

ASSIGNMENT AND NOVATION AGREEMENT

THIS ASSIGNMENT AND NOVATION AGREEMENT (this "Assignment") is made as of April 18, 2016, in San Francisco, California, by and between En Pointe Technologies Sales, Inc. ("Assignor") and En Pointe Technologies Sales, LLC ("Assignee"), and the City and County of San Francisco, a municipal corporation (the "City").

RECITALS

WHEREAS, Assignor is a party to the Agreement (as defined below); and

WHEREAS, Assignor desires to assign the Agreement, and Assignee desires to assume the Agreement, each on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained in this Assignment, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. **Definitions.** The following definitions shall apply to this Assignment:

(a) **Agreement.** The term "Agreement" shall mean the June 25, 2014, Microsoft Online 365 Agreement between En Pointe Technologies Sales, Inc. and City and County of San Francisco, a municipal corporation ("City"). The term "Agreement" shall include any amendments or modifications set forth in Appendix A, attached hereto and made a part hereof.

(b) **Effective Date.** "Effective Date" shall mean the date of this Assignment.

(c) **Other Terms.** Terms used and not defined in this Assignment shall have the meanings assigned to such terms in the Agreement.

2. **The parties agree to the following facts:**

(a) The City, by and through the Office of Contract Administration, has entered into the Agreement with Assignor as defined above and attached as Appendix A and incorporated in this Assignment by reference.

(b) As of April 1, 2015, the Assignor has transferred to the Assignee substantially all the assets of the Assignor by virtue of an Asset Purchase Agreement between the Assignor and Assignee.

(c) The Assignee has acquired substantially all the assets of the Assignor by virtue of the above transfer, which includes the Agreement.

(d) The Assignee has assumed all obligations and liabilities of the Assignor under the Agreement by virtue of the above transfer.

(e) The Assignee is in a position to fully perform all obligations that may exist under the Agreement.

(f) It is consistent with the City's interest to recognize the Assignee as the successor party to the Agreement.

(g) Evidence of the above transfer has been filed with the City. They are included in Appendix B.

3. In consideration of these facts, the parties agree that by this Assignment:

(a) The Assignor confirms the transfer to the Assignee, and waives any claims and rights against the City that it now has or may have in the future in connection with the Agreement.

(b) The Assignee agrees to be bound by and to perform the Agreement in accordance with the conditions contained in the Agreement. The Assignee also assumes all obligations and liabilities of, and all claims against, the Assignor under the Agreement as if the Assignee were the original party to the Agreement.

(c) The Assignee ratifies all previous actions taken by the Assignor with respect to the Agreement, with the same force and effect as if the action has been taken by the Assignee.

(d) The City recognizes the Assignee as the Assignor's successor in interest in and to the Agreement. The Assignee by this Assignment becomes entitled to all rights, titles, and interests of the Assignor in and to the Agreement as if the Assignee were the original party to the Agreement. Following the Effective Date of this Assignment, the term "Contractor," as used in the Agreement, shall refer to the Assignee.

(e) Except as expressly provided in this Assignment, nothing in it shall be construed as a waiver of any rights of the City against the Assignor.

(f) All payments and reimbursements previously made by City to the Assignor, and all other previous actions taken by City under the Agreement, shall be considered to have discharged those parts of City's obligations under the Agreement. All payments and reimbursements made by City after the date of this Assignment in the name of or to the Assignor shall have the same force and effect as if made to the Assignee, and shall constitute a complete discharge of City's obligations under the Agreement, to the extent of the amounts paid or reimbursed.

(g) The Assignor and the Assignee agree that City is not obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any related increases, directly or indirectly arising out of or resulting from the transfer of this Assignment, other than those that City in the absence of this transfer or Assignment would have been obligated to pay or reimburse under the terms of the Agreement.

(h) The Assignor guarantees payment of all liabilities and the performance of all obligations that the Assignee:

(1) Assumes under this Assignment; or

(2) May undertake in the future should this Agreement be modified under their terms and conditions. The Assignor waives notice of, and consents to, any such future modifications.

(i) The Agreement shall remain in full force and effect, except as modified by this Assignment. Each party has executed this Assignment as of the day and year first above written.

