

**City and County of San Francisco
Office of Contract Administration
Purchasing Division
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4685**

NOVATION AGREEMENT

THIS NOVATION AGREEMENT (“Novation”) is made as of **March 28, 2023**, in San Francisco, California, by and between Hyland Software, Inc. (as successor in interest to Hyland LLC), a corporation duly organized and existing under the laws of **Ohio** with its principal office in **Ohio** (“Transferor”), **HYLAND SOFTWARE, INC.**, a corporation duly organized and existing under the laws of Ohio with its principal office in **Ohio** (“Transferee”), and City and County of San Francisco, a municipal corporation (“City”).

Recitals

WHEREAS, the City has entered into the Agreement (as defined below). The term “the contracts,” as used in this Novation, means the Agreement, related orders, purchase orders and all other contracts and purchase documents executed between the parties, including all modifications, made between the City and the Transferor on or before the effective date of this Novation (whether or not performance and payment have been completed and releases executed if the City or the Transferor has any remaining rights, duties, or obligations under the contracts), and

WHEREAS, as of January 1, 2023, the Transferor has transferred to the Transferee all rights and obligations of the Transferor to the contracts listed above by virtue of a merger between the Transferor and the Transferee. The Transferor was merged in its entirety and no longer exists as a separate entity (the “Merger”), and

WHEREAS, the Transferee has assumed all obligations and liabilities of the Transferor under the contracts by virtue of the above transfer; and

WHEREAS, Transferee confirms that is able to fully perform all obligations that may exist under the Agreement, and

WHEREAS, it is consistent with the City’s interest to recognize the Transferee as the successor party to the Agreement, and

WHEREAS, the City hereby confirms its consent to the transfer of the Agreement in consideration of the Transferor’s merger into Transferee and Transferor’s statements herein and under the terms below.

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

Article 1 Definitions

The following definitions apply to this Novation:

1.1 “Agreement”

“Agreement” means the agreement dated **January 4, 2016** between Transferor and City and County of San Francisco, a municipal corporation, as novated on **May 15, 2018**, and as amended by the first amendment dated **May 30, 2019**. The Agreement and any amendments or modifications are attached to this Novation as Appendix A.

1.2 “Effective Date” means the date which the last party to execute this Novation enters its signature as determined by the date entered with such party’s signature.

1.3 Other terms used and not defined in this Novation shall have the meanings assigned to such terms in the Agreement.

Article 2 Transfer of Agreement

2.1 **Transfer.** Transferor pursuant to the Merger hereby confirms the novation of the contracts to Transferee including all of Transferor’s rights, title and interest in and to the Agreement and all of Transferor’s duties and obligations thereunder.

2.2 **Acceptance.** Transferee accepts the novation described in Article 2.1 and agrees to perform all of Transferor’s duties and obligations under the Agreement.

2.3 **Rights to Enforce.** Subject to the terms of the Agreement, this Novation shall be binding upon, and inure to the benefit of, the parties hereto and their successors and transferees. Nothing in this Novation, 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 Transferees) any legal or equitable right, remedy or claim under or in respect of this Novation or any covenants, conditions or provisions contained herein.

2.4 **Consent of City.** The City consents to the transfer described in this Article 2 based on the evidence provided below, which indicates that Transferee is in a position to fully perform all obligations that may and will exist under the Agreement. All the evidence is attached to this Novation as Appendix B.

2.4.1 An authenticated copy of instrument effecting the transaction between the Transferor and Transferee together with attorney opinion letter with a statement that the transaction was properly affected under the applicable state laws.

2.4.2 Additional documents required, depending on the nature of the transfer:

(a) A certificate dated December 27, 2022, signed by the Secretary of State of Ohio, to the effect that Transferor merged into the Transferee and the Transferee is the surviving corporation as of January 1, 2023.

2.5 **Successor.** The City recognizes the Transferee as the Transferor’s successor in interest in and to the Agreement. The Transferee by this Novation becomes liable for all responsibilities and entitled to all rights, titles, and interests of the Transferor in and to the Agreement. The City will treat the Transferee as if the Transferee were the original party to the Agreement. Following the Novation, the term “Contractor,” as used in the Agreement, shall refer to the Transferee. The Agreement shall remain in full force and effect, except as modified by this Novation. Each party has executed this Novation as of the day and year first above written.

2.6 **Further Assurances.** From and after the date of this Novation, Transferor and Transferee 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 Novation or as may be reasonably required by City, if any.

Article 3 Obligations and Liabilities

3.1 **Transfer, Waiver, and Assumption.** The Transferor has previously confirmed the novation to the Transferee, and has previously waived any claims and rights against the City that it now has or may have in the future in connection with the Agreement which such claims and rights as of the Effective Date reside with the Transferee. The Transferee agrees to be bound by and to perform the Agreement in accordance with the conditions contained therein. The Transferee also assumes all obligations and liabilities of, and all claims against, the Transferor under the Agreement as if the Transferee were the original party to the Agreement. The Transferee ratifies all previous actions taken by the Transferor with respect to the Agreement, with the same force and effect as if the action has been taken by the Transferee.

3.2 **Past Payments.** All payments and reimbursements previously made by City to the Transferor, and all other previous actions taken by City under the Agreement, shall be considered to have discharged those parts of City's obligations thereunder. All payments and reimbursements made by City after the date of this Novation in the name of or to the Transferor shall have the same force and effect as if made to the Transferee, and shall constitute a discharge of City's obligations under the Agreement to the extent of the amounts paid or reimbursed. The Transferor and the Transferee agree and confirm 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 Novation, other than those that City in the absence of this transfer would have been obligated to pay or reimburse under the terms of the Agreement.

Article 4 Insurance and Indemnification

4.1 **Insurance Certificates.** For this Novation to be effective, Transferee shall provide to City insurance certificates and endorsements for the identical type and amount of coverage currently required under the Agreement.

4.2 **City.** Transferor and Transferee shall adhere to the indemnification obligations set forth in the Agreement.

Article 5 General Provisions

5.1 **Governing Law.** This Novation shall be governed by the laws of the State of California, without regard to its conflict of laws principles.

5.2 **Headings.** All section headings and captions contained in this Novation are for reference only and shall not be considered in construing this Novation.

5.3 **Notices.** All notices, consents, directions, approvals, instructions, requests and other communications regarding this Novation or the Agreement shall be in writing, shall be addressed to the person and address set forth below and shall be (i) deposited in the U.S. mail, first class, certified with return receipt requested and with appropriate postage, (ii) hand delivered or (iii) sent via email with a return receipt. All communications sent in accordance with this Section shall become effective on the date of receipt. From time to time Transferor, Transferee or City may designate a new address for purposes of this Section by notice to the other signatories to this Novation.

If to Transferee:

Hyland Software, Inc.
28500 Clemens Rd.
Westlake Ohio 44145 Attn: General Counsel
hylandcontracts@onbase.com

If to City:

**San Francisco Health Service System
Attn: Executive Director
1145 Market Street, 3rd Floor
San Francisco, CA 94103**

5.4 **Entire Agreement.** This Novation sets forth the entire agreement between Transferor and Transferee relating to the Agreement and supersedes all other oral or written provisions.

5.5 **Severability.** Should the application of any word, phrase, clause, sentence, paragraph and/or provision of this Novation to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (i) the validity of other words, phrases, clauses, sentences, paragraphs and/or provisions of this Novation shall not be affected or impaired thereby and (ii) such words, phrases, clauses, sentences, paragraphs and/or provisions shall be enforced to the maximum extent possible so as to effect the intent of Transferor, Transferee and City.

[SIGNATURES ON FOLLOWING PAGE]

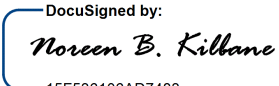
IN WITNESS WHEREOF, Transferor and Transferee have each duly executed this Novation as of the date first referenced above.

TRANSFEROR

TRANSFEE

HYLAND LLC (by Hyland Software, Inc.,
successor in interest)
Supplier ID: 0000037584

HYLAND SOFTWARE INC.
Supplier ID: 0000028292

By  DocuSigned by:
Noreen B. Kilbane
15F536106AD7483...

By  DocuSigned by:
Naveed Kiyani
C72660F7CAF8474...

Name Noreen B. Kilbane

Name Naveed Kiyani

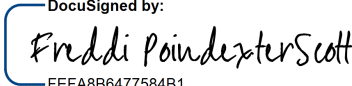
Title EVP, Chief Administrative Officer

Title Senior Vice President

Hyland Legal

Approved By:

Date:


 DocuSigned by:
Freddie Poindexter Scott
FEFA8B6477584B1...
5/15/2023

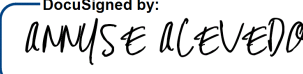
City hereby consents to the transfer described in Article 2 of this Novation.

Recommended by:

Approved:

Sailaja Kurella
Director of the Office of
Contract Administration, and
Purchaser

 DocuSigned by:
Abbie Yant
237210E11644489...

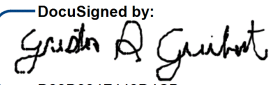
By:  DocuSigned by:
ANNYSE ACEVEDO
D59F4BA358B4449...

Signature for Department
Name: ABBIE YANT, RN, MA
Title : Executive Director
Department: San Francisco Health Service
System

Name: ANNYSE ACEVEDO

Approved as to Form:

David Chiu
City Attorney

By  DocuSigned by:
Gustin R. Guibert
D39D934F443D4CB...

GUSTIN R. GUIBERT
Deputy City Attorney

Attached:

Appendix A: Agreement

Appendix B: Documentation of Transfer

APPENDIX A - Agreement

The Agreement dated **January 4, 2016** between Contractor and City, as amended by the:

Assignment and Novation dated **May 15, 2018**, and

First Amendment, dated **May 30, 2019** is attached on the following pages.

ASSIGNMENT AND NOVATION AGREEMENT

THIS ASSIGNMENT AND NOVATION AGREEMENT (this "Assignment") is made as of **May 15, 2018** in San Francisco, California, by and between HYLAND LLC (formerly known as Lexmark Enterprise Software, LLC), located at 18103 West 106th Street, Suite 200, Olathe, Kansas 66061 ("Assignor"), HYLAND LLC (formerly known as Lexmark Enterprise Software, LLC), located at 18103 West 106th Street, Suite 200, Olathe, Kansas 66061 ("Assignee"), and CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the "City").

RECITALS

WHEREAS, Assignor and Assignee are the same corporate entity ("Hyland LLC");

WHEREAS, on February 9, 2018, Hyland LLC changed its name from Lexmark Enterprise Software, LLC to Hyland LLC;

WHEREAS, on June 25, 2018, Hyland filed a Name Change Amendment with the State of California documenting the name change from Lexmark Enterprise Software, LLC to Hyland LLC and selecting the California Alternate Name of "Hyland Solutions of Delaware LLC;"

WHEREAS, the City's vendor record for Hyland LLC (Supplier ID# 0000016309) includes an incorrect Tax ID number which the City is unable to correct;

WHEREAS, per the City's instructions, Hyland LLC has created a new vendor record with the correct Tax ID number (Supplier ID# 0000037584);

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

WHEREAS, the City insists that Hyland LLC sign this Assignment in order for the City to associate the Agreement from the old vendor record (Supplier ID# 0000016309) to the new vendor record (Supplier ID# 0000037584).

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 Software License Agreement Between the City and County of San Francisco and Lexmark Enterprise Software, LLC dated January 4, 2016 between Assignor and City and County of San Francisco, a municipal corporation ("City").

(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 San Francisco Health Service System, 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 the **Effective Date**, the Assignor has transferred to the Assignee all the assets of the Assignor.

(c) The Assignee has acquired all the assets of the Assignor by virtue of the above transfer.

(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.

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:

**Hyland LLC
Attn: Legal Department
28500 Clemens Road
Westlake, OH 44145**

If to Assignee:

**Hyland LLC
Attn: Legal Department
28500 Clemens Road
Westlake, OH 44145**

If to City:

**San Francisco Health Service System
Attn: Executive Director
1145 Market Street, 3rd 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


Hyland, LLC
Supplier Number: 0000016309

ASSIGNEE

Hyland LLC
Supplier Number: 0000037584

HYLAND
SOFTWARE
jlm 11/12/13
INITIAL DATE

By:



By:



LEGAL

Name and Title: Warren B. Kilbuck
Chief Administrative Officer

Name and Title: Warren B. Kilbuck
Chief Administrative Officer

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


CITY

Recommended by:


ABBIE YANT, RN, MA
Executive Director
San Francisco Health Service System

Approved as to Form:
Dennis J. Herrera
City Attorney

By


GUSTIN R. GUIBERT
Deputy City Attorney

Approved:


ALARIC DEGRAFINRIED
Director of Office of Contract Administration/ Purchaser

P-560 (3-18)

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Received By:
JAN 14 '19 PM 12:33
Purchasing Department

**City and County of San Francisco
Office of Contract Administration
Purchasing Division**

**FIRST AMENDMENT TO THE SOFTWARE LICENSE AGREEMENT
BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO
AND
HYLAND LLC**

THIS AMENDMENT (this "Amendment") is made as of the 30th day of May 2019 in San Francisco, California, by and between HYLAND LLC (formerly known as Lexmark Enterprise Software, LLC), located at 18103 West 106th Street, Suite 200, Olathe, Kansas 66061 ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to add additional required software licenses with the associated software maintenance and extend the term of the Agreement; and

WHEREAS, initial approval for this Agreement was obtained when the Civil Service Commission approved Contract number 36600 – 15/16 on August 12, 2015, and was subsequently extended through by the approval for this Amendment which was obtained when the Civil Service Commission approved Contract number 45188 - 18/19 on August 5, 2019;

NOW, THEREFORE, Contractor and the City agree as follows:

1. Definitions. The following definitions shall apply to this Amendment:

1a. Agreement. The term "Agreement" shall mean the Agreement dated January 4, 2016 between Contractor and City, and novated on May 15, 2018.

1b. Contract Monitoring Division. Effective July 28, 2012, with the exception of Sections 14B.9(D) and 14B.17(F), all of the duties and functions of the Human Rights Commission under Chapter 14B of the Administrative Code (LBE Ordinance) were transferred to the City Administrator, Contract Monitoring Division ("CMD"). Wherever "Human Rights Commission" or "HRC" appears in the Agreement in reference to Chapter 14B of the Administrative Code or its implementing Rules and Regulations, it shall be construed to mean "Contract Monitoring Division" or "CMD" respectively.

1c. Other Terms. Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

2. Modifications to the Agreement. The Agreement is hereby modified as follows:

2a. Section 22. Section 22 (Payment) of the Agreement currently reads as follows:

22. Payment. Compensation shall be due and payable within thirty (30) days of the date of invoice. In no event shall the amount of this Agreement exceed two hundred twenty one thousand, four hundred sixty dollars (\$221,460.00). The breakdown of costs associated with this Agreement is provided for in Appendix B. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until Licensed Software and services required under this Agreement are received from Contractor and approved by the Health Service System, City and County of San Francisco, as being in accordance with this Agreement.

Such section is hereby amended in its entirety to read as follows:

22. Payment. Compensation shall be due and payable within thirty (30) days of the date of invoice. In no event shall the amount of this Agreement exceed Three Hundred Forty Two Thousand One Hundred Sixty Four Dollars (\$342,164). The breakdown of costs associated with this Agreement is provided for in Appendix B. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until Licensed Software and services required under this Agreement are received from Contractor and approved by the Health Service System, City and County of San Francisco, as being in accordance with this Agreement.

2b. Appendix B Section I (Software Product and Service Costs and Terms), Subsection A Section (Perpetual Software Licenses- One-time, Non-Recurring Expense). Appendix B Section I (Software Product and Service Costs and Terms), Subsection A Section (Perpetual Software Licenses- One-time, Non-Recurring Expense) of the Agreement currently reads as follows:

A. Perpetual Software Licenses: One-time, On-Recurring Expense

1. The Licensed Software is licensed upon the terms and conditions of the Lexmark Enterprise Software End User License Agreement (Appendix C), which End User License Agreement terms and conditions are accepted by Customer upon Customer's receipt of the Licensed Software.
2. The fees for the perpetual licensed software shall be invoiced upon execution of the Agreement and will be paid in accordance with Section II, of this Appendix B.
3. Additional licenses of the Perpetual Licensed Software purchased by Customer following the Effective Date will be priced as listed in Lexmark's then-current, published Lexmark Enterprise Software Pricing Book: USA, unless otherwise agreed to in writing by the parties.
4. The Customer may reallocate licenses to different users, in the Customers sole discretion, at no additional charge by Lexmark.

