latest software upgrades and updates upon release. An automatic notification will be sent to you when a software release is available, provided you have registered your product on the Polycom Web site.

**We offer a comprehensive portfolio of flexible support services – you select the level of support you need – from full support, to backup support to augment your own on-site support staff.**

#### **Support Services Features:**

**Unlimited telephone technical support during business hours** Provides access to expert technical support engineers who assist in solving issues by phone. The Polycom hotline is available during normal business hours in the designated support center's local time, Monday through Friday, excluding national and local holidays recognized by Polycom.

#### **Escalations support**

Technical support that provides access to higher-level engineering expertise for resolution of more complex technical problems, if required.

#### **On-line support**

Provides access to extensive technical information on the Polycom Resource Center available via the Polycom Web site. The Polycom Resource Center provides technical tips, search and query function on the Polycom Knowledge Base and FAQs (Frequently Asked Questions).

#### **Around-the-clock video test facility**

For users who want to test their system prior to an important video conference, Polycom's video test facility is available 24 hours a day, 365 days per year. Continuous motion and sound sources permit quick, easy confidence checks at any hour of the day or night. Live face-to-face testing with a Polycom support engineer is also available weekdays during normal business hours in the designated support center's local time.

#### **Advance parts replacement**

Provides expedited replacement of all covered, failed hardware parts. If telephone technical support determines that there is a hardware part failure or if there is an obvious malfunction, a replacement part will be dispatched on the same day for next business day delivery. Customs delays may affect actual delivery time in certain regions. The customer is required to return the defective part to Polycom.

#### **30-day return to factory parts support**

If telephone technical support determines that there is a part failure or if there is an obvious malfunction, the defective part is returned to the Polycom factory for repair or replacement, as needed. Within 30 days of receipt, the repaired or replacement part is then returned to the customer.

#### **Software updates**

Customers are entitled to receive software updates upon release to correct a software error that prevents the installed system from conforming to published specifications.

#### **Software upgrades**

Software upgrades provide you with major features and functionality releases for your current registered Polycom product. Software upgrades are available upon release.

**On-site support, next business-day response.**

For issues that cannot be resolved remotely, Polycom provides next business-day on-site technical engineer to resolve the issue.

**Other Services****Extended Telephone Technical Support Hours**

Additional options are available to augment all support programs. Contact your Polycom representative for details.

**Installation**

In addition to our Support Services, we also offer Installation Services on most Polycom products. Installation Services include pre-install coordination, on-site installation, live system test and hands-on user orientation. Contact your local Polycom representative for additional information.

**Training Services**

The Polycom Learning Center offers a broad range of training classes on-site, at our facility and by video. Technicians, system administrators and end users benefit from our industry-leading classes and certification program. For a complete listing of courses, course descriptions and schedule, visit the Polycom Web site.

**Polycom Global Services**

As part of Polycom's Global Services portfolio, our Support Services are designed to help you get the most out of your collaboration technology investment and are offered through Polycom's sales and service partners worldwide.



## APPENDIX C

### MAINTENANCE SERVICE AGREEMENT

#### AGREEMENT NUMBER

This Maintenance Service Agreement (“Agreement”) is effective as of \_\_\_\_\_, 200\_\_\_\_ (“Effective Date”), by and between Polycom, Inc., and \_\_\_\_\_ (“Customer” or “You”), a \_\_\_\_\_ governmental entity with its principal place of business at \_\_\_\_\_.

**1. Service.** You have ordered from a variety of Polycom Service Offerings (“*Service Offering*”) for Polycom Products as set forth in the applicable Service Description(s) incorporated herein by reference. A Service Offering covers a Polycom Product for a 12 month period beginning on the date you purchase the Service Offering as set forth in Section 2 below (“*Service Period*”) unless a longer Service Period has been mutually agreed to and is set forth herein. Polycom reserves the right to terminate or modify any Service Offering at any time in its sole discretion. You may only order Service Offerings for the then current version or immediately prior version of a Polycom Product in accordance with Polycom’s current Price List.