4. **Governing Law.** This Assignment shall be governed by the laws of the State of California, without regard to its conflict of laws principles.
5. **Headings.** All section headings and captions contained in this Assignment are for reference only and shall not be considered in construing this Assignment.
6. **Entire Agreement.** This Assignment sets forth the entire agreement between Assignor and Assignee relating to the Agreement and supersedes all other oral or written provisions.
7. **Further Assurances.** From and after the date of this Assignment, Assignor and Assignee agree to do such things, perform such acts, and make, execute, acknowledge and deliver such documents as may be reasonably necessary or proper and usual to complete the conveyance contemplated by this Assignment or as may be required by City.
8. **Insurance Certificates.** For this Assignment and Novation to be effective, Assignee shall provide to City insurance certificates and endorsements for the identical type and amount of coverage currently required under the Agreement.
9. **Severability.** Should the application of any provision of this Assignment to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Assignment shall not be affected or impaired thereby and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of Assignor, Assignee and City.
10. **Successors; Third-Party Beneficiaries.** Subject to the terms of the Agreement, this Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their successors and assigns. ~~Nothing in this Assignment, whether express or implied, shall be construed to give any person or entity (other than City and the parties hereto and their respective successors and assigns) any legal or equitable right, remedy or claim under or in respect of this Assignment or any covenants, conditions or provisions contained herein.~~
11. **Notices.** All notices, consents, directions, approvals, instructions, requests and other communications regarding this Assignment or the Agreement shall be in writing, shall be addressed to the person and address set forth below and shall be (a) deposited in the U.S. mail, first class, certified with return receipt requested and with appropriate postage, (b) hand delivered or (c) sent via facsimile (if a facsimile number is provided below). All communications sent in accordance with this Section shall become effective on the date of receipt. From time to time Assignor, Assignee or City may designate a new address for purposes of this Section by notice to the other signatories to this Assignment.

If to Assignor:

En Pointe Technologies Sales, Inc,
Attn: Javed Latif
18701 S. Figueroa Street, Suite 300
Gardena, CA 90248-4506
424-331-1200
Jlatif:clinclotid.com

If to Assignee:

En Pointe Technologies Sales, LLC
ATTN: Dr. Shahzad Munawwar (COO & SVP)
1940 E. Mariposa Avenue
El Segundo, CA 90245
310-337-5252
SMunawwar(aenpointe.com)

PURCHASING DEPARTMENT
16 SEP 30 PM 3:12
RECEIVED

If to City:

Contracting Administrator
Department of Technology
One South Van Ness, Second Floor
San Francisco, CA 94103

12. **Consent of City.** Each of Assignor and Assignee acknowledges that the prior written consent of City to this Assignment is required under the terms of the Agreement. City shall be a third party beneficiary of this Assignment and shall have the right to enforce this Assignment.

IN WITNESS WHEREOF, Assignor and Assignee have each duly executed this Assignment as of the date first referenced above.

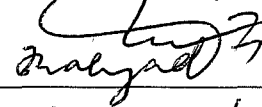
ASSIGNOR

ASSIGNEE

En Pointe Technologies Sales, Inc.
City Vendor Number: 58893

En Pointe Technologies Sales, LLC.
City Vendor Number: 99606

By 
Title Controller

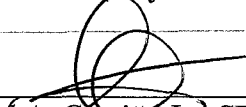
By 
Title Chief operating officer


Subject to Section 12 of this Assignment, City hereby consents to the assignment and novation described in Sections 2 and 3 of this Assignment.

CITY


Recommended by:

Approved:


Miguel A. Gamino Jr., CPA
City Chief Information Officer
Executive Director
Department of Technology


Jaci Fong
Director of the Office of Contract
Office of Contract Administration

Approved as to Form:


Margarita Gutierrez, Deputy City Attorney
Assignment and Novation

Dennis J. Herrera
City Attorney

By _____
Margarita Gutierrez
Deputy City Attorney

Appendix A: Microsoft Online 365 Agreement
Appendix B: Sale Documents

APPENDIX A

Agreement

Agreement, dated July 25, 2014

APPENDIX B

Merger Documents

Certificate of Formation PCM Sales Acquisition LLC, March 6, 2015
State of Delaware Waiver of Requirement, March 6, 2015
Asset Purchase Agreement, March 12, 2015