One-Time, Non-Recurring Expense- Software Licenses			
Perpetual Software Licenses	Unit Cost	License Count	Cost
CaptureNow TWAIN	\$ 1,540.00	3	\$ 4,620.00
Single Doc Filter for Content	\$ 3,090.00	1	\$ 3,090.00
ImageNow Fax Agent 3-8p	\$ 6,180.00	1	\$ 6,180.00
ImageNow Content Server	\$ 8,240.00	1	\$ 8,240.00
ImageNow Client/WebNow Combo	\$ 2,225.00	25	\$ 55,625.00
ImageNow Mail Agent	\$ 2,060.00	1	\$ 2,060.00
ImageNow Enterprise Server	\$ 15,950.00	1	\$ 15,950.00
Recognition Agent	\$ 10,300.00	1	\$ 10,300.00
Perceptive Interact for Salesforce for the Enterprise	\$ 125.00	25	\$ 3,125.00
Perpetual Software Licenses Subtotal:			\$ 109,190.00
Discounts:			\$ (22,741.14)
Total:			\$ 86,448.86

Such section is hereby amended in its entirety to read as follows:

A. Perpetual Software Licenses: One-time, On-Recurring Expense

1. The Licensed Software is licensed upon the terms and conditions of the Hyland's Enterprise Software End User License Agreement (Appendix C), which End User License Agreement terms and conditions are accepted by Customer upon Customer's receipt of the Licensed Software.
2. The fees for the perpetual licensed software (Table A1 and Table A2) shall be invoiced upon execution of the Agreement and will be paid in accordance with Section II, of this Appendix B.
3. Additional licenses (Table A2) of the Perpetual Licensed Software purchased by Customer following the Effective Date will be priced as listed in Hyland's then-current, published Hyland Enterprise Software Pricing Book: USA, unless otherwise agreed to in writing by the parties.
4. The Customer may reallocate licenses to different users, in the Customers sole discretion, at no additional charge by Hyland.

Table A1

One-Time, Non-Recurring Expense- Software Licenses			
Perpetual Software Licenses	Unit Cost	License Count	Cost
CaptureNow TWAIN	\$ 1,540.00	3	\$ 4,620.00
Single Doc Filter for Content	\$ 3,090.00	1	\$ 3,090.00
ImageNow Fax Agent 3-8p	\$ 6,180.00	1	\$ 6,180.00
ImageNow Content Server	\$ 8,240.00	1	\$ 8,240.00
ImageNow Client/WebNow Combo	\$ 2,225.00	25	\$ 55,625.00
ImageNow Mail Agent	\$ 2,060.00	1	\$ 2,060.00
ImageNow Enterprise Server	\$ 15,950.00	1	\$ 15,950.00
Recognition Agent	\$ 10,300.00	1	\$ 10,300.00
Perceptive Interact for Salesforce for the Enterprise	\$ 125.00	25	\$ 3,125.00
Perpetual Software Licenses Subtotal:			\$ 109,190.00
Discounts:			\$ (22,741.14)
Total:			\$ 86,448.86

Table A2

Additional One-Time, Non-Recurring Expense- Software Licenses			
Perpetual Software Licenses	Unit Cost	License Count	Cost
CaptureNow TWAIN	\$ 1,540.00	4	\$ 6,160.00
Business Insight Server Bundle-Up to-0099	\$ 6,695.00	1	\$ 6,695.00
One-Time, Non-Recurring Expense- Software Licenses Total:			\$ 12,855.00

2c. Appendix B Section I (Software Product and Service Costs and Terms), Subsection C Section (Software Maintenance and Support (Five-year Term) Recurring Expense). Appendix B Section I (Software Product and Service Costs and Terms), Subsection C Section (Software Maintenance and Support (Five-year Term) Recurring Expense) of the Agreement currently reads as follows:

C. Software Maintenance and Support (Five-year Term) Recurring Expense

1. Software Maintenance and Support for the Licensed Software is provided as illustrated in the Software Maintenance and Support Agreement attached as Appendix A1 to the Agreement.
2. Software Maintenance and Support is activated and available immediately upon the Effective Date, and the Software Maintenance and Support Fees for the first year of the initial Software Maintenance and Support Term will be paid in accordance with Section II, of this Appendix B.
3. The Software Maintenance and Support Term will be for a period of five (5) years commencing on the Effective Date and ending on the last calendar day of the month of the fifth (5th) anniversary of the Effective Date.
4. Lexmark will provide Customer, by e-mail or USPS mail, a renewal notice and invoice for the Software Maintenance and Support Fees for the next successive Renewal Software Maintenance and Support Term not less than thirty (30) days prior to the expiration of the then current Software Maintenance and Support Term.
5. Licensed Software support services outside the scope provided in the Software Maintenance and Support Agreement are provided at Supplier's then-current Lexmark Enterprise Software Pricing Book: USA rates for such services, such rates which Lexmark may increase from time to time following the Effective Date.
6. Software Maintenance and Support may not extend to any third party software licenses re-sold by Lexmark to Customer.

Table C.

Annual Recurring Software Maintenance and Support Expense	
Supported Software	Cost
SMSA-CaptureNow TWAIN	\$ 924.00
SMSA-ImageNow Mail Agent	\$ 412.00
SMSA-Single Doc Filter for ContentOutput	\$ 618.00
SMSA-Recognition Agent Barcode/Forms ID	\$ 2,060.00
SMSA-Image Now Client/WebNow Combo	\$ 11,125.00
SMSA-ImageNow Fax Agent 3-8p	\$ 1,236.00
SMSA-ImageNow Content Server	\$ 1,648.00
SMSA-ImageNow Enterprise Server	\$ 3,190.00
SMSA-Interact for Salesforce for the Enterprise	\$ 625.00
Annual Recurring Software Maintenance and Support Subtotal:	\$ 21,838.00
Discounts:	\$ (4,548.23)
Total:	\$ 17,289.77

Such section is hereby amended in its entirety to read as follows:

C. Software Maintenance and Support Recurring Expense

1. Software Maintenance and Support for the Licensed Software is provided as illustrated in the Software Maintenance and Support Agreement attached as Appendix A1 to the Agreement.
2. Software Maintenance and Support is activated and available immediately upon the Effective Date, and the Software Maintenance and Support Fees for the first year of the initial Software Maintenance and Support Term will be paid in accordance with Section II, of this Appendix B.
3. The once annual Software Maintenance and Support fees indicated in Table C1 will be for a period commencing on April 1, 2016 and ending on March 31, 2020.
4. The one-time additional Software Maintenance and Support fees for the additional Licensed Software listed in Table A2 are indicated in Table C2 and will be for a period of eight (8) months commencing August 1, 2019 and ending on March 31, 2020.
5. The once annual Software Maintenance and Support fees indicated in Table C3 will be for a period of twelve (12) months commencing April 1, 2020 and ending on March 31, 2021.
6. The once annual Software Maintenance and Support fees indicated in Table C4 will be for a period of twelve (12) months commencing April 1, 2021 and ending on March 31, 2022.
7. The once annual Software Maintenance and Support fees indicated in Table C5 will be for a period of twelve (12) months commencing April 1, 2022 and ending on March 31, 2023.
8. The once annual Software Maintenance and Support fees indicated in Table C6 will be for a period of twelve (12) months commencing April 1, 2023 and ending on March 31, 2024.
9. The once annual Software Maintenance and Support fees indicated in Table C7 will be for a period of twelve (12) months commencing April 1, 2024 and ending on March 31, 2025.

10. Hyland will provide Customer, by e-mail or USPS mail, a renewal notice and invoice for the Software Maintenance and Support Fees for the next successive Renewal Software Maintenance and Support Term not less than thirty (30) days prior to the expiration of the then current Software Maintenance and Support Term.
11. Licensed Software support services outside the scope provided in the Software Maintenance and Support Agreement are provided at Supplier's then-current Hyland Enterprise Software Pricing Book: USA rates for such services, such rates which Lexmark may increase from time to time following the Effective Date.
12. Software Maintenance and Support may not extend to any third party software licenses re-sold by Hyland to Customer.

Table C1 (April 1, 2016 to March 31, 2020)

Annual Recurring Software Maintenance and Support Expense	
Supported Software	Cost
SMSA-CaptureNow TWAIN	\$ 924.00
SMSA-ImageNow Mail Agent	\$ 412.00
SMSA-Single Doc Filter for ContentOutput	\$ 618.00
SMSA-Recognition Agent Barcode/Forms ID	\$ 2,060.00
SMSA-Image Now Client/WebNow Combo	\$ 11,125.00
SMSA-ImageNow Fax Agent 3-8p	\$ 1,236.00
SMSA-ImageNow Content Server	\$ 1,648.00
SMSA-ImageNow Enterprise Server	\$ 3,190.00
SMSA-Interact for Salesforce for the Enterprise	\$ 625.00
Annual Recurring Software Maintenance and Support Subtotal:	\$ 21,838.00
Discounts:	\$ (4,548.23)
Total:	\$ 17,289.77

Table C2. (August 1, 2019 to March 31, 2020)

One-time Additional Software Maintenance and Support Expense (August 1, 2019 to March 31, 2020)			
Software Description	Units	Unit Cost	Extended Cost
CaptureNow TWAIN-0001	4	\$ 69.69	\$ 278.76
Perceptive Business Insight	1	\$ 1,339.00	\$ 1,339.00
One-time Additional Software Maintenance and Support Total			\$1,617.76

Table C3. (April 1, 2020 to March 31, 2021)

Annual Recurring Software Maintenance and Support Expense (April 1, 2020 to March 31, 2021)			
Software Description	Units	Unit Cost	Extended Cost
Perceptive Interact for Salesforce for the Enterprise-0025	1	\$ 663.06	\$ 663.06
CaptureNow TWAIN-0001	7	\$ 71.78	\$ 502.46
Perceptive Email Agent (Maintenance)	1	\$ 327.09	\$ 327.09
Perceptive Content Client/WebNow Combo-0025	1	\$ 9,812.53	\$ 9,812.53
Perceptive Content Enterprise Server-Upto-0099	1	\$ 3,052.91	\$ 3,052.91
Perceptive Full Text Agent-Up to-0099	1	\$ 817.72	\$ 817.72
Perceptive Fax Agent 3-8 P	1	\$ 981.27	\$ 981.27
Recognition Agent-Barcodes/Forms ID	1	\$ 1,817.17	\$ 1,817.17
Single Doc Filter for Content Output	1	\$ 655.64	\$ 655.64
Perceptive Business Insight	1	\$ 1,379.17	\$ 1,379.17
Annual Recurring Software Maintenance and Support Total (April 1, 2020 to March 31, 2021)			\$20,009.02

Table C4. (April 1, 2021 to March 31, 2022)

Annual Recurring Software Maintenance and Support Expense (April 1, 2021 to March 31, 2022)			
Software Description	Units	Unit Cost	Extended Cost
Perceptive Interact for Salesforce for the Enterprise-0025	1	\$ 682.95	\$ 682.95
CaptureNow TWAIN-0001	7	\$ 73.93	\$ 517.54
Perceptive Email Agent (Maintenance)	1	\$ 336.90	\$ 336.90
Perceptive Content Client/WebNow Combo-0025	1	\$ 10,106.91	\$ 10,106.91
Perceptive Content Enterprise Server-Upto-0099	1	\$ 3,144.50	\$ 3,144.50
Perceptive Full Text Agent-Up to-0099	1	\$ 842.25	\$ 842.25
Perceptive Fax Agent 3-8 P	1	\$ 1,010.71	\$ 1,010.71
Recognition Agent-Barcodes/Forms ID	1	\$ 1,871.68	\$ 1,871.68
Single Doc Filter for Content Output	1	\$ 675.31	\$ 675.31
Perceptive Business Insight	1	\$ 1,420.55	\$ 1,420.55
Annual Recurring Software Maintenance and Support Total (April 1, 2021 to March 31, 2022)			\$20,609.29

Table C5. (April 1, 2022 to March 31, 2023)

Annual Recurring Software Maintenance and Support Expense (April 1, 2022 to March 31, 2023)			
Software Description	Units	Unit Cost	Extended Cost
Perceptive Interact for Salesforce for the Enterprise-0025	1	\$ 703.44	\$ 703.44
CaptureNow TWAIN-0001	7	\$ 76.15	\$ 533.07
Perceptive Email Agent (Maintenance)	1	\$ 347.01	\$ 347.01
Perceptive Content Client/WebNow Combo-0025	1	\$ 10,410.12	\$ 10,410.12
Perceptive Content Enterprise Server-Upto-0099	1	\$ 3,238.83	\$ 3,238.83
Perceptive Full Text Agent-Up to-0099	1	\$ 867.52	\$ 867.52
Perceptive Fax Agent 3-8 P	1	\$ 1,041.03	\$ 1,041.03
Recognition Agent-Barcodes/Forms ID	1	\$ 1,927.83	\$ 1,927.83
Single Doc Filter for Content Output	1	\$ 695.56	\$ 695.56
Perceptive Business Insight	1	\$ 1,463.16	\$ 1,463.16
Annual Recurring Software Maintenance and Support Total (April 1, 2022 to March 31, 2023)			\$21,227.57

Table C6. (April 1, 2023 to March 31, 2024)

Annual Recurring Software Maintenance and Support Expense (April 1, 2023 to March 31, 2024)			
Software Description	Units	Unit Cost	Extended Cost
Perceptive Interact for Salesforce for the Enterprise-0025	1	\$ 724.55	\$ 724.55
CaptureNow TWAIN-0001	7	\$ 78.44	\$ 549.06
Perceptive Email Agent (Maintenance)	1	\$ 357.42	\$ 357.42
Perceptive Content Client/WebNow Combo-0025	1	\$ 10,722.42	\$ 10,722.42
Perceptive Content Enterprise Server-Upto-0099	1	\$ 3,336.00	\$ 3,336.00
Perceptive Full Text Agent-Up to-0099	1	\$ 893.54	\$ 893.54
Perceptive Fax Agent 3-8 P	1	\$ 1,072.26	\$ 1,072.26
Recognition Agent-Barcodes/Forms ID	1	\$ 1,985.67	\$ 1,985.67
Single Doc Filter for Content Output	1	\$ 716.43	\$ 716.43
Perceptive Business Insight	1	\$ 1,507.06	\$ 1,507.06
Annual Recurring Software Maintenance and Support Total (April 1, 2023 to March 31, 2024)			\$21,864.40

Table C7. (April 1, 2024 to March 31, 2025)

Annual Recurring Software Maintenance and Support Expense (April 1, 2024 to March 31, 2025)			
Software Description	Units	Unit Cost	Extended Cost
Perceptive Interact for Salesforce for the Enterprise-0025	1	\$ 746.28	\$ 746.28
CaptureNow TWAIN-0001	7	\$ 80.79	\$ 565.53
Perceptive Email Agent (Maintenance)	1	\$ 368.14	\$ 368.14
Perceptive Content Client/WebNow Combo-0025	1	\$ 11,044.09	\$ 11,044.09
Perceptive Content Enterprise Server-Upto-0099	1	\$ 3,436.08	\$ 3,436.08
Perceptive Full Text Agent-Up to-0099	1	\$ 920.35	\$ 920.35
Perceptive Fax Agent 3-8 P	1	\$ 1,104.43	\$ 1,104.43
Recognition Agent-Barcodes/Forms ID	1	\$ 2,045.24	\$ 2,045.24
Single Doc Filter for Content Output	1	\$ 737.92	\$ 737.92
Perceptive Business Insight	1	\$ 1,552.27	\$ 1,552.27
Annual Recurring Software Maintenance and Support Total (April 1 , 2024 to March 31, 2025)			\$22,520.33

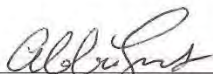
3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after the date of this Amendment.

4. Legal Effect. Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

Recommended by:


ABBIE YANT, RN, MA
Executive Director
San Francisco Health Service System

CONTRACTOR

Hyland LLC

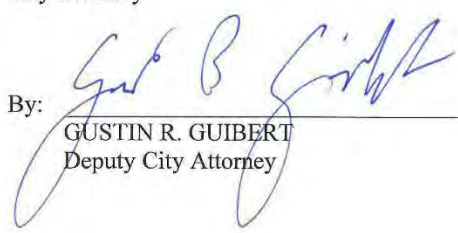

NOREEN B. KILBANE
Chief Administrative Officer
City Supplier ID number: 0000037584

Approved as to Form:

Dennis J. Herrera
City Attorney

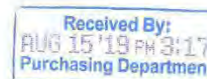


By:


GUSTIN R. GUIBERT
Deputy City Attorney

Approved:


ALARIC DEGRAFINRIED
Director of Office of Contract Administration/
Purchaser



**City and County of San Francisco
Office of Contract Administration
Purchasing Division
City Hall, Room 430
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4685**

**SOFTWARE LICENSE AGREEMENT
BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO
AND
LEXMARK ENTERPRISE SOFTWARE, LLC**

This agreement (the "Agreement") is made this 4th day of January, 2016, in the CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA by and between: LEXMARK ENTERPRISE SOFTWARE, LLC located at 8900 Renner Boulevard, Lenexa, Kansas 66219 hereinafter referred to as "Contractor," and the City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through its Director of the Office of Contract Administration, hereinafter referred to as "Purchasing."

Recitals

WHEREAS, the Health Service System ("Department"), wishes to license certain software from Contractor; and,

WHEREAS, Contractor represents and warrants that it is qualified to provide such software and services required by City as set forth under this Agreement.

Now, THEREFORE, the parties agree as follows:

1. Definitions. Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of this Agreement, it shall have the meaning herein set forth.

Acceptance	Notice from the City to Contractor that the Licensed Software meets the specifications contained in the Documentation. City's Acceptance of the Licensed Software shall be governed by the procedures set forth in Section 15 (Acceptance Testing).
Agreement	This document and any attached appendices including the End User License Agreement (Appendix C) or any future written and executed amendments.
Authorization; Authorization Document	This Agreement, a Blanket Purchase Order, Contract Order, Purchase Order or, Sale Order (Appendix B) of the City, properly executed by Department and Purchasing, and certified by the Controller for the specific funding of this Agreement or any modification thereof.
Designated CPU	Any Central Processing Unit (CPU) or attached processor complex, including its peripheral units, described in the Authorization Document. The Authorization Document may designate more than one CPU.

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Designated site	The facility or facilities specified in Appendix A, attached hereto and incorporated by reference as though fully set forth herein or any other facility as the City determines as appropriate.
Documentation	The technical publications relating to the use of the Licensed Software, such as reference, installation, administrative and programmer manuals, provided by Contractor to City.
Licensed software	Each of the computer programs, systems (including their associated Documentation and other supplemental materials) and upgrades, enhancements and new releases thereto that are: (a) proprietary to Contractor or licensed to Contractor by its subcontractors; and (b) specified in Appendix B. This includes one or more of the proprietary computer software programs identified in the Authorization Document, all related materials, Documentation, all corrections, patches or updates thereto, and other written information received by City from Contractor, whether in machine-readable or printed form. The Authorization Document may identify more than one software product or more than one copy of any product.
Professional Services	The implementation, consulting, and other Contractor-provided services as described in Appendix A.
Source code	The human readable compliant form of the Licensed Software to be provided by Contractor.
Specifications	The functional and operational characteristics of the Licensed Software as described in Contractor's current published product descriptions and technical manuals
Software Maintenance and Support	The maintenance and support of Licensed Software as described in the Software Maintenance and Support Agreement(s) attached as Appendix A1.
Contractor Products	Licensed Software, Professional Services, Software Maintenance and support and/or training as identified in Appendix A, A1, and B.

Whenever the words "as directed," "as required," "as permitted," or words of like effect are used, it shall be understood as the direction, requirement, or permission of the Department. The words "sufficient," "necessary," or "proper," and the like, mean sufficient, necessary or proper in the judgment of the Department, unless otherwise indicated by the context.

2. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation. This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal

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year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration of this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

3. Term of the Agreement. Subject to Section 5, the license granted under this Agreement shall commence upon acceptance of the Licensed Software and shall continue in perpetuity unless sooner terminated in accordance with the provisions of this Agreement.

4. Effective Date of the Agreement. This Agreement shall become effective when the Controller has certified to the availability of funds and Contractor has been notified in writing.

5. License.

Grant of License. Subject to the terms and conditions of this Agreement and the End User License Agreement for the Licensed Software (Appendix C), Contractor grants City a non-exclusive and non-transferable perpetual license to use the Licensed Software. The End User License Agreement for the Licensed Software which is hereby incorporated into and made a part of this Agreement by this reference as if fully set forth herein and is attached as Appendix C to this Agreement and will be deemed signed by Contractor and City upon execution of this Agreement by Contractor and City. City acknowledges and agrees that the Licensed Software is the proprietary information of Contractor and that this Agreement grants City no title or right of ownership in the Licensed Software.

Contractor agrees that in the event it discontinues its obligations under the terms of this Agreement, except as expressly provided for in Section 35(Termination), or ceases to market and/or provide maintenance and support for the Licensed Software, and there is no successor in interest by merger, operation of law, assignment, purchase, or otherwise, it will provide City, without charge, one (1) copy of the then-current Source Code for all of the programs and all supporting Documentation for the Licensed Software then operating and installed at City's locations. If City should obtain the Source Code and the Documentation pursuant to this section, the only use made of the Source Code and the Documentation will be for the proper maintenance of the Licensed Software in connection with City's use of the Licensed Software as provided for, and limited by, the provisions of this Agreement.

In furtherance of its obligations as stated above, Contractor will provide to City a copy of the Source Code which corresponds to the most current version of the Licensed Software. Contractor agrees to update, enhance or otherwise modify such Source Code promptly upon its release of a new version of the Licensed Software to its other Licensees such that the Source Code is maintained as corresponding to the newest released version of the Licensed Software.

6. Transfer of Products. City may move the Licensed Software and supporting materials to another City site which physically replaces the original installation site upon prior written notice to Contractor,

7. **Documentation.** Contractor shall provide City with the Licensed Software specified in the Authorization Document, and a minimum of two copies of the Documentation per installation. Contractor grants to City permission to duplicate all printed Documentation for City's internal use.
8. **Proprietary Markings.** City agrees not to remove or destroy any proprietary markings or proprietary legends placed upon or contained within the Licensed Software or any related materials or Documentation.
9. **Authorized Modification.** City shall also be permitted to develop, use and modify Application Program Interfaces (API's), macros and user interfaces. For purposes of this Agreement, such development shall be deemed an authorized modification. Any such APIs, macros or other interfaces developed by the City shall become the property of the City.
10. **City Computing and Networking Resources.** City will be solely responsible, at City's expense, for causing City's application environment to meet and comply with the specifications and requirements set forth in Contractor's technical specifications provided by Contractor to City, and City will be solely responsible, at City's expense, for operating and providing ongoing maintenance, service, security and administration for City's application environment, including all hardware and software specified in Contractor's technical specifications as necessary for implementation and execution of the Licensed Software. Contractor's performance under this Agreement and the End User License Agreement will be excused for any period of time during which City's failure to meet the foregoing responsibilities prevents such performance by Contractor.
11. **Data Backup.** City, at City's expense, will regularly make, validate and backup and keep safe copies of its information and other data processed by or used in connection with the Licensed Software, such backup copies suitable for restoring such information and data in the event of a data loss event.
12. **Delivery.** One copy of each of the Licensed Software products in computer readable form shall be shipped to the City. Program storage media (magnetic tapes, disks and the like) and shipping shall be provided at no charge by Contractor.
13. **Installation.** Contractor shall install the programs. .
14. **Risk of Loss.** If any of the Licensed Software products are lost or damaged during shipment or before installation is completed, Contractor shall promptly replace such products, including the replacement of program storage media if necessary, at no additional charge to the City. If any of the Licensed Software products are lost or damaged while in the possession of the City, Contractor will promptly replace such products without charge, except for program storage media, unless supplied by the City.
15. **Acceptance Testing.** After Contractor has deployed and configured the Licensed Software in accordance with Appendix A, the City shall have a period of fourteen (14) days ("Acceptance Testing Period") from the date of installation to verify that the Licensed software substantially performs to the specifications contained in the Documentation. In the event that the City determines that the Licensed Software does not meet such specifications, the City shall notify the Contractor in writing, and Contractor shall modify or correct the Licensed Software so that it satisfies the Acceptance criteria. The date of Acceptance will be that date upon which City provides Contractor with written notice of satisfactory completion of Acceptance testing. If City notifies Contractor after the Acceptance Testing Period that the Licensed Software does not meet the Acceptance criteria of this section, then City shall be entitled to terminate this License in accordance with the procedures specified in Section 35(b) (Basis for Termination by City) herein, and shall be entitled to a full refund of the license fee.

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16. Training. Contractor will provide training as provided for in Appendix A.

17. Contractor's Default. Failure or refusal of Contractor to perform or do any act herein required shall constitute a default. In the event of any default, in addition to any other remedy available to City, this Contract may be terminated by City upon twenty (20) calendar days' written notice. Such termination does not waive any other legal remedies available to City.

18. Maintenance and Support

a. **Maintenance and Support Services.** After Acceptance of the Licensed Software and subject to the terms, conditions, and charges set forth in this Section and the Authorization Document (Appendix B), Contractor will provide City with Maintenance and Support Services for the Licensed Software as follows: (i) Contractor will provide such assistance as necessary to cause the Licensed Software to perform in accordance with the Specifications as set forth in the Documentation and Appendix A1; (ii) Contractor will provide, for City's use, whatever improvements, enhancements, extensions and other changes to the Licensed Software Contractor may develop, and (iii) Contractor will update the Licensed Software, as required, to cause it to operate under new versions or releases of the operating system specified in the Authorization Document so long as such updates are made generally available to Contractor's other Licensees.

b. **Changes in Operating System.** If City desires to obtain a version of the Licensed Software that operates under an operating system not specified in the Authorization Document, Contractor will provide City with the appropriate version of the Licensed Software, if available, on a ninety (90) day trial basis without additional charge, provided City has paid all maintenance and support charges then due. At the end of the 90-day trial period, City must elect one of the following three options: (i) City may retain and continue the old version of the Licensed Software, return the new version to Contractor and continue to pay the applicable rental or license fee and maintenance charges for the old version; (ii) City may retain and use the new version of the Licensed Software and return the old version to Contractor, provided City pays Contractor the applicable rental or license fee and maintenance charges for the new version of the Licensed Software; or (iii) City may retain and use both versions of the Products, provided City pays Contractor the applicable rental or license fee and maintenance charges for both versions of the Licensed Software. City will promptly issue the necessary Authorization Document(s) to accomplish the above.

19. Warranties

a. **Right to Grant License.** Contractor hereby warrants that it has title to and/or the authority to grant a license of the Licensed Software to the City.

b. **Conformity to Specifications.** Contractor warrants that when the Licensed Software specified in the Authorization Document and all updates and improvements to the Licensed Software are delivered to City, they will be free from defects as to design, material, and workmanship and will perform on the Designated CPU in accordance with the Contractor's published specifications for the Licensed Software for a period of Ninety (90) days from City's Acceptance of such Licensed Software.

c. **Software Maintenance and Support and Professional Services.** Contractor warrants that it has the legal right to enter into this Agreement and to provide the Software Maintenance and Support and Professional Services to City, and that the Software Maintenance and Support and Professional Services will be performed in a professional manner by personnel familiar with the Contractor Products. If City is dissatisfied with the performance of any Software Maintenance and Support or Professional Services, City will promptly (and in any event within thirty (30) days calendar days following the completion of the Software Maintenance and Support or Professional Services in question) provide Contractor written notice describing the specific basis for such dissatisfaction. After receipt of such notice, Contractor will meet with City to discuss the problem and, if applicable, will arrange for the performance of such Software Maintenance and Support or Professional Services to be raised to the warranted level.

20. Indemnification.

a. **Indemnification and General Liability.** Contractor shall indemnify and hold harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Contractor or loss of or damage to property, arising directly or indirectly from Contractor's performance of this Agreement, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement and except where such loss, damage, injury, liability or claim is the result of active negligence or willful misconduct of City and in not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City. In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

b. **Infringement Indemnification.** If notified promptly in writing of any judicial action brought against City based on an allegation that City's use of the Licensed Software infringes a patent, copyright, or any right of a third party or constitutes misuse or misappropriation of a trade secret or any other right in intellectual property (Infringement), Contractor will hold City harmless and defend such action at its own expense. Contractor will pay the costs and damages awarded in any such action or the cost of settling such action, provided that Contractor shall have sole control of the defense of any such action and all negotiations or its settlement or compromise. If notified promptly in writing of any informal claim (other than a judicial action) brought against City based on an allegation that City's use of the Licensed Software constitutes Infringement, Contractor will pay the costs associated with resolving such claim and will pay the settlement amount (if any), provided that Contractor shall have sole control of the resolution of any such claim and all negotiations for its settlement.

In the event a final injunction is obtained against City's use of the Licensed Software by reason of Infringement, or in Contractor's opinion City's use of the Licensed Software is likely to become the subject of Infringement, Contractor may at its option and expense: (a) procure for City the right to continue to use the Licensed Software as contemplated hereunder, (b) replace the Licensed Software with a non-infringing, functionally equivalent substitute Licensed Software, or (c) suitably modify the Licensed Software to make its use hereunder non-infringing while retaining functional equivalency to the unmodified version of the Licensed Software. If none of these options is reasonably available to Contractor, then the applicable Authorization Document or relevant part of such Authorization Document may be terminated at the option of either party hereto and Contractor shall refund to City all amounts paid under this Agreement for the license of such infringing Licensed Software. Any unauthorized modification or attempted modification of

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the Licensed Software by City or any failure by City to implement any improvements or updates to the Licensed Software, as supplied by Contractor, shall void this indemnity unless City has obtained prior written authorization from Contractor permitting such modification, attempted modification or failure to implement. Contractor shall have no liability for any claim of Infringement based on City's use or combination of the Licensed Software with products or data of the type for which the Licensed Software was neither designed nor intended to be used.

21. Liability of the Parties.

a. **Incidental and Consequential Damages.** Contractor shall not be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions. Nothing in this Agreement shall constitute a waiver of limitation of any rights which City may have under applicable law.

b. **Liability of City.** CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 14 OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

c. **Liability of Contractor.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, CONTRACTOR'S CUMULATIVE LIABILITY UNDER THIS AGREEMENT, SHALL BE LIMITED TO THE VALUE OF THE CONTRACT. CONTRACTOR'S LIABILITY LIMIT SET FORTH HEREIN SHALL NOT APPLY TO (1) DAMAGES CAUSED BY CONTRACTOR'S GROSS NEGLIGENCE, RECKLESS CONDUCT OR WILLFUL ACTS OR OMISSIONS, (2) CLAIMS OR GENERAL DAMAGES THAT FALL WITHIN THE INSURANCE COVERAGE OF THIS AGREEMENT, (3) STATUTORY DAMAGES, INCLUDING THOSE SPECIFIED IN THIS AGREEMENT, (4) CONTRACTOR'S OBLIGATION TO INDEMNIFY AND DEFEND CITY PURSUANT TO THE GENERAL INDEMNIFICATION CLAUSE AND FOR INTELLECTUAL PROPERTY INFRINGEMENT, (5) CONTRACTOR'S WARRANTIES UNDER THIS AGREEMENT, (6) WRONGFUL DEATH CAUSED BY CONTRACTOR AND (7) FINES, EXPENSES, DAMAGES CAUSED BY CONTRACTOR'S VIOLATION OF FEDERAL, STATE OR LOCAL LAWS REGARDING PRIVACY AND/OR HEALTH INFORMATION.

22. Payment. Compensation shall be due and payable within thirty (30) days of the date of invoice. In no event shall the amount of this Agreement exceed **two hundred twenty one thousand, four hundred sixty dollars (\$221,460.00)**. The breakdown of costs associated with this Agreement is provided for in Appendix B. No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until Licensed Software and services required under this Agreement are received from Contractor and approved by the Health Service System, City and County of San Francisco, as being in accordance with this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

23. Guaranteed Maximum Costs. The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by City ordinances governing emergency conditions, the City and its employees and officers are not authorized to request Contractor to perform services or to provide materials, equipment and supplies that would result in Contractor performing services or providing materials, equipment and supplies that are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract unless the

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agreement is amended in writing and approved as required by law to authorize additional services, materials, equipment or supplies. The City is not required to reimburse Contractor for services, materials, equipment or supplies that are provided by Contractor which are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract and which were not approved by a written amendment to the agreement having been lawfully executed by the City. The City and its employees and officers are not authorized to offer or promise to Contractor additional funding for the contract which would exceed the maximum amount of funding provided for in the contract for Contractor's performance under the contract. Additional funding for the contract in excess of the maximum provided in the contract shall require lawful approval and certification by the Controller of the City and County of San Francisco. The City is not required to honor any offered or promised additional funding for a contract which exceeds the maximum provided in the contract which requires lawful approval and certification of the Controller when the lawful approval and certification by the Controller has not been obtained. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

24. Invoice Format. Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller, and must include a unique identifying number. All amounts paid by City to Contractor shall be subject to audit by City. Payment shall be made by City to Contractor at the address specified in Appendix B, Section II (Invoicing).

25. Submitting False Claims; Monetary Penalties. Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

26. Taxes. Payment of any taxes, including possessory interest taxes, and California sales and use taxes, levied upon this Agreement, the transaction, or the services delivered pursuant hereto, shall be the obligation of Contractor.

27. Payment Does Not Imply Acceptance of Work. The granting of any payment by City, or the receipt thereof by Contractor, shall in no way lessen the liability of Contractor to replace unsatisfactory work, the Licensed Software, although the unsatisfactory character of such work, or Licensed Software may not have been apparent or detected at the time such payment was made. Software, components, or workmanship that does not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay.

28. Qualified Personnel. Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. Contractor will comply with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor.

29. Responsibility for Equipment. City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees,

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even though such equipment be furnished, rented or loaned to Contractor by City. The acceptance or use of such equipment by Contractor or any of its employees means that Contractor accepts full responsibility for and agrees to exonerate, indemnify, defend and save harmless City from and against any and all claims for any damage or injury of any type arising from the use, misuse or failure of such equipment, whether such damage be to Contractor, its employees, City employees or third parties, or to property belonging to any of the above.

30. Independent Contractor; Payment of Taxes and Other Expenses

a. **Independent Contractor.** Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement.

b. **Payment of Taxes and Other Expenses.** Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability). A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Contractor is an employee for any other purpose, then Contractor agrees to a reduction in City's financial liability so that City's total expenses under this Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Contractor was not an employee.

31. Insurance

a. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

i. Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

- ii. Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and
- iii. Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.
- iv. Technology Errors and Omissions Liability coverage, with limits of \$2,000,000 each occurrence and each loss, and \$4,000,000 general aggregate. The policy shall at a minimum cover professional misconduct or lack of the requisite skill required for the performance of services defined in the contract and shall also provide coverage for the following risks:
 - 1. Liability arising from theft, dissemination, and/or use of confidential information, including but not limited to, bank and credit card account information or personal information, such as name, address, social security numbers, protected health information or other personally identifying information, stored or transmitted in electronic form;
 - 2. Network security liability arising from the unauthorized access to, use of, or tampering with computers or computer systems, including hacker attacks; and
 - 3. Liability arising from the introduction of any form of malicious software including computer viruses into, or otherwise causing damage to the City's or third person's computer, computer system, network, or similar computer related property and the data, software, and programs thereon.
- b. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:
 - i. Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.
 - ii. That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.
 - c. Regarding Workers' Compensation, Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.
 - d. All policies shall provide thirty days' advance written notice to the City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the City address in the "Notices to the Parties" section.
 - e. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.
 - f. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.
 - g. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

h. Before commencing any operations under this Agreement, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

i. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

j. (Reserved)

32. Nondisclosure. City agrees that it shall treat the Licensed Software with the same degree of care as it treats like information of its own, which it does not wish to disclose to the public; from the date the Licensed Software is Accepted by the City until the license is terminated as provided herein. The obligations of the City set forth above, however, shall not apply to the Licensed Software, or any portion thereof, which:

a. is now or hereafter becomes publicly known;

b. is disclosed to the City by a third party which the City has no reason to believe is not legally entitled to disclose such information;

c. is known to the City prior to its receipt of the Licensed Software;

d. is subsequently developed by the City independently of any disclosures made hereunder by Contractor;

e. is disclosed with Contractor's prior written consent;

f. is disclosed by Contractor to a third party without similar restrictions.

33. Proprietary or Confidential Information of City. Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in the performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent Contractor would use to protect its own proprietary data.

34. Protection of Private Information. Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contractor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

35. Termination

a. **Basis for Termination by Contractor.** Contractor shall have the right to terminate this Agreement if City is delinquent in making payments of any sum due under this Agreement and continues to be delinquent for a period of sixty days (60) after the last day payment is due; provided, however, that written

notice is given to City by Contractor of the expiration date of the sixty (60) delinquency period at least ten (10) days prior to the expiration date or, to terminate this Agreement if City commits any other breach of this Agreement and fails to remedy such breach within thirty (30) days after receipt of written notice by Contractor of such breach.

b. Basis for Termination by City. City shall have the right, without further obligation or liability to Contractor (except as specified in Sections 34 (Protection of Private Information) and 35(c) (Disposition of Licensed Software on Termination) hereof): (i) to immediately terminate this Agreement or the applicable Authorization Document if Contractor commits any breach of this Agreement and fails to remedy such breach within thirty (30) days after written notice by City of such breach, in which event, Contractor shall reimburse City in the same manner as for the removal of the Licensed Software due to infringement under Section 13; or (ii) to terminate this Agreement or the applicable Authorization Document upon ninety (90) days prior written notice for any reason if the license granted hereunder is for any term other than perpetual. In the event the license granted is perpetual, termination of this Agreement or the applicable Authorization Document by City shall be effective upon receipt by Contractor of written notice of said termination.

c. Disposition of Licensed Software on Termination. Upon the expiration or termination of this Agreement or an applicable Authorization Document for any reason other than as provided for in Section 5(a) (Grant of License), City shall immediately: (i) return the Licensed Software to Contractor together with all Documentation; (ii) purge all copies of the Licensed Software or any portion thereof from all CPU's and from any computer storage medium or device on which City has placed or permitted others to place the Licensed Software; and (iii) give Contractor written certification that through its best efforts and to the best of its knowledge, City has complied with all of its obligations under Section 35(c).

36. Survival. This section and the following sections of this Agreement shall survive termination of expiration of this Agreement:

- | | |
|--|---|
| 20. Indemnification. | 32. Nondisclosure. |
| 21. Liability of the Parties. | 33. Proprietary or Confidential Information of City. |
| 25. Submitting False Claims; Monetary Penalties. | 34. Protection of Private Information. |
| 26. Taxes. | 45. Non-Waiver of Rights. |
| 27. Payment Does Not Imply Acceptance of Work. | 46. Modification of Agreement. |
| 29. Responsibility for Equipment. | 47. Administrative Remedy for Agreement Interpretation. |
| 30. Independent Contractor; Payment of Taxes and Other Expenses. | 48. Agreement Made in California; Venue. |
| 31. Insurance. | 49. Construction. |
| | 50. Entire Agreement. |

37. Notice to the Parties. Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the parties may be by U.S. mail and shall be addressed as follows:

To City: **Catherine Dodd, PhD, RN**
Health Service System – City and County of San Francisco
1145 Market St. 3rd Floor
San Francisco, CA 94103

To Contractor: **Rosalina Lucia Labadessa**
Lexmark Enterprise Software, LLC

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**8900 Renner Boulevard
Lenexa, KS 66219-3049**

Either party may change the address to which notice is to be sent by giving written notice thereof to the other party. Any notice of default must be sent by registered mail. Copies of notices may be sent using e-mail.

38. Bankruptcy. In the event that either party shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights of creditors, then at the option of the other party this Agreement shall terminate and be of no further force and effect.

39. Subcontracting. Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

40. Assignment. The services to be performed by Contractor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Contractor unless first approved by City by written instrument executed and approved in the same manner as this Agreement.

41. Compliance with Americans with Disabilities Act. Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

42. Sunshine Ordinance. In accordance with San Francisco Administrative Code Section 67.24(e), contracts, contractors' bids, responses to requests for proposals and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

43. Limitations on Contributions. Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six

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months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in section 1.126. Contractor further agrees to provide to City the names of each person, entity or committee described above.

44. Conflict of Interest. Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of the City's Campaign and Governmental Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

45. Non-Waiver of Rights. The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

46. Modification of Agreement. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.

47. Administrative Remedy for Agreement Interpretation. Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to Purchasing who shall decide the true meaning and intent of the Agreement.

48. Agreement Made in California; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

49. Construction. All paragraph captions are for reference only and shall not be considered in construing this Agreement.

50. Entire Agreement. This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. If any provision of this Agreement is held to be unenforceable, this Agreement shall be construed without such provision.

51. Compliance with Laws. Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws.

52. Graffiti Removal. Reserved.

53. Food Service Waste Reduction Requirements. Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San

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Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of \$100 liquidated damages for the first breach, \$200 liquidated damages for the second breach in the same year, and \$500 liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision.

54. Cooperative Drafting. This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

55. Order of Precedence. The Contractor agrees that in the event of discrepancy, inconsistency, gap, ambiguity, or conflicting language between the City's terms and Contractor's printed terms attached, the City's terms shall take precedence.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY**CONTRACTOR**

Recommended by:

Lexmark Enterprise Software, LLC.



 CATHERINE DODD, PHD, RN
 Director, Health Service System


By signing this Agreement, I certify that I comply with the requirements of the ~~Minimum Compensation Ordinance~~, which entitle Covered Employees to certain minimum hourly wages and compensated and uncompensated time off.

Approved as to Form:

Dennis J. Herrera
 City Attorney

I have read and understood paragraph 35, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.

By: 
 GUSTIN R. GUIBERT
 Deputy City Attorney

Approved: 
 JACI FONG
 Director of the Office of Contract Administration, and
 Purchaser


 Vince Vecchiarelli
 Director of Government Sales
 8900 Renner Boulevard
 Lenexa, KS 66219-3049

City vendor number: 85315

Appendix A: ~~Enterprise Content Management Solution Services~~ (STATEMENT OF WORK)
Appendix A1: Lexmark Enterprise Software Maintenance and Support
Appendix B: Lexmark Enterprise Software Product and Services Sales Order
Appendix C: Lexmark Enterprise Software End User License Agreement
Appendix D: HIPAA Requirements-Business Associate Agreement
Exhibit 1: Perceptive Content-Technical Specifications

APPENDIX A

ENTERPRISE CONTENT MANAGEMENT SOLUTION SERVICES (STATEMENT OF WORK)

Lexmark Enterprise Software, LLC ("Lexmark") and the Health Service System, City and County of San Francisco, (hereinafter "Customer") will work together to implement an Enterprise Content Management ("ECM") solution using Lexmark's Perceptive brand ECM product suite. Lexmark's Professional Services team is responsible for the planning, solution design, installation, configuration, and testing of the proposed ECM solution as illustrated in this Statement of Work (SOW).

1. Project Objectives

The objective of this solution is to facilitate the capturing, organizing, indexing, retrieving, and storage of documents pertaining to the Customer Member Services process.

Currently, the Customer receives hard copies through the mail or from walk up appointments, faxes or emails (which are printed). All copies are placed in a folder for that member and the hard copies are taken from desk to desk for processing by the Customer's employees. At the completion of processing the documents, the file containing all the documents is stored in a filing room.

The project shall enable the customer to scan hard copy documents using Capture Profiles which will pre-index minimal information prior to sending to workflow to be processed. Emails and Faxes will be automatically captured using Perceptive's Mail Agent and Fax Agent, respectively. They will remain in electronic format upon transfer to the Perceptive Workflow Process. Once documents arrive in workflow, they will be electronically routed to each applicable user. Index values will be pulled from the Customer's business application using Perceptive Learnmode™ integration. Annotations, redactions, etc. may be used on documents as they are processed through workflow.

At the end of the workflow process, documents will be removed from workflow and archived in the Perceptive Content 7 database. Future phases may add on the use of Retention Policy Manager to monitor the retention of documents and Business Insight for reporting purposes.

Customer will also integrate their ECM solution with Salesforce and PeopleSoft HCM to provide a three hundred and sixty degree (360°) view of member interaction. For Salesforce, Customer shall leverage the Perceptive Interact for Salesforce connector. For integration with PeopleSoft, Customer shall utilize Lexmark's URL Integration and/or PeopleSoft Content to capture and view content uploaded by PeopleSoft end-users.

Customer end-user activities will take place at customer office location, 1145 Market Street, 3rd floor, San Francisco, California, 94103. The servers for supporting this solution will either reside at the same customer office location or at the Customer's data center.

2. Project Deliverables and Assumptions

a. Solution Discovery and Design

Complete discovery of all design considerations.

- Document Design meeting minutes and identify outstanding issues or decisions.

Provide best practices and recommended solutions.

- Document all critical design options, recommendations, and decisions for future reference and context.

- Document and provide design decisions and Lexmark build requirements in the Design Document.

Complete Design Document review sessions with Customer to ensure timely and accurate sign-off.

b. Capture and Indexing

Design and deliver a document capture process necessary to support the solution as required in the final Design Document.

- Documents may be captured via email, fax or import using Perceptive Printer or scanning.

Create and configure a best practice document indexing solution to enable effective searching, retrieval and document content management.

Design and deliver Document Types necessary to support the solution requirements identified during Design.

Design and deliver Custom Properties to store additional metadata on folders (if applicable) and documents, which can be used for searching, retrieval, reporting and retention activities.

c. System Integration

Design and implement Perceptive Interact for Salesforce.

Assist Customer with implementation of URL Integration and/or PeopleSoft Related Content by providing documentation, examples, and best practices to the Customer.

d. Workflow Processing

Design and implement Perceptive Workflow to support the Health Claims process, utilizing best practices and recommendations.

Workflow creation includes workflow alarms, routing rules and security/user access.

e. Document Search and Retrieval

Design and deliver up to ten (10) Folder and Document Views which will enable users to search across the Content repository.

Design, create and configure up to five (5) Application Plans to be used for linking and/or retrieval.

f. Solution User Acceptance Testing ("UAT") and Go-Live Support ("GLS")

UAT Support

UAT Support includes on-call business hour assistance only for any of the implementation components identified within this SOW.

- Additional UAT Support, such as on-site UAT support, implies additional Professional Services and is not included within the scope of this solution.

UAT activities are defined and documented prior to solution delivery.

- UAT Support must occur within a scheduled window of up to two (2) weeks and includes up to four (4) hours of direct engagement.

UAT must be scheduled to start within five (5) weeks of completion of onsite delivery tasks.

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UAT phase is performed and driven by the Customer.

Solution Go-Live Support (“GLS”)

Go-Live Support (GLS) includes on-call business hour assistance only for any of the implementation components identified within this SOW.

- Additional GLS, such as onsite GLS, implies additional Professional Services and is not included within the scope of this solution.

Go-Live Support activities are defined and documented prior to the start of solution delivery.

- GLS must occur within a scheduled window of up to two (2) weeks and includes up to four (4) hours of direct engagement.

Go-Live Support must be scheduled to start within five (5) weeks of the completion of onsite delivery tasks.

Lexmark requires that Customer provide a comprehensive Go-Live support plan that will be shared with all departments and support staff that will be involved in each solution Go-Live. This plan will identify the appropriate Customer channels for issue resolution or escalation. Customer will provide the first levels of Go-Live support to encourage solution independence and knowledge, but issue escalation paths will include Lexmark resources.

g. Solution Assumptions

Lexmark will provide design and delivery services for a single department with consideration to define a repeatable solution.

Deployment of Lexmark resources at additional locations is not included in scope. Lexmark may provide an estimate for additional services or Customer may implement the repeatable solution independently.

Software and services not outlined above which are necessary to satisfy business requirements not yet discovered are excluded from scope.

3. Lexmark Foundations – New Deployment

a. Environment

Create and configure the Perceptive Database and Perceptive Enterprise Server.

- Comply with security requirements for database connections and user authentication.
- Provide the database administrator with maintenance and administration best practices and recommendations.

This SOW assumes that all Lexmark solutions are deployed in the environments stated below.

Integration between Perceptive environments and other applications will be dependent on availability of these environments.

- 1 (one) Production Environment.
- 1 (one) Non-Production Environment.

b. Technical Architecture

Provide a server architecture recommendation based on products in use; document processing volumes, and user concurrency (“Exhibit 1”).

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Provide information about how the product communicates along with best practices for both LAN and WAN user connectivity.

Provide technical architecture consulting services to support disaster recovery and failover for high availability.

c. User and Group Security

Design and implement a group based security strategy for users according to role and access requirements.

d. Lexmark Foundations Assumptions and Constraints

The Lexmark solution assumes that Customer's network and server infrastructure are configured and scaled to handle peak traffic. Volume and storage metrics are based on the estimates provided by Customer and documented in the technical architecture diagram provided by Lexmark. If actual metrics and volumes are found to be significantly different from original estimates, additional services may be required to redesign solutions or provide recommendations for hardware and environment upgrades.

All technical and infrastructure components utilized by the solution must meet or exceed the requirements detailed in the Technical Architecture diagram. Lexmark is not responsible for installing or supporting server and database software such as Microsoft SQL and Windows Server Operating System.

Authentication assumes that all users logging into Perceptive Content will have AD/LDAP network accounts and actively log into workstations with those accounts to maintain password policies. If users do not have AD/LDAP accounts or if generic workstation/Citrix logins are used, then additional services may be required for a custom authentication solution.

4. Training

The Lexmark project methodology reinforces user and administration independence for testing, training, and support of implemented solutions. Knowledge transfer of application and database functionality, reporting, best practices, and ongoing maintenance are fundamental components of the design and delivery process. The Professional Services team will conduct the following training throughout the delivery of the project.

a. Server Administrator Training

Server Administrator Training will be completed through shadowing and delegation of server installation and support tasks throughout all phases of the project, including test phases and Go-Live.

b. System Administrator Training

System Administrator training will be completed through shadowing and delegation of build and configuration tasks throughout all phases of the project.

c. Train the Trainer (Analyst / Super User Training)

Lexmark will not be responsible for training end users. Lexmark employs a Train the Trainer approach that focuses primarily on Analysts or other Super Users that will be responsible for UAT phases and end user training. This approach enables Lexmark resources to provide detailed training for each solution, and empowers Customer to learn and support the solutions themselves.

- Includes training for up to 5 (five) Customer resources that are considered system analysts, Super Users, power users, or similar. Train the Trainer is typically conducted in a classroom setting, with available scanners, workstations, and projector.

5. Documentation

a. Training Documentation

Lexmark will provide access to the Lexmark Customer Portal, which provides a wide range of services and information including an online knowledgebase, product news, discussion groups, downloads, and product documentation such as system and server administration guides.

Lexmark will provide solution training documentation in the form of quick start guides that document high-level end user roles and responsibilities as part of the overall solutions identified above.

- Quick start guides are typically 4-5 pages in length and include solution specific screenshots and brief descriptions of end user tasks.

All training documentation will be provided to Customer in a modifiable format.

Following the conclusion of Application testing and delivery of training documentation, Lexmark will not be responsible for any additional updates or modifications to training documentation.

Custom Documentation, such as End User Training Documentation, implies additional Professional Services and is not included within the scope of this solution. Additional services for Custom

Documentation may be quoted per solutions during the project and will be presented to Customer in the form of a scope change and shall require a Change Order.

Customer will possess the final version of the Design Document to provide documentation of the implemented solution(s) with explanations of workflow, configuration settings and business processes.

6. Customer Responsibilities

Customer will be responsible for scheduling necessary resources and attending all scheduled design meetings. Customer will also be responsible for working independent of scheduled calls to complete deliverables and finalize requirements.

Customer is responsible for acquiring necessary server and hardware components, and for providing Lexmark with necessary network access, to complete the objectives identified in this SOW. If network connectivity is not provided, Lexmark will provide connectivity for an additional fee as described above. Customer is responsible for providing capture hardware.

Customer will be responsible for supporting and maintaining the server hardware operating systems, required database(s), and network environment. Database maintenance should be performed regularly according to Lexmark recommendations or as part of Customer's network maintenance plans. Customer is responsible for performing routine server backups and maintaining disaster recovery & contingency plans. Due to the enterprise architecture of Lexmark solutions, the Customer will identify one or more System Administrator(s) who will have administration and management privileges for the entire Perceptive application environment. This resource will be required to complete Fundamentals for Administrators training and will be expected to be involved closely with all phases of the project. Additional product training may be requested by the Lexmark Project Manager.

Customer will be responsible for completing and submitting a comprehensive testing plan to support required testing cycles that indicate Lexmark resource expectations and resource requests

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Customer will develop a maintenance plan and support strategy for operational support of the solution after Go-Live. The maintenance plan will define the policies and procedures required to maintain the Perceptive database, Disaster Recovery Policy, file store, and server environment. The support strategy is defined as the policies and procedures to establish and maintain rules of engagement for Lexmark Enterprise Software Support.

Customer should provide Lexmark resources with VPN access to their environment. If VPN or direct remote access is not possible, a scope change will be required to move forward with an alternative as it will create additional building efforts throughout design, build and delivery phases.

Customer is responsible for all performance/load testing following delivery of the solution
Customer database administrator will be responsible for all scheduled maintenance and backups of the Perceptive database.

Customer System Administrator will be assigned and confirmed prior to delivery. Failure to assign an administrator will result in postponement of the delivery until an administrator is assigned

7. Project Terms and Considerations

This SOW is valid for Customer's signature for 90 (ninety) days following the date set forth on the first page of this SOW unless otherwise agreed and stated herein. After such 90 (ninety) days, this SOW and the applicable pricing is subject to change. Specific assumptions and constraints will be determined pending discovery of unique requirements surrounding Customer's business processes and IT environment. Lexmark will work with Customer to deliver the services contained in this SOW within the timeframes of the mutually agreed upon project plan identified during the plan phase of the project. In the event that Customer is responsible for delays in project delivery, causing timeline extensions and / or extended durations of events within the agreed upon project plan resulting in added services efforts, additional services costs may be presented in the form of a scope change as this extends the services effort contained within this SOW.

Any services not explicitly identified in this SOW as services in scope will be considered out of scope. Additional services may be represented in the form of a scope change.

This SOW assumes that Customer will provide the appropriate resources and deliverables identified during all phases of the project to maintain project timeline and schedule.

During the Plan Phase of the project, the Lexmark Project Manager will work with Customer to identify specific requirements that will determine successful project completion and closure.

Upon successful deployment and completion of agreed upon milestones, the Lexmark Professional Services team will transition Customer and the solution to the Lexmark Support team.

Lexmark assumes this SOW covers the efforts required through delivery of the solution. Once the solution has been implemented, assuming no critical defects are open, the services provided under this SOW shall end no more than 5 (five) weeks after delivery. Any services required past this timeframe are not covered by the scope in this SOW.

Customer will pre-approve the Lexmark resources that will be reimbursed for travel prior to any travel. Travel and expenses will be billed as incurred. Lexmark uses a per diem system for project related meal expenses based on approved GSA rates by location. Lexmark shall be reimbursed at the GSA rates by location for lodging. Submitted expenses in excess of current GSA rates by location, will not be payable by the Customer and shall be borne by Lexmark.

Cancellation requests received 10 (ten) or more business days prior to the first scheduled day onsite are accepted at no charge. Cancellation requests received 9 (nine) or fewer business days prior to the first scheduled day onsite are subject to a charge equal to 100 percent (100%) of the original scheduled time onsite. Any additional travel expenses resulting from the cancellation will be billed to Customer.

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This SOW shall be governed by the Terms and Conditions of the Agreement (the Software License Agreement between the City and County of San Francisco and Lexmark Enterprise Software, LLC. or any agreement as applicable) signed between the Parties (referred herein as "Customer" and "Lexmark").

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APPENDIX A1
LEXMARK ENTERPRISE SOFTWARE MAINTENANCE AND SUPPORT

1. Software Maintenance and Support

Software Maintenance and Support customers have access to:

- a) Support for published and released standard Licensed Software functionality as defined by Lexmark's End of Life Policy.
- b) Access to Lexmark Enterprise Software Support Services, twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year, with engagement within two (2) hours.
- c) Lexmark Enterprise Software Support Services are available to any Customer allowed licensed user.
- d) Support for an unlimited number of incidents per year.
- e) Comprehensive online support, including product documentation, Knowledgebase Web case submissions, product downloads, ability to interact with Lexmark Enterprise Software Support Services via interactive channels including web chat and screen sharing, access to Lexmark Enterprise Software User Community forum, and ability to review and register for training courses, are available real-time through secure and customer-unique access. Customers require a valid user ID and password to access online support.
- f) Periodic standard version releases and software patches of the Licensed Software providing corrections to defects, minor bugs, and, at the discretion of Lexmark, enhancements providing new functionality to the Licensed Software, subject to Lexmark's End of Life Policy.
- g) Notification of any new version releases and software patches for the Licensed Software.

2. Customer Responsibilities

In addition to the Customer's responsibilities as set forth in the Agreement, the Customer will be solely responsible, at the Customer's expense, to:

- a) Notify Lexmark immediately of any support or maintenance issues.
- b) Train users on use of the Licensed Software.
- c) Be familiar with and leverage the use of Lexmark online support.
- d) Apply all new version releases and software patches within a reasonable time period, which allows the release or patch to be tested and validated prior to deployment and ensuring conformance with Lexmark's End of Life Policy.
- e) Designate a key contact for maintenance and support communications.
- f) Provide Lexmark with timely access, remote and/or on site, to Customer's facilities, including Customer's servers upon which the Licensed Software runs, with which the Licensed Software interfaces, and/or upon which the Licensed Software relies, including but not limited to the database server with which the Licensed Software interfaces.
- g) Provide Lexmark timely return of requested troubleshooting data in order to perform root cause analysis for support issues being experienced with the Licensed Software.

- h) Cause Customer's software environment to meet and comply with the specifications and requirements set forth in Lexmark technical specifications ("Exhibit 1"), and otherwise assume responsibility for all standard IT/IS infrastructure requirements, including the purchase, maintenance, administration and service of hardware and software upon which the Licensed Software runs, with which the Licensed Software interfaces, and/or upon which the Licensed Software relies, up to and including as appropriate:
- i. An efficient and functioning computer network which meets or exceeds the functional specifications required for operation of the Licensed Software.
 - ii. Appropriate computer equipment in proper working condition, up to and including, servers and workstations as appropriate.
 - iii. Maintain a virus free network and computer equipment environment in which the Licensed Software runs, interfaces with, and/or relies upon.
 - iv. A database, with which the Licensed Software interfaces, updated per manufacturer's recommendations and properly tuned and maintained for acceptable performance.
 - iv. A firewall appropriately configured to allow all Licensed Software related communications to traverse the network per the functional specifications required for operation of the Licensed Software.
 - v. A web application server in proper working condition, in the event that Customer purchases web client licenses of the Licensed Software or "combo" full/web client licenses of the Licensed Software.
 - vi. A messaging server and software in proper working condition, such as Microsoft Exchange.

If Lexmark is required to provide services to Customer to remedy any Licensed Software support or performance issues caused by or resulting from Customer's failure to comply with Customer's responsibilities as provided above or in the Agreement, then in each such event Lexmark will invoice Customer for all fees at Lexmark's then-current hourly rate for the services provided by Lexmark and for all reimbursable expenses incurred by Lexmark in providing such services, and Customer will pay the invoiced amount per the payment terms provided in the Agreement between Lexmark and Customer for the license of the Licensed Software.

3. Onsite Support.

If Lexmark and Customer agree that onsite services are necessary to remedy any Licensed Software support or performance issue, then in each such event Lexmark will invoice Customer for reimbursable expenses incurred by Lexmark in providing such services, and Customer will pay the invoiced amount per the payment terms provided in the Agreement between Lexmark and Customer for the licenses of the Licensed Software.

APPENDIX B

LEXMARK ENTERPRISE SOFTWARE PRODUCT AND SERVICES SALES ORDER

This Lexmark Enterprise Software Product and Services Sales Order ("Sales Order") is attached to and made a part of the Software License Agreement (the "Agreement") between Lexmark Enterprise Software, LLC ("Lexmark") and City & County of San Francisco ("Customer") for Lexmark licenses and sale to Customer of the Lexmark's Products as described in the Agreement and as specified below, and is effective on the Effective Date of the Agreement. Lexmark Products are licensed and sold to Customer pursuant to the terms and conditions of the Agreement and the terms and conditions of this Sales Order, and this Sales Order sets forth the fees payable by Customer for Lexmark Products. Any capitalized terms not otherwise defined in this Sales Order will have the meanings given such terms in the Agreement.

I. Software Product and Service Costs and Terms

Actual and incurred professional service and product costs will be billable to the City, payable as specified in Section 22 of the Agreement.

Payments for services will be paid on a "not-to-exceed" basis. "Not-to-exceed" means that Lexmark shall perform its obligations under the Agreement for the amounts listed in appendix B, section I, Tables A, B, C, D, and E, even if it is required to expend more than the number of hours listed, as applicable.

Payments for professional services will be based on actual hours. The indicated professional service cost indicated in Appendix B, Section I, Table B is the maximum amount Customer will pay Lexmark for professional services performed.

A. Perpetual Software Licenses- One-time, Non-Recurring Expense

1. The Licensed Software is licensed upon the terms and conditions of the Lexmark Enterprise Software End User License Agreement (Appendix C), which End User License Agreement terms and conditions are accepted by Customer upon Customer's receipt of the Licensed Software.
2. The fees for the perpetual licensed software shall be invoiced upon execution of the Agreement and will be paid in accordance with Section II, of this Appendix B.
3. Additional licenses of the Perpetual Licensed Software purchased by Customer following the Effective Date will be priced as listed in Lexmark's then-current, published Lexmark Enterprise Software Pricing Book: USA, unless otherwise agreed to in writing by the parties.
4. The Customer may reallocate licenses to different users, in the Customers sole discretion, at no additional charge by Lexmark.

Table A.

One-Time, Non-Recurring Expense- Software Licenses			
Perpetual Software Licenses	Unit Cost	License Count	Cost
CaptureNow TWAIN	\$ 1,540.00	3	\$ 4,620.00
Single Doc Filter for Content	\$ 3,090.00	1	\$ 3,090.00
ImageNow Fax Agent 3-8p	\$ 6,180.00	1	\$ 6,180.00
ImageNow Content Server	\$ 8,240.00	1	\$ 8,240.00
ImageNow Client/WebNow Combo	\$ 2,225.00	25	\$ 55,625.00
ImageNow Mail Agent	\$ 2,060.00	1	\$ 2,060.00
ImageNow Enterprise Server	\$ 15,950.00	1	\$ 15,950.00
Recognition Agent	\$ 10,300.00	1	\$ 10,300.00
Perceptive Interact for Salesforce for the Enterprise	\$ 125.00	25	\$ 3,125.00
Perpetual Software Licenses Subtotal:			\$ 109,190.00
Discounts:			\$ (22,741.14)
Total:			\$ 86,448.86

B. Professional Services

1. Professional Services are provided on an hourly-price basis for the project scope as described in Appendix A.
2. Professional Services shall be invoiced in accordance with Section II, of this Appendix B.
3. Additional Professional Services outside the scope illustrated in the Agreement are provided at Supplier's then-current rates, or as otherwise may be agreed upon by Lexmark and Customer. The additional Professional Services and rate shall be as provided in a Project Change Request Form signed by Lexmark and Customer prior to the commencement of such Professional Services.
4. Customer's execution and delivery of the Agreement allows Lexmark to commit project resources.

Table B.

One-Time, Non-Recurring Expense-Professional Services, Implementation			
Professional Services	Hourly Rate	Estimated Hours	Cost
Custom Services – Other Process (Primary, Light Workflow)	\$ 250.00	169	\$ 42,250.00
Standalone Professional Services			
PS-Content Server Deployment	\$ 250.00	4	\$ 1,000.00
PS-Fax Agent Configuration	\$ 250.00	10	\$ 2,500.00
PS-ImageNow Enterprise Server	\$ 250.00	14	\$ 3,500.00
PS-Mail Agent Install	\$ 250.00	6	\$ 1,500.00
PS- Recognition Install	\$ 250.00	4	\$ 1,000.00
PS-WebNow App Server Configuration	\$ 250.00	6	\$ 1,500.00
Combined Professional Services Subtotal:			\$ 53,250.00
Discounts (\$-11,886.72 & \$-2,226.42):			\$ (14,113.14)
Total:			\$ 39,136.86

C. Software Maintenance and Support (Five-year Term) Recurring Expense

1. Software Maintenance and Support for the Licensed Software is provided as illustrated in the Software Maintenance and Support Agreement attached as Appendix A1 to the Agreement.
2. Software Maintenance and Support is activated and available immediately upon the Effective Date, and the Software Maintenance and Support Fees for the first year of the initial Software Maintenance and Support Term will be paid in accordance with Section II, of this Appendix B.
3. The Software Maintenance and Support Term will be for a period of five (5) years commencing on the Effective Date and ending on the last calendar day of the month of the fifth (5th) anniversary of the Effective Date.
4. Lexmark will provide Customer, by e-mail or USPS mail, a renewal notice and invoice for the Software Maintenance and Support Fees for the next successive Renewal Software Maintenance and Support Term not less than thirty (30) days prior to the expiration of the then current Software Maintenance and Support Term.
5. Licensed Software support services outside the scope provided in the Software Maintenance and Support Agreement are provided at Supplier's then-current Lexmark Enterprise Software Pricing Book: USA rates for such services, such rates which Lexmark may increase from time to time following the Effective Date.
6. Software Maintenance and Support may not extend to any third party software licenses re-sold by Lexmark to Customer.

Table C.

Annual Recurring Software Maintenance and Support Expense	
Supported Software	Cost
SMSA-CaptureNow TWAIN	\$ 924.00
SMSA-ImageNow Mail Agent	\$ 412.00
SMSA-Single Doc Filter for ContentOutput	\$ 618.00
SMSA-Recognition Agent Barcode/Forms ID	\$ 2,060.00
SMSA-Image Now Client/WebNow Combo	\$ 11,125.00
SMSA-ImageNow Fax Agent 3-8p	\$ 1,236.00
SMSA-ImageNow Content Server	\$ 1,648.00
SMSA-ImageNow Enterprise Server	\$ 3,190.00
SMSA-Interact for Salesforce for the Enterprise	\$ 625.00
Annual Recurring Software Maintenance and Support Subtotal:	\$ 21,838.00
Discounts:	\$ (4,548.23)
Total:	\$ 17,289.77

D. Training-One Time Expense

1. Training, as indicated in Appendix A.4 (Training), is provided for the prices as indicated in this Sales Order (Appendix B, D. Table D.).
2. Training Services shall be invoiced in accordance with Section II, of this Appendix B.
3. The Customer may elect in-person training or live online training for the four day training program.
4. Additional training may be provided at Lexmark's then-current pricing.

Table D.

One Time Training Expense			
Training	Unit Cost	Quantity	Cost
Perceptive 4 day Training	\$ 2,400.00	1	\$2,400.00
Training Subtotal:			\$2,400.00
Discounts:			(\$691.44)
Total:			\$1,708.56

E. Travel Expense Associated with Professional Services and Training

1. For travel expense which may be incurred by Lexmark, associated with Professional Services (Appendix A), Customer will pre-approve the Lexmark resources that will be reimbursed for travel prior to any travel. Travel and expenses will be billed as incurred. Lexmark uses a per diem system for project related meal expenses based on approved GSA rates by location. Lexmark shall be reimbursed at the GSA rates by location for lodging. Submitted expenses in excess of current GSA rates by location, will not be payable by the Customer and shall be borne by Lexmark.
2. For travel expenses which may be incurred by Lexmark, associated with Training, and Customer requests in-person training, Customer will pre-approve the Lexmark resources that will be reimbursed for travel prior to any travel. Travel and expenses will be billed as incurred. Lexmark uses a per diem system for project related meal expenses based on approved GSA rates by location. Lexmark shall be reimbursed at the GSA rates by location for lodging. Submitted expenses in excess of current GSA rates by location, will not be payable by the Customer and shall be borne by Lexmark.

Table E.

Travel Expense Associated with Professional Services and Training	
Travel and Lodging	Estimated Cost
Estimated Expenses for Hotel, Meals, Airfare, Taxi/Parking/Public Transit/Car rental	\$7,716.00

II. Invoicing

All Invoices shall be submitted in accordance with this Appendix B, Section II, as applicable to the billable product or service, and shall be directed by Lexmark to Customer to the following address:

Health Service System
 Attn: Wanda Wu and Yuriy Gologorskiy
 1145 Market Street, 3rd Floor
 San Francisco, CA 94103
Wanda.Wu@sfgov.org , Yuriy.Gologorskiy@sfgov.org

- A. Perpetual Software Licenses (One-time, Non-Recurring Expense)
 Lexmark shall invoice the Customer for the fees for the procurement of perpetual software licenses in accordance with Appendix B, Section I, paragraph A for the costs and products indicated in Table A. The fees for the perpetual licensed software shall be invoiced upon execution of the Agreement and after delivery of all perpetual software licenses to the Customer. The Customer agrees to pay the invoice within 30 (thirty) days of receipt.
- B. Professional Services
 Lexmark shall invoice the Customer for the fees associated with the services indicated in Appendix A (Enterprise Content Management Solution Services) in accordance with Appendix B, Section I, paragraph B, for the costs and products indicated in Table B, after their delivery to the Customer. Lexmark will submit an invoice once monthly, along with a Project Time Details Report for the prior month's completed services. The Project Detail Report shall include Lexmark resource(s) name (s), date, time logged, activity and description, specifically tied to the deliverables indicated in Appendix A (Enterprise Content Management Solution Services (Statement of Work)), Section 2. And Appendix B. (Lexmark Enterprise Software Product and Services Sales Order), Section I. Table B. All Professional Services shall be billed as incurred on a Time and Materials basis and an invoice shall be provided to the Customer. The Customer agrees to pay the invoice within 30 (thirty) days of receipt.
- C. Software Maintenance and Support (Five-year Term, Recurring Expense)
 Lexmark shall invoice the Customer for the fees associated with the services indicated in Appendix A1 (Lexmark Enterprise Software Maintenance and Support) in accordance with Appendix B, Section I, paragraph C, for the costs and products indicated in Table C. Lexmark will submit an invoice once annually for the current contract term. The Customer agrees to pay the invoice within 30 (thirty) days of receipt.
- D. Training (One Time Expense)
 Lexmark shall invoice the Customer for the fees associated with the services indicated in Appendix A (Enterprise Content Management Solution Services), Section 4 (Training) in accordance with Appendix B, Section I, paragraph D, for the costs and products indicated in Table D after the delivery of the training. Lexmark will submit an invoice for the applicable contract term which the training was delivered. The Customer agrees to pay the invoice within 30 (thirty) days of receipt.

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E. Travel Expense

Lexmark shall invoice the Customer for travel expenses with the services indicated in Appendix A (Enterprise Content Management Solution Services) and Section 4 (Training) in accordance with Appendix B, Section I, paragraph E, for the costs indicated Table D, as travel expenses are incurred by Lexmark. Lexmark will submit an invoice and the applicable expense receipts for the reimbursement of travel expenses, after the expenses have been incurred. The Customer agrees to pay the invoice within 30 (thirty) days of receipt.

APPENDIX C**LEXMARK ENTERPRISE SOFTWARE END USER LICENSE AGREEMENT**

IMPORTANT: PLEASE READ THIS END USER LICENSE AGREEMENT ("LICENSE AGREEMENT") CAREFULLY BEFORE INSTALLING OR USING THE LICENSED SOFTWARE AND THE ACCOMPANYING USER DOCUMENTATION. THE LICENSED SOFTWARE AND THE USER DOCUMENTATION ARE COPYRIGHTED AND LICENSED (NOT SOLD). BY INSTALLING OR USING THE LICENSED SOFTWARE, CITY AND COUNTY OF SAN FRANCISCO, HEALTH SERVICE SYSTEM ("YOU", "YOUR") IS ACCEPTING AND AGREEING TO BE BOUND BY THE TERMS OF THIS LICENSE AGREEMENT. IF YOU ARE ACCEPTING AND AGREEING TO BE BOUND BY THE TERMS OF THIS LICENSE AGREEMENT IN CONJUNCTION WITH YOUR EMPLOYMENT ON BEHALF OF YOUR EMPLOYER, A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE LEGAL AUTHORITY TO BIND SUCH ENTITY TO THIS LICENSE AGREEMENT. IF YOU DO NOT HAVE THE AUTHORITY TO BIND YOUR EMPLOYER, A COMPANY OR OTHER LEGAL ENTITY THAT WILL USE THE LICENSED SOFTWARE, DO NOT INSTALL THE LICENSED SOFTWARE OR ACCEPT AND AGREE TO THE TERMS OF THIS LICENSE AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE AGREEMENT, DO NOT USE THE LICENSED SOFTWARE, AND, IF YOU HAVE ALREADY INSTALLED THE LICENSED SOFTWARE, PROMPTLY AND PERMANENTLY REMOVE IT FROM YOUR SYSTEM AND DESTROY ALL COPIES OF THE LICENSED SOFTWARE AND USER DOCUMENTATION, RETURN TO LICENSOR ANY CDs AND OTHER MEDIA CONTAINING THE LICENSED SOFTWARE AND THE USER DOCUMENTATION WITHIN A REASONABLE PERIOD OF TIME (NOT TO EXCEED THIRTY (30) DAYS), AND REQUEST A REFUND OF THE LICENSE FEES PAID BY YOU FOR THE LICENSES OF THE LICENSED SOFTWARE.

1. Software License Grant.

(a) **License Grant.** Subject to the terms and conditions of Software license agreement between the City and County of San Francisco and Lexmark Enterprise Software, LLC ("Agreement"), Lexmark Enterprise Software, LLC ("Licensor") hereby grants to You, and You accept, nonexclusive and nontransferable licenses to use the Licensed Software provided to You by Licensor or its authorized distributor with this License Agreement, in the original, unmodified, machine-readable, object code form only, including, without limitation, any data structures created by such programs, and all upgrades, enhancements and new version releases of any of the foregoing that may be provided by Licensor to You from time to time (collectively referred to as the "Licensed Software"), and the accompanying User Documentation (the "User Documentation"), only as authorized in Section 2 of this License Agreement and for the purposes contemplated by the User Documentation, and installed and used only on a computer or device located at a specific geographic site if provided in a written agreement between You and Licensor or its authorized distributor which sets forth the license fees for and other terms and conditions applicable to the Licensed Software (the "Sales Order") (the Licensed Software and User Documentation are collectively referred to herein as the "Licensed Products"). Your licenses of the Licensed Products are perpetual; provided, however, such licenses may be limited as designated in the Sales Order, including, without limitation, as transaction, subscription or term licenses. Licensor retains the right to terminate the licenses for the Licensed Software, however, upon the terms provided in Section 12 below.

(b) **Third Party Software.** Notwithstanding the terms and conditions of this License Agreement, any portion of the Licensed Software that constitutes third party software, including software provided under a public license ("Third Party Software"), is licensed to You subject to the terms and conditions of the software license agreements accompanying such Third Party Software, whether in the form of a discrete agreement, shrink-wrap license, electronic license terms at the time of download or installation, or as set forth in the thirdpartylicenses.txt file accompanying the Licensed Software. Unless explicitly stated in the thirdpartylicenses.txt file, the use of the Third Party Software by You will be governed exclusively by the terms and conditions of such software license agreements.

2. Licensed Rights.

(a) **Server Licensing.** If Your Sales Order indicates that You acquired the server component of the Licensed Software, the server component of the Licensed Software, including all data structures, data elements, and other data types, may be installed and used only on a single computer or device that You own, lease, or otherwise control (or in the event of the inoperability of a computer or device, on Your backup computer or device only until such operability is restored), unless You purchase additional server licenses. In addition, the licensed server components of the Licensed Software may be used only with the licensed components of the Licensed Software.

(b) **Per-seat/Per-user/Per-device Licensing.** Unless Your Sales Order specifies otherwise, if You have acquired client seat, named user or device licenses of the Licensed Software, the client component of the Licensed Software may be installed and used only on computers or devices that You own, lease or otherwise control (or in the event of the inoperability of a computer or device, on Your backup computer or device only until such operability is restored), and only equal to the number of client seat licenses of the Licensed Software that You have purchased. If the Licensed Software includes a server component, then the licensed client component of the Licensed Software may be used only with the licensed server component of the Licensed Software. You may not use the Licensed Software on any additional computers or devices or in a local area network (LAN) or other network, either in a multi-launch or remote sharing environment without purchasing additional license rights.

(c) **Test Environment Licenses.** If your Sales Order indicates that you acquired test environment licenses of the Licensed Software, then you may utilize such test environment licenses to test the Licensed Software, including upgrades, enhancements and new releases of the Licensed Software, in a test environment to analyze the operation of the Licensed Software prior to making changes in your production environment. You are prohibited from using test environment licenses in a live production environment for productive use or otherwise for use in excess of your licensed rights or in violation of the terms of this License Agreement. Your right to use such test environment licenses is conditional upon your cooperation with Licensor in creating a hardware fingerprint profile of the server facilities upon which you create such test environment or implementing such other measures as Licensor reasonably may require, and your continuing obligation to update and correct such hardware fingerprint profile or modify such measures as changes to the backup server or server cluster node hardware occur.

(d) **Agent and Feature Licensing.** If Your Sales Order indicates that You acquired agent or feature components of the Licensed Software, then You may install and use such components of the Licensed Software only with the licensed server component of the Licensed Software and on computers or devices You own, lease, or otherwise control (or in the event of the inoperability of a computer or device, on Your backup computer or device only until such operability is restored) and will not exceed the number of agent or feature licenses of the Licensed Software that You have purchased. You may not use the agent or feature components of the Licensed Software on any additional computers or devices or in a LAN or other network, either in a multi-launch or remote sharing environment without purchasing additional licenses of the Licensed Software.

(e) **U.S. Government Entities.** If You are a U.S. Government entity, then Your use, duplication or disclosure of the Licensed Software and User Documentation is subject to the following restricted rights clause: The Licensed Software and User Documentation are "Commercial Items," as that term is defined in 48 C.F.R. §2.101, consisting of "commercial computer Licensed Software" and "computer software documentation," as such terms are used in 48 C.F.R. §252.227-7014(a)(1) and 48 C.F.R. §252.227-7014(a)(5), respectively, and used in 48 C.F.R. §12.212 and 48 C.F.R. §227.7202, as applicable, and all as amended from time to time. Consistent with 48 C.F.R. §12.212 and 48 C.F.R. §227.7202-1 through 227.7202-4, and other relevant sections of the Code of Federal Regulations, as applicable, and all as amended from time to time, all U.S. Government entities license the Licensed Software and User Documentation (a) only as Commercial Items, and (b) with only the rights explicitly set forth in this License Agreement and the Sales Order.

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Licensed Software and User Documentation must include all copyright, trademark, and other proprietary notices contained on the original. You will account for and keep a record of the copy of the Licensed Software or User Documentation You make, including where the copy is located and the name of the custodian of the copy. You must provide these records to Licensor upon Licensor's request.

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5. Restrictions.

(a) **License Restrictions.** You will use the Licensed Software (i) only for Your internal business purposes, only for Your direct benefit, and not for the internal purposes or direct benefit of any third party nor for any timesharing, rental, Internet or application service provider, commercial hosting services, or service bureau basis, and (ii) only to the extent it is licensed hereunder and provided You have paid all applicable license fees for the Licensed Software. You will not without Licensor's prior written consent in each instance voluntarily or involuntarily in any form or manner assign, sublicense, transfer, pledge, lease, network, rent, loan or share the Licensed Products or any rights under this License Agreement to or with any other person or entity, including, without limitation, any assignment or transfer incident to Your merger or consolidation with another entity, or any assignment or transfer by operation of law. Any such assignment, sublicense, transfer, pledge, lease, network, rental, loan or sharing absent Licensor's prior written consent will be void and of no force or effect and will cause the immediate termination of this License Agreement. Furthermore, You will not publish, disclose or otherwise display in writing, electronically or otherwise any part of the Licensed Products without Licensor's prior written consent in each such instance, any such publication, disclosure or display absent Licensor's prior written consent which will cause the immediate termination of this License Agreement.

(b) **Use Restrictions.** You will use the Licensed Products only in their original form, and will not reverse engineer, decompile, disassemble, decrypt, re-engineer, reverse assemble, reverse compile or otherwise translate or create, attempt to create the source code of the Licensed Software or its structural framework (in whole or in part), or perform any process intended to determine the source code for the Licensed Software, or assist or otherwise facilitate others any of the foregoing. You will not modify, enhance or create derivative works based upon the Licensed Software (in whole or in part), including, without limitation, any derivative works based upon the database structures of the Licensed Software, or otherwise change the Licensed Software. You agree that any modification, enhancement, derivative work or other improvement to the Licensed Software and/or the User Documentation developed by Licensor, will be the exclusive property of Licensor and subject to and governed under the terms and conditions of this License Agreement, and You hereby assign to Licensor all such rights, title and interest therein.

6. Intellectual Property. You acknowledge and agree that: (i) all Licensed Products are licensed and not sold; (ii) by accepting the licenses set forth in this License Agreement, You acquire only the right to use the Licensed Products in accordance with the terms of this License Agreement, and that Licensor, or its licensors, will retain all rights, title, interest, including all associated patent, copyright, trademark, trade dress, trade secret and other proprietary rights in and to the Licensed Products; and (iii) the Licensed Software, including the source and object codes, logic and structure, constitute valuable trade secrets of Licensor. You agree to secure and protect the Licensed Products with the same degree of care which You employ to protect Your own intellectual property of a similar nature, but in no event less than a reasonable standard of care. This Section will survive any termination of this License Agreement.

7. Licensor Warranty.

(a) **Performance Warranty.** Licensor warrants (the "Performance Warranty") to You for a period of ninety (90) days from the date User Acceptance Testing has been completed and signed off by You (the "Performance Warranty Period") which verifies (i) the Licensed Software, under normal, proper and intended usage, will operate substantially in accordance with the functional specifications in the User Documentation, and (ii) that at the time of installation of the Licensed Software, the Licensed Software does not contain any computer worms or viruses. To be eligible for a remedy under this Performance Warranty, at law or in equity, You must report all warranted problems to Licensor in writing within the Performance Warranty Period.

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(b) **Remedies.** If during the Performance Warranty Period You notify Licensor in writing that the Licensed Software is noncompliant with the Performance Warranty, and Licensor determines the Licensed Software is noncompliant with the Performance Warranty, then Your exclusive remedy and Licensor's sole obligation with respect to the noncompliant Licensed Software will be, at Licensor's option and expense: (i) use reasonable efforts to provide a correction or a workaround for any reproducible errors or other noncompliance; (ii) replace the Licensed Software; or if the foregoing two (2) options are not commercially reasonably viable (iii) terminate this License Agreement and refund the unamortized license fees paid to Licensor for the noncompliant Licensed Software. Upon such termination You will immediately discontinue to use, remove from Your system, and return to Licensor such Licensed Software and associated User Documentation as provided in Section 12(e) below. You agree to cooperate with Licensor in recreating the environment in which any noncompliance occurred and to supply any equipment and personnel Licensor reasonably deems necessary to diagnose and remedy such noncompliance.

(c) **Exclusions.** The warranty and remedies provided in this License Agreement do not apply to any Licensed Software to the extent that such Licensed Software: (i) has been modified, enhanced or altered in any way, except by Licensor or as authorized in advance in writing by Licensor; (ii) has not been installed, operated, repaired or maintained in accordance with the User Documentation; (iii) has been subjected to misuse, negligence, or accident; (iv) has been subjected to external forces, such as power failures or electrical power surges; or (v) cannot reasonably reproduce the error reported by You.

(d) **DISCLAIMERS.** LICENSOR MAKES NO WARRANTY THAT THE LICENSED SOFTWARE WILL MEET YOUR NEEDS, PERFORM ERROR-FREE OR UNINTERRUPTED, OR THAT LICENSOR WILL CORRECT ALL ERRORS THAT MAY EXIST WITHIN THE LICENSED SOFTWARE. EXCEPT FOR THE LIMITED WARRANTY SET FORTH ABOVE AND SECTION 19 OF THE AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE LICENSED PRODUCTS ARE LICENSED "AS IS" AND LICENSOR EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY NON-INFRINGEMENT WARRANTY AND ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, OR FITNESS FOR A PARTICULAR PURPOSE. ANY IMPLIED WARRANTIES THAT BY LAW CANNOT BE DISCLAIMED ARE LIMITED IN DURATION TO: (I) NINETY (90) DAYS FROM THE DATE OF YOUR ACCEPTANCE OF THE LICENSED SOFTWARE; OR (B) THE SHORTEST PERIOD PERMITTED BY LAW, WHICHEVER IS GREATER. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO THE ABOVE EXCLUSION OR LIMITATIONS AND LIMITATIONS MAY NOT APPLY TO YOU.

APPENDIX D HIPAA Requirements-Business Associate Agreement

THIS BUSINESS ASSOCIATE AGREEMENT ("BAA") is entered into on this 4th day of January, 2016, by and between Health Service System for the City and County of San Francisco as Plan Administrator of the Health Plan(s) ("Covered Entity") and Lexmark Enterprise Software, LLC ("Business Associate").

RECITALS

Covered Entity has engaged Business Associate to provide certain functions, activities, and services (collectively "Services") to Covered Entity, as described in the Agreement between the City and County of San Francisco and dated 4th of January 2016 ("Software License Agreement"). In order for Business Associate to perform the Services required by the Service Agreement, Covered Entity will make available and/or transfer to Business Associate certain Protected Health Information and Electronic Health Information (collectively, "PHI") that is confidential and must be afforded special treatment and protection pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and its implementing regulations, the Privacy Rule, Security Rule, Breach Notification Rule, and Enforcement Rule (collectively "HIPAA Rules"), found in Part 160 and Part 164 of title 45 of the Code of Federal Regulations ("CFR").

Business Associate will have access to and/or receive from Covered Entity certain PHI created or received by Covered Entity that can be used or disclosed only in accordance with this BAA and the HIPAA Rules.

Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to Business Associate pursuant to this BAA in compliance with HIPAA, the HIPAA Rules, and other applicable laws.

As part of the Privacy Rule, Covered Entity must enter into a contract with Business Associate containing specific requirements as set forth in, but not limited to, 45 CFR §§ 164.308(b), 164.314(a), 164.502(e) and 164.504(e) and contained in this BAA, prior to the disclosure of PHI.

NOW, THEREFORE, Covered Entity and Business Associate agree as follows:

ARTICLE I Definitions

1.1 Meaning of Terms. The following terms shall have the meaning ascribed to them in this Section:

- A. Administrator** shall mean Health Service System of the City and County of San Francisco.
- B. Breach** shall have the same meaning as the term "breach" at 45 CFR § 164.402, and generally means the unauthorized acquisition, access, use, or disclosure of PHI that compromises the security or privacy of such information.
- C. Business Associate** shall have the same meaning as the term "business associate" at 45 CFR § 160.103, and in reference to the party to this BAA, shall mean Lexmark Enterprise Software, LLC.
- D. Covered Entity** shall have the same meaning as the term "covered entity" at 45 CFR § 160.103, and in reference to the party to this BAA, shall mean the Health Plan.

- E. Designated Record Set** shall mean a group of records maintained by or for Covered Entity that is: (a) the medical records and billing records about Individuals maintained by or for a covered health care provider; (b) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (c) used in whole or in part, by or for Covered Entity to make decisions about Individuals. For these purposes, the term record means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for Covered Entity.
- F. Electronic Health Information** means Protected Health Information that is transmitted or maintained by or in electronic media, as defined by 45 CFR § 160.103.
- G. Health Plans** shall mean the health plans that may be administered, from time to time, by Administrator to which Business Associate provides Services or to which Business Associate will provide Services during the term of this BAA, and which are covered entities as defined by 45 CFR § 160.103.
- H. HHS** shall mean the United States Department of Health and Human Services.
- I. HIPAA** shall mean the Health Insurance Portability and Accountability Act of 1996, as amended or modified applicable laws or regulations.
- J. HIPAA Rules** shall mean the Privacy Rule, Security Rule, Breach Notification Rule, and Enforcement Rule at 45 CFR Part 160 and Part 164.
- K. Individual** shall mean the person who is the subject of the PHI, and shall have the same meaning as the term "individual" at 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- L. Limited Data Set** shall have the same meaning as the term "limited data set" at 45 CFR § 164.514(e) (2).
- M. Parties** shall have the same meaning as Business Associate and Covered Entity.
- N. Protected Health Information ("PHI")** shall have the same meaning as the term "protected health information" at 45 CFR § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- O. Required By Law** shall have the same meaning as the term "required by law" at 45 CFR § 164.103.
- P. Secretary** shall mean the Secretary of HHS or his or her designee.
- Q. Security Incident** shall have the same meaning as the term "security incident" at 45 CFR § 164.304, which generally means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- R. Subcontractor** shall have the same meaning as the term "subcontractor" at 45 CFR § 160.103, which generally means a person to whom a Business Associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such Business Associate.
- S. Transaction Standards** shall mean the standards adopted by the Secretary under 45 CFR Part 162.

- T. Unsecured Protected Health Information ("Unsecured PHI")** shall have the meaning set forth at 45 CFR § 164.402, as amended, and generally means PHI that is not secured through the use of technologies and methodologies that render such PHI unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary in guidance.

1.2 **Other Terms.** Other capitalized terms shall have the meaning ascribed to them in the context in which they first appear. Terms used, but not otherwise defined, in this BAA shall have the same meaning as those terms in 45 CFR Parts 160, 162, and 164. Any reference to a regulation or section in the Code of Federal Regulations ("CFR") shall include any corresponding regulation subsequently issued regardless of the date of issue.

ARTICLE II.

General Terms

2.1 **Interpretation of Provisions.** In the event of an inconsistency between the provisions of this BAA and the mandatory terms of the HIPAA Rules (as they may be expressly amended from time to time by HHS or as a result of final interpretations by HHS, an applicable court, or another applicable regulatory agency with authority over the Parties), the HIPAA Rules shall prevail.

2.2 **Provisions Permitted by HIPAA Rules.** Where provisions of this BAA are different from those mandated by the HIPAA Rules, but are nonetheless permitted by the HIPAA Rules, the provisions of the BAA shall control.

ARTICLE III.

Obligations and Activities of Business Associate

3.1 **Limits on Use and Disclosure.** Business Associate agrees to not use or further disclose PHI other than as permitted or required by this BAA or as Required By Law. Further, Business Associate shall use and disclose PHI in accordance with Covered Entity's Notice of Privacy Practices as provided by Covered Entity to Business Associate pursuant to Section 6.1.

3.2 **Safeguards.** Business Associate agrees to use reasonable and appropriate administrative, physical and technological safeguards to: (i) prevent use or disclosure of the PHI other than as provided for by this BAA; and (ii) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that it creates, receives, maintains or transmits on behalf of Covered Entity as required by the Security Rule. Business Associate represents and warrants that it has implemented, and during the term of this BAA shall maintain, comprehensive written privacy and security policies and procedures and the necessary administrative, technical and physical safeguards appropriate to the size and complexity of Business Associate's operations and the nature and scope of its activities. Business Associate will comply with the Security Rule requirements set forth in Subpart C of 45 CFR Part 164, all of which are hereby incorporated into the BAA.

3.3 **Application of Privacy Provisions.** Business Associate may use and disclose PHI that Business Associate obtains or creates only if such use or disclosure is in compliance with each applicable requirement of 45 CFR § 164.504(e), relating to business associate agreements. The HIPAA Rules that relate to privacy and that are made applicable with respect to Covered Entity and Business Associate are hereby incorporated into this BAA.

3.4 **Mitigation of Harm.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate, or any agent or Subcontractor of Business Associate, in violation of the requirements of this BAA or the HIPAA Rules.

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3.5 Report of Improper Use or Disclosure or of Security Incidents. Business Associate agrees promptly to report to Covered Entity any breach of security, intrusion, or unauthorized use or disclosure of the PHI not provided for by this BAA, or any Security Incident of which Business Associate (or any of its agents or Subcontractors) becomes aware. Such report shall be in writing and shall be reported to Covered Entity as soon as practicable after Business Associate becomes aware of such use or disclosure or Security Incident, but in no event more than ten (10) days following such date. Business Associate shall take prompt corrective action to cure any such deficiencies and any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.

3.6 Report of Breach of Unsecured PHI. In addition to the general obligations of Business Associate under Section 3.5 regarding reporting the improper use or disclosure of PHI and Security Incidents, Business Associate shall also promptly notify Covered Entity of a Breach of Unsecured PHI within forty-eight (48) hours of when Business Associate discovers such Breach. A Breach shall be treated as discovered by Business Associate as of the first day on which such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or other agent of Business Associate. Business Associate's notification shall be in writing and shall include identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been subject to the Breach. Thereafter, Business Associate, on Covered Entity's behalf, shall carry out Covered Entity's obligations under 45 CFR §§ 164.404, 164.406, and 164.408 to notify Individuals, the media, and/or the Secretary, as applicable. Such notice shall provide all of the information required by 45 CFR § 164.404(c), which includes:

- (a) A description of the Breach, including the date of the Breach and the date of the discovery of the Breach, if known;
- (b) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, credit card numbers, diagnosis, disability code or other types of PHI were involved);
- (c) Any steps that Individuals should take to protect themselves from potential harm resulting from the Breach;
- (d) A description of what Business Associate is doing to investigate the Breach, to mitigate the harm to Individuals and to protect against further Breaches; and
- (e) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll free telephone number, an e-mail address, Web site or postal address.

Business Associate shall be solely responsible for ensuring that Covered Entity's obligations under the Breach Notification Rule are satisfied with respect to notifications it makes on Covered Entity's behalf. Notwithstanding, Business Associate shall provide Covered Entity a reasonable opportunity to review any notice, notification, or posting it prepares prior to its distribution, publication or broadcasting, and Covered Entity reserves the right with respect to any specific Breach to carry out its obligations under 45 CFR §§ 164.404, 164.406, and 164.408 to the exclusion of Business Associate, in which case the following paragraph shall apply.

In the event that Covered Entity determines it will notify Individuals, the media, and/or the Secretary of a Breach of Unsecured PHI that is discovered by Business Associate or its agents or Subcontractors, Business Associate shall provide the information listed above exclusively to Covered Entity as soon as it becomes available to Business Associate, but in no event later than thirty (30) days after Business Associate discovers such Breach. Business Associate shall also provide such assistance and further information with regard to the Breach to Covered Entity as reasonably requested by Covered

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Entity in order for Covered Entity to timely meet its notice obligations to Individuals, the media, and/or the Secretary, as applicable, under 45 CFR §§ 164.404, 164.406, and 164.408. If a notification, notice, or posting required by the Breach Notification Rule would impede a criminal investigation or cause damage to national security, such notification shall be delayed as required by law enforcement pursuant to 45 CFR § 164.412.

3.7 Agents and Subcontractors. In accordance with 45 CFR §§ 164.502(e) (1) (ii) and 164.308(b) (2), Business Associate agrees to ensure that any agent, including a Subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of, Covered Entity, agrees in writing to the same restrictions and conditions that apply through this BAA to Business Associate with respect to PHI. Such written BAA shall also require the agent or Subcontractor to implement reasonable and appropriate administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that it creates, receives, maintains or transmits on behalf of Covered Entity. Business Associate, and not Covered Entity, is solely responsible for its agents' and Subcontractors' compliance under the HIPAA Rules.

3.8 Availability of Internal Practices, Books and Records. Business Associate shall make internal practices, books, and records relating to the use and disclosure of PHI received from, or received by Business Associate on behalf of, Covered Entity available to the Secretary or Covered Entity, in a time and manner designated by Covered Entity or the Secretary, for purposes of determining Covered Entity's compliance with the HIPAA Rules. Business Associate shall notify Covered Entity, in writing, of any request by the Secretary under this Section, and shall provide Covered Entity with a copy of any practices, books, and records that Business Associate provides to the Secretary concurrently with providing such materials to the Secretary.

3.9 Access to Records.

- A. Business Associate shall provide access, at the request of Covered Entity, and in the time and manner designated by Covered Entity, to PHI in a Designated Record Set to Covered Entity or, as directed by Covered Entity, to an Individual, in order to meet the requirements under 45 CFR § 164.524 with regard to providing an Individual with a right to access the Individual's PHI.
- B. Business Associate shall, at the request of Covered Entity and in the time and manner designated by Covered Entity, make PHI maintained by Business Associate available to Covered Entity, or as directed by Covered Entity, to a person or entity other than an Individual, for use and disclosure pursuant to a valid written authorization and maintain appropriate documentation for the period, including, but not limited to, copies of any written authorization by an Individual or his or her legal representative, to enable Covered Entity to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.508.
- C. If any Individual requests access to, or the release pursuant to an authorization or otherwise of, PHI directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within ten (10) days of the request. Covered Entity shall have sole authority and responsibility to approve or deny such a request, and shall notify Business Associate, in writing, of its decision to approve or deny any such request.

3.10 Amendments to PHI. Business Associate agrees, in the time and manner designated by Covered Entity, to make PHI contained in a Designated Record Set available for any amendments that Covered Entity agrees to make pursuant to 45 CFR § 164.526 or to otherwise allow Covered Entity to comply with its obligations under 45 CFR § 164.526. If any Individual requests an amendment of PHI contained in a Designated Record Set directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within ten (10) days of the request. Covered

Entity shall have sole authority and responsibility to approve or deny such a request, and shall notify Business Associate, in writing, of its decision to approve or deny any such request.

3.11 Documentation of Disclosures.

- (a) Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. Such documentation shall be kept with regard to all disclosures of PHI except the disclosures described in 45 CFR § 164.528(a) (1). For each such disclosure, Business Associate shall document the following information: (i) the date of the disclosure; (ii) the name of the entity or person who received the PHI and, if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of the disclosure that reasonably states the basis for the disclosure.
- (b) Business Associate shall provide to Covered Entity or an Individual, in the time and manner designated by Covered Entity, information collected in accordance with subsection (a) of this Section of this BAA, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. In the event that a request for an accounting is delivered directly to Business Associate or its agent or Subcontractor by an Individual or a party other than Covered Entity, Business Associate shall within ten (10) days of such request forward it to Covered Entity in writing. Business Associate shall, unless otherwise directed by Covered Entity or as Required By Law, supply an accounting of disclosures of PHI only to Covered Entity.

3.12 Training. Business Associate shall provide appropriate training to its workforce in security, privacy, and confidentiality issues and regulations relating to PHI.

3.13 Response to Subpoena. Business Associate shall promptly notify Covered Entity if it receives a subpoena or other legal process seeking the disclosure of PHI. Such notification shall be provided in a timeframe that allows Covered Entity a reasonable amount of time to respond to the subpoena, object to the subpoena, or to otherwise intervene in the action to which the subpoena pertains.

3.14 Notification of Claims. Business Associate shall promptly notify Covered Entity upon notification or receipt of any civil or criminal claims, demands, causes of action, lawsuits, or governmental enforcement actions arising out of or related to this BAA or the PHI, regardless of whether Covered Entity and/or Business Associate are named as parties in such claims, demands, causes of action, lawsuits, or enforcement actions.

3.15 Assistance in Litigation or Administrative Proceedings. Business Associate shall make itself and any Subcontractors, employees or agents assisting Business Associate in the performance of its obligations under this BAA, available to Covered Entity to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, its directors, officers, or employees based upon a claimed violation of HIPAA, the HIPAA Rules, or other laws relating to security and privacy, except where Business Associate or its Subcontractor, employee, or agent is named as an adverse party.

3.16 Recordkeeping and Document Retention. Business Associate shall retain any documentation it creates or receives relating to its duties under this BAA for the duration of this BAA. Covered Entity shall have the right to reasonably access and copy and such documentation during the term of the BAA. At the termination of this BAA, Business Associate shall, at Covered Entity's election, return or destroy all such documentation.

3.17 Transaction Standards. If Business Associate performs any transactions for Covered Entity for which a standard has been adopted by the Secretary under 45 CFR Part 162, the following shall apply:

- (a) Business Associate, its agents and Subcontractors, shall conduct all transmissions of data required under the BAA that are subject to the Transaction Standards in compliance with the Transaction Standards, as they may be amended from time to time. With respect to any such Transactions, neither Party shall: (i) change the definition, data condition, or use of a data element or segment in a Transaction Standard; (ii) add any data elements or segments to the maximum defined data set; (iii) use any code or data elements that are either marked "not used" in the Transaction Standard's implementation specification or are not in the Transaction Standard's implementation specification(s); or (iv) change the meaning or intent of the Transaction Standard's implementation specification(s).
- (b) Each Party, at its own expense, shall provide and maintain the hardware, software, services and testing necessary to effectively and reliably conduct the applicable Transaction Standards.

3.18 Restrictions on Remuneration, Marketing, and Fundraising. To the extent the BAA would otherwise allow Business Associate to receive remuneration for PHI, Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI as prohibited by 42 USC § 17935(d). To the extent that Business Associate is otherwise authorized under this BAA to communicate about a product or service, it shall not make or cause to be made any communication about a product or service that is prohibited by 42 USC § 17936(a). To the extent that Business Associate is otherwise authorized under this Business Associate Agreement to make a fundraising communication, it shall not make or cause to be made any written fundraising communication that is prohibited by 42 USC § 17936(b) and 45 CFR § 164.514(f).

ARTICLE IV.

Permitted Uses and Disclosures by Business Associate

- 4.1 Use or Disclosure to Perform Functions, Activities, or Services. Except as otherwise limited in this BAA, Business Associate may use or disclose PHI to perform the Services described in the Service Agreement, provided that such use or disclosure would not violate the HIPAA Rules if done by Covered Entity, except for the specific uses and disclosures set forth below in Sections 4.4 and 4.5. Any such use or disclosure shall be limited to those reasons and those individuals as necessary to meet Business Associate's obligations.
- 4.2 Minimum Necessary. Business Associate agrees to make uses and disclosures and requests for PHI consistent with Covered Entity's minimum necessary policies and procedures, as provided by Covered Entity to Business Associate.
- 4.3 Disclosures to Workforce. Business Associate shall not disclose PHI to any member of its workforce unless necessary to fulfill a purpose described in Section 4.1 and unless Business Associate has advised such person of Business Associate's obligations under this BAA and of the consequences for such person and for Business Associate of violating this BAA. Business Associate shall take appropriate disciplinary action against any member of its workforce who uses or discloses PHI in contravention of this BAA or the Privacy Rule.
- 4.4 Appropriate Uses of PHI. Except as otherwise limited in this BAA, Business Associate may use PHI for the following purposes: (a) the proper management and administration of Business Associate; (b) to carry out the legal responsibilities of Business Associate; (c) to report violations of law to appropriate Federal and State authorities, consistent with 42 CFR § 164.502(j)(1); or (d) as Required By Law.

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- 4.5 Appropriate Disclosures of PHI: Confidentiality Assurances and Notification. Except as otherwise limited in this BAA, Business Associate may disclose PHI to a third party to carry out the functions described in Section 4.1 or for the proper management and administration of Business Associate, or to carry out the legal responsibilities of Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached,

ARTICLE V.

Indemnification and Insurance

5.1 Indemnification. In addition to Business Associate's obligations under Section 20 (Indemnification) of the 20 "Agreement Between the City and County of San Francisco and Lexmark Enterprise Software, LLC", Business Associate shall indemnify and hold harmless Covered Entity against, and reimburse Covered Entity for, any expense, loss, damages, legal fees, or costs arising out of or related to any civil or criminal claims, demands, causes of action, lawsuits, or governmental enforcement actions, whether brought by a third party or asserted by Business Associate, arising out of or related to Business Associate's actual or alleged acts and omissions (or those of its agents or Subcontractors) associated with Business Associate's or its agents' or Subcontractors' obligations under this BAA or their use or disclosure of PHI. Such indemnification shall include, but not be limited to, the payment of all reasonable attorney fees associated with any claim, demand, action, cause of action, or lawsuit arising out of or related to such acts or omissions. In addition to the foregoing, in the event of a Breach of Unsecured PHI or similar breach or wrongful disclosure as defined by an applicable law or regulation requiring notification or other remedial action due to the breach or wrongful disclosure of PHI or other personal or financial information ("Other Breach Law") that arose out of or related to Business Associate's actual or alleged acts and omissions (or those of its agents or Subcontractors), Business Associate shall indemnify Covered Entity against all costs and expenses incurred by Covered Entity that are associated with complying with the notification requirements under the Breach Notification Rule or Other Breach Law. Such indemnification shall include all costs related to notifying Covered Entity, Individuals, HHS, or any other entity required to be notified by an Other Breach Law, any remediation necessitated by the Breach, any fines or penalties arising out of the Breach, and any other actions required to be taken pursuant to the Breach Notification Rule or Other Breach Law.

ARTICLE VI.

Obligations of Covered Entity

6.1 Notice of Privacy Practices. Covered Entity shall provide Business Associate with the Notice of Privacy Practices that Covered Entity produces in accordance with 45 CFR § 164.520, as well as any changes to such notice.

6.2 Change or Revocation of Permission. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures. Business Associate shall comply with any such changes or revocations.

6.3 Restrictions on Use or Disclosure. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522. Business Associate shall comply with any such restriction.

6.4 No Request to Use or Disclose in Impermissible Manner. Except as necessary for the management and administrative activities of Business Associate as allowed in Sections 4.4 and 4.5,

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

ARTICLE VII.
Term and Termination

7.1 Term. The Term of this BAA shall be effective as of the date set forth above, and shall terminate when all PHI provided by Covered Entity to Business Associate, or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity.

7.2 Termination with Cause. Upon either Party's knowledge of a material breach by the other Party, the non-breaching Party, in its discretion, may take either or both of the following actions:

- (a) Provide an opportunity (in a time frame to be determined by the non-breaching Party) for the breaching Party to cure the breach or end the violation, and if the breaching Party does not cure the breach or end the violation, terminate this BAA; or
- (b) Immediately terminate this BAA if the breaching Party, in the non-breaching Party's discretion, has breached a material term of this BAA and cure is not possible.

If termination of this BAA is not feasible, the non-breaching Party shall report the breach to the Secretary.

7.3 Judicial or Administrative Proceedings. Covered Entity may terminate this BAA and any other agreement or relationship between the Parties related to the Services by written notice to the Business Associate, effective immediately, if: (a) the Business Associate is named as a defendant in a criminal proceeding for a violation of HIPAA, the HIPAA Rules, or other security or privacy laws; or (b) a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, the HIPAA Rules, or any other security or privacy laws is made in any administrative or civil proceeding in which the Business Associate has been joined.

7.4 Changes in Law. In the event of passage of a law or promulgation of a regulation or an action or investigation by any regulatory body which would prohibit the relationship between the Parties, or the operations of either Party with regard to the subject of this BAA, the Parties shall attempt in good faith to renegotiate the BAA to delete the unlawful provision(s) so that the BAA can continue. If the Parties are unable to renegotiate the BAA within thirty (30) days, the BAA and any other agreement or relationship between the Parties related to the Services shall terminate immediately, upon written notice of either Party.

7.5 Effect of Termination.

- (a) Except as provided in paragraph (b) of this Section 7.5, upon termination of this BAA for any reason, Business Associate shall return or destroy (at Covered Entity's election and in a time frame to be determined by Covered Entity) all PHI received from Covered Entity, or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of Subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI. If Business Associate is directed to destroy the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.
- (b) In the event that Business Associate determines that it is necessary to retain some or the entire PHI to continue its proper management and administration or to carry out its legal responsibilities, Business Associate shall provide to Covered Entity written notification of such need. Upon Covered Entity's approval, which shall not be unreasonably withheld, Business Associate may retain only the PHI that is necessary for Business Associate to

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continue its proper management and administration or to carry out its legal responsibilities, but Business Associate shall return or destroy (at Covered Entity's election and in a time frame to be determined by Covered Entity) all other PHI pursuant to Section 7.5(a). With regard to any retained PHI, Business Associate shall not use or disclose such PHI other than for the purposes for which the PHI was retained and subject to the same conditions set forth in this BAA that applied prior to this BAA's termination. Business Associate shall return or destroy (at Covered Entity's election and in a time frame to be determined by Covered Entity) the retained PHI pursuant to Section 7.5(a) when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

ARTICLE VIII.

Miscellaneous

8.1 Assignment. This BAA shall be binding upon and inure to the benefit of the respective legal successors of the Parties. Neither this BAA nor any rights or obligations hereunder may be assigned, in whole or in part, without the prior written consent of the other Party.

8.2 Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with this BAA, HIPAA, or the HIPAA Rules will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

8.3 Property Rights. All PHI shall be and remain the exclusive property of Covered Entity. Business Associate agrees that it acquires no title or rights to the PHI, including any de-identified information, as a result of this BAA.

8.4 Preemption of Other Agreements and Liability Limitations/Exclusions. Any limitations on liabilities or exclusions from liability previously agreed upon by the Parties, whether written or oral, shall not be applicable to breaches of this BAA, HIPAA, the HIPAA Rules, and other confidentiality and privacy requirements regarding PHI under this BAA. To the extent that any provision of this BAA conflicts with the Service Agreement or any other agreement between the Parties, whether written or oral, the provisions of this BAA shall govern. Furthermore, and by way of example and not limitation, the termination provisions of this BAA shall supersede the termination provisions of any other agreement, including, but not limited to, any limitations on terminating the Service Agreement or any other agreement (such as notice periods) or any provisions requiring a period to cure.

8.5 Right to Cure. Business Associate agrees that Covered Entity has the right, but not the obligation, to cure any and all breaches of Business Associate's privacy, security and confidentiality obligations under this BAA. Any expenses or costs associated with Covered Entity's cure of Business Associate's breach (es) shall be borne solely by Business Associate. The exercise by Covered Entity of its rights under this Section shall not act as a waiver of any remedies, whether at law or in equity, that Covered Entity may seek against Business Associate for any breach by Business Associate of its privacy, security, and confidentiality obligations under this BAA.

8.6 Injunctive Relief. Business Associate agrees that breach of the terms and conditions of this BAA shall cause irreparable harm and there exists no adequate remedy of law. Covered Entity retains all rights to seek injunctive relief to prevent or stop any breach of the terms of this BAA, including, but not limited to the unauthorized use or disclosure of PHI by Business Associate or any agent, contractor or third party that received PHI from Business Associate. The exercise by Covered Entity of its rights under this Section shall not act as a waiver of any remedies, whether at law or in equity, that Covered Entity may seek against Business Associate for any breach by Business Associate of its privacy, security, and confidentiality obligations under this BAA.

8.7 Survival. The respective rights and obligations of Business Associate under Sections 5.1, 5.2, and 7.5 of this BAA shall survive the termination of this BAA.

8.8 Amendment. The Parties agree to take such action as is necessary to amend this BAA from time to time as is necessary for Covered Entity to comply with the requirements of HIPAA and the HIPAA Rules.

8.9 Regulatory References. A reference in this BAA to a section in the HIPAA Rules means the section as in effect or as amended, and for which compliance is required.

8.10 Severability. The Parties agree that if a court determines, contrary to the intent of the Parties, that any of the provisions or terms of this BAA are unreasonable or contrary to public policy, or invalid or unenforceable for any reason in fact, law, or equity, such unenforceability or validity shall not affect the enforceability or validity of the remaining provisions and terms of this BAA. Should any particular provision of this BAA be held unreasonable or unenforceable for any reason, then such provision shall be given effect and enforced to the fullest extent that would be reasonable and enforceable.

8.11 Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California to the extent that the provisions of HIPAA and the HIPAA Rules do not preempt the laws of the State of California. Venue shall be in Superior Court of California, County of San Francisco.

8.12 Waiver of Breach. No failure or delay by either Party in exercising its rights under this BAA shall operate as a waiver of such rights, and no waiver of any breach shall constitute a waiver of any prior, concurrent, or subsequent breach.

8.13 Titles. Titles or headings are used in this BAA for reference only and shall not have any effect on the construction or legal effect of this BAA.

8.14 Independent Contractors. For purposes of this BAA, Covered Entity and Business Associate are and will act at all times as independent contractors. None of the provisions of this BAA are intended to create, nor shall be deemed or construed to create, any relationship other than that of independent entities contracting with each other for the purpose of affecting this BAA. None of the provisions of this BAA shall establish or be deemed or construed to establish any partnership, agency, employment agreement or joint venture between the Parties.

8.15 No Third Party Beneficiaries. It is the intent of the Parties that this BAA is to be effective only in regards to their rights and obligations with respect to each other. It is expressly not the intent of the Parties to create any independent rights in any third party or to make any third-party beneficiary of this BAA and no privity of contract shall exist between third parties and each Party.

Each Party to this BAA warrants that it has full power and authority to enter into this BAA, and the person signing this BAA on behalf of either Party warrants that he/she has been duly authorized and empowered to enter into this BAA.

CITY AND COUNTY OF SAN FRANCISCO, LEXMARK ENTERPRISE SOFTWARE, LLC
HEALTH SERVICE SYSTEM

By: Catherine J. [Signature]

Title: Director HSS

Date: 12-30-2015

By: [Signature]

Title: Director of Government Sales

Date: 12-22-2015

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Perceptive Content

Technical Specifications

Version: 7.1.x

Written by: Product Knowledge, R&D
Date: December 2015

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Perceptive Content

Perceptive Content is an ECM system comprised of a server, database, and object storage manager, and clients. This system can contain agents and extensions, interact products, and solutions to tailor the system to meet your needs.

Perceptive Content Server

The Perceptive Content Server, formerly named ImageNow Server, is the engine that powers the Content system. The minimum technical specifications required for this server, as well as recommendations, appear in the following table:

Specification	Description
Hardware	A server class system is required to run Content in an enterprise environment. The processing power of this physical server directly affects performance. As a minimum requirement, use a dual core processor running at 2 GHz.
Operating Systems	We recommend that you upgrade to the latest operating system patch of the following supported operating system versions. <ul style="list-style-type: none">• Microsoft Windows Server 2008 R2, 2012, or 2012 R2• RedHat Linux x86_64 version 7• Oracle Linux version 6 or 7 Note: You must have 32-bit X11 installed.
Accessibility	100 Mb network minimum, configured at full duplex, is required for this server and the database server. In addition, a 1 Gb network is recommended. Ports 6000 and 7200 should be open within firewalls that restrict client access across your WAN or LAN. Certain hardware is prone to networking issues when TCP offloading is enabled. If you experience frequent networking issues or use a Virtual Machine (VM), disable TCP offloading. You must disable this setting at all levels, including the virtual machine's host operating system, virtual machine's operating system, and NIC; and all machines within the Perceptive Content system, which includes the database server and LDAP server. Refer to your vendor's information for instructions on how to disable TCP offloading.
Memory	Minimum 4 GB plus 100 K for each user.
Disk Space	Minimum 20 GB

Specification	Description
Virtual Machine	<p>Perceptive Software supports customers running our products on the supported operating systems listed in this document, regardless of whether the system is running in a proven virtual environment, such as VMWare or Microsoft Hyper-V. We support specific operating systems, web server configurations, and web browsers, not hardware configurations unless otherwise noted in this document. Accordingly, virtual platforms operate on and interact with the hardware abstraction layer provided by the virtual platform vendor.</p> <p>The virtual platform vendor supports a set of certified operating systems and hardware. The customer and virtual platform manufacturer are responsible for any interactions or issues that arise at the hardware or operating system layer because of the virtual platform vendor.</p> <p>Important: In virtual environments, Perceptive Content supports virtualization but does not support paravirtualization.</p>

Perceptive Content Database

The database stores the metadata of each document, not the actual document. A storage location with high performance and high availability is required for the database. Examples of this storage include RAID 10 or RAID 5 with write cache. Network Attached Storage (NAS) devices are not recommended for the database.

Both Standard and Enterprise database editions are supported. However, if you require the system to be used continually (24 hours, 7 days a week), or you have 200 users or more, we recommend the Enterprise edition.

Specification	Description
Hardware	<p>We recommend that you install the database on a separate physical server accessible by Perceptive Content Server.</p> <p>Hardware requirements specified by respective DBMS vendors are required in addition to the Perceptive-specific requirements listed below.</p>
DBMS	<p>We recommend that you upgrade to the latest DBMS patch of the following supported versions.</p> <ul style="list-style-type: none"> Microsoft SQL Server 2008 R2 using the latest SP, 2012, or 2014. <p>Note: Unicode is supported on SQL Server only.</p> <ul style="list-style-type: none"> Oracle 11g, version 11.2.0.4 Oracle 12c
Memory	Database size varies by implementation and use of the product.
Disk Space	Database size varies by implementation and use of the product.

Multilingual support with an Oracle database is not provided in this version.

Object Storage Manager

All content that is managed by Perceptive Content is stored in the Object Storage Manager (OSM). The OSM stores the content in its original format. The minimum technical specifications required for the OSM appear in the following table:

Specification	Description
Hardware	A storage location with high capacity and high availability is required for the OSM. This storage can be set up as Direct Attached Storage, a SAN, or NAS device.
Accessibility	The OSM must be directly accessible by Perceptive Content Server. Locate the OSM on a local drive SAN or NAS.
Disk Space	The disk space required depends on the amount of content that must be stored. The OSM for scanned images and other documents can grow quite large. As a guide, 1 million black and white scanned pages (scanned at 300 DPI) can consume 70 GB of storage.

Clients

Perceptive Software offers several clients that run on a variety of environments, operating systems, and devices.

Perceptive Content Client

Perceptive Content Client is a desktop interface that provides access to all functions including document capture, indexing, viewing, workflow, and document control functionality.

Specification	Description
Hardware	<p>Processor: Requires a 2.0 GHz or greater processor. A dual core processor is recommended for increased performance.</p> <p>Screen Resolution: The required minimum screen resolution is 1024 x 768. A 1280 x 1024 SVGA screen resolution is recommended. Dual monitors are supported.</p> <p>Scanning: For scanning, the Client machine must be either USB compatible or able to accept a SCSI expansion card based upon the interface of your scanner. For USB scanners, revision 2.0 is recommended