**2. Orders.** You will submit a Purchase Order for any Polycom Product for which you purchase a Service Offering. The Purchase Order must contain the following information for each Polycom Product listed on the Purchase Order: (i) model, serial number and location of the Polycom Product together with a contact name and phone number at the location; (ii) Service Offering you are purchasing; (iii) Service Period; and (iv) price for the Service Offering. The terms of this Agreement shall be applicable to all Purchase Orders submitted by You, and any preprinted and/or conflicting terms that may be contained on a Purchase Order shall be deemed to be of no effect.

**3. Equipment Schedules.** Each Polycom Product for which You purchase a Service Offering will be listed on a Polycom Equipment Schedule and incorporated herein. Only those Polycom Products listed on a Polycom Equipment Schedule will be entitled to Service Offerings under this Agreement.

**4. Service Offering Prices, Payment, Taxes.**

(a) Service Offering prices are set forth in the applicable Polycom Service Offering Description(s) and are based on the applicable Service Offering, Product configuration and location.

(b) Customer shall have the option of being invoiced on an annual basis in advance or invoiced quarterly in arrears for each ordered Service Offering on each Polycom Product. Invoices are due and payable net forty five (45) days following the date of the invoice. All payments for Services are non-refundable.

(c) Any payment not made when due shall be subject to a late payment charge in the amount of one and one half percent (1 ½%) per month, or the legal maximum, whichever is less, on the past due balance. You shall reimburse Polycom for all costs, including reasonable attorney fees,

incurred to collect any unpaid amounts. Polycom shall be entitled to suspend the Services provided under this Agreement until such time as the amount due has been paid in full. The suspension of the Services shall not relieve You from Your obligation to pay any and all charges due under this Agreement.

(d) The Service Offering prices and other charges hereunder do not include federal, state, municipal, local or other government excise, sales, value added, use occupational or other like taxes (“Taxes”) now or hereafter levied or imposed on the services or spare or replacement parts provided hereunder, or on this Agreement or any applicable Service Offering. However, invoices will include all such Taxes as a separate line item, and You will pay such Taxes in full together with any applicable interest, unless You provide Polycom in advance with a valid tax exemption certificate acceptable to the appropriate taxing authorities. Polycom will pay taxes based on Polycom’s income.

**5. General Terms and Conditions.** The following terms and conditions apply to all Service Offerings:

- (a) **Principal Period of Maintenance.** Unless otherwise provided in any Service Offering, all Services will be provided during Polycom’s then current published ordinary business hours Monday through Friday, exclusive of Polycom holidays (“PPM”).
- (b) **Software.** For Polycom Products under a Service Offering and listed on a Polycom Equipment Schedule, You will receive Updates to Software at no additional cost during the term of the Service Offering. The term “update” means Software to which Polycom has provided fixes or minor revisions to correct errors or defects in the existing operation of the Software in accordance with the published Product specifications (“Updates”), and which is limited to those Updates that Polycom generally provides to its Maintenance Customers at no charge. The term “upgrade” refers to Software with new or enhanced functionality or capabilities (“Upgrades”), which upon availability, may be purchased from a Polycom distributor at Polycom’s then current prices. Updates do not include Upgrades, and in no event, shall Upgrades be provided under this Agreement unless specifically stated otherwise in the published materials in connection with a particular Polycom Product or a particular Service Offering.
- (c) **Replacement Parts.** Replacement parts will be either new parts or parts equivalent in performance to new parts when used with the system and are warranted for 90 days from shipment. Parts removed from Polycom Products for replacement will become the property of Polycom, and must be shipped back to Polycom within five (5) calendar days of receipt of replacement part or You will be invoiced the full list price for the replaced part.
- (d) **Exclusions.** Polycom’s Service Offerings do not include any of the following: (i) Electrical work external to the Polycom Product; (ii) Repair or replacement of damage to or defects in the Polycom Product resulting from causes external to the Polycom Product including disaster, fire, accident, neglect, misuse, vandalism, water, lightning, or failure of the installation site to conform to Polycom applicable specifications; or resulting from use of the Polycom Product for other than intended purposes; or use of the Polycom Product with items not provided or approved by Polycom; or resulting from the performance of maintenance or the attempted repair of an item of a Polycom Product by persons other than Polycom employees or persons authorized by Polycom; (iii) Furnishing supplies or accessories, or painting or refinishing the Polycom Product; (iv) Services in connection with the relocation of the Polycom Product, or the addition or removal of items of equipment or parts, attachments, features, or to other devices not furnished by Polycom, including communications devices, networks or links; and (v) Services in connection with computer viruses or conflicts involving software that is not installed or introduced by Polycom.

(e) **Continuing Availability.** Polycom will generally make Service Offerings available at Polycom's then current prices for a period of five years following the delivery of Polycom Products. Polycom will endeavor to give You one (1) year's prior written notice of Polycom's intent to terminate Service Offering availability for any Polycom Product then under a Service Offering.

6. **Term.** The term of this Contract shall be one (1) year commencing on the date of approval by both parties with three (3) one-year renewal options. Upon termination of this Contract, all rights and obligations set forth herein shall survive in accordance with their terms as to procurements made by Customers

7. **Renewal of Service Offering.** Polycom will provide You with 60 days' prior written notice of expiration of each Service Offering. You must provide Polycom with written notice of your intent to cancel, renew or modify each Service Offering not less than 30 days prior to expiration of each Service Offering. In the absence of such written notice, Polycom reserves the right to charge You the then current time and material rates for any Services provided after the expiration of the Service Offering if Polycom does not receive a renewal Purchase Order prior to expiration.

8. **Recertification.** If You wish to order a Service Offering for a Polycom Product, and such system has not been under a current Service Agreement, Polycom may require that the Polycom Product pass an inspection and/or re-certification by Polycom and/or that the Polycom Product be brought up to the latest revision level, both at Your expense at Polycom's then current prices.

9. **Termination.** (a) Polycom may at its option terminate this Agreement or any applicable Service Offering in whole or in part for cause if: (i) You fail to perform any material term or condition of this Agreement or any applicable Service Offering, and You do not remedy the failure within ten (10) calendar days after receipt of written notice of such default, or (ii) any person other than a Polycom employee, or designated service representative, alters or changes a Polycom Product without Polycom's prior written consent, or in any way renders a Polycom Product unsafe. Adjustments to a Polycom Product made at the direction of Polycom do not constitute alterations or changes for the purposes of this section. (b) Either party may terminate this Agreement upon sixty (60) days prior written notice. Should Polycom exercise its right to terminate this Agreement in accordance with this Section 9(b) or should Polycom choose to terminate a particular Service Offering, to the extent that You have paid in advance for a Service Offering that is listed on the Equipment Schedule with a future expiration date that has not yet expired, Polycom shall have the option, at its sole discretion, of either: (i) continuing to perform the Maintenance until such expiration date subject to the terms of this Agreement, or (ii) issuing a pro-rata refund to You. The termination or expiration of this Agreement or any individual order or Service Offering shall in no way relieve you from your obligation to pay Polycom any sums accrued hereunder prior to such termination or expiration.

10. **Customer's Obligations.**

(a) You shall have the continuing obligation to keep all Polycom Products under Service Offerings at either the then current version or immediately prior version release.

(b) During the PPM, You will provide Polycom personnel with access to the Polycom Products and adequate working space (including heat, light, ventilation, electric currents and outlets) at no charge to Polycom.

(c) At your expense, You will maintain the installation site and provide the necessary utility services for use of the Polycom Product in accordance with Polycom's applicable published specifications.

(d) You will be responsible for replacing, at your own expense, any and all consumable items used in connection with the Polycom Products, including without limitation, bulbs and batteries.

(e) Polycom strongly recommends that You install and use a current, reputable anti-virus program in connection with any PC-based, open-architecture Polycom Product, and that You regularly update and run such anti-virus program, especially in connection with the emergence of any new viruses and/or 'worms'. Repair or restoration of any Polycom Product damaged or 'infected' by viruses is not covered under this Agreement or the Service Offerings.

#### **11. WARRANTY/LIMITATION OF LIABILITY.**

(a) POLYCOM WARRANTS THAT SERVICES WILL BE PROVIDED IN A PROFESSIONAL AND WORKMANLIKE MANNER. POLYCOM MAKES NO OTHER WARRANTY, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR OF MERCHANTABILITY. POLYCOM MAKES NO WARRANTY THAT OPERATION OF THE PRODUCT WILL BE UNINTERRUPTED OR ERROR FREE. IN NO EVENT WILL POLYCOM BE LIABLE FOR ANY DELAY IN FURNISHING SERVICES.

**EXCEPT FOR CLAIMS FOR PERSONAL INJURY OR FOR DAMAGES TO REAL OR TANGIBLE PERSONAL PROPERTY, IN NO EVENT WILL POLYCOM BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES, LOST BUSINESS PROFITS, OR LOSS, DAMAGE OR DESTRUCTION OF DATA, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF WARRANTY OR OTHERWISE, EVEN IF POLYCOM HAS BEEN ADVISED AS TO THE POSSIBILITY OF SAME, AND POLYCOM'S MAXIMUM LIABILITY FOR ALL OTHER DAMAGES WILL BE LIMITED IN ANY EVENT TO ONE YEAR'S SERVICE CHARGES. SOME STATES DO NOT ALLOW THE EXCLUSION OF LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES AND THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY. TO THE EXTENT ANY LIMITATION OF LIABILITY CONTAINED HEREIN IS CONSTRUED BY A COURT OF COMPETENT JURISDICTION TO BE A LIMITATION OF LIABILITY IN VIOLATION OF OKLAHOMA LAW, SUCH LIMITATION OF LIABILITY SHALL BE VOID.**

**12. Force Majeure.** Except for the obligation to make timely payments, neither party will be liable to the other for delays or failures to perform occasioned by causes beyond its reasonable control. In the event of such delays or failures to perform, any dates or times by which Polycom is otherwise scheduled to perform shall be extended automatically for a period of time equal in duration to the additional time required because of the delay or failure to perform.

**13. Indemnification.** Subject to Clause 11 above, Polycom will indemnify and hold You harmless from and against any and all losses, damages, expenses (including reasonable attorney's fees) finally awarded, claims, liabilities, suits or actions for death or personal injury or property damage resulting from the performance or non-performance of Polycom's work pursuant to this Agreement on your premises, solely to the extent caused by the negligence of Polycom or its agent, provided that: (i) You promptly notify Polycom in writing of the claim; (ii) Polycom has sole control of the defense and all related settlement negotiations; and (iii) such indemnification and save

harmless obligation will be limited in the case of real or tangible property to the reduction in value or replacement cost of such property.

**14. General.**

- (a) This Agreement may only be modified by a written agreement duly signed by authorized representatives of both parties, and variance from or addition to the terms and conditions of this Agreement in any order or other written notification will be of no effect.
- (b) Any notices required or permitted to be given under this Agreement shall be in writing and effective when received by a party at the address shown at the head of this Agreement or at such other address as the receiving party may request by prior written notice.
- (c) If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, the remaining terms of the Agreement shall in no way be affected or impaired.
- (d) The waiver by either party of a breach of any provision of this Agreement shall not be construed as a waiver of any subsequent breach.
- (e) You may not assign any or all of your rights or obligations under this Agreement including by purchase, merger or operation of law, without the prior written consent of Polycom, which consent shall not be unreasonably withheld. Any attempted assignment or transfer in violation of this provision shall be null and void. Polycom may assign this Agreement without prior written consent or notice.
- (f) This Agreement shall be governed by and construed in accordance with the laws of the State of Oklahoma without regard to the conflict of laws provisions thereof. The Superior Court of Oklahoma County and/or the United States District Court shall have exclusive jurisdiction and venue over all controversies in connection herewith. In any action to enforce this Agreement the prevailing party shall be entitled to be awarded all court costs and reasonable legal fees incurred. The parties specifically disclaim the U.N. Convention on Contracts for the International Sale of Goods.

THIS AGREEMENT, TOGETHER WITH ANY APPLICABLE SERVICE OFFERING, IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT OF TERMS AND CONDITIONS BETWEEN THE PARTIES, SUPERSEDING ALL PROPOSALS OR PRIOR AGREEMENTS OR COMMUNICATIONS, ORAL OR WRITTEN, BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT.

**Oklahoma State Regents**  
**Customer**

**Polycom, Inc.**

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**Signature**

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**Signature**

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**Printed Name**

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**Printed Name**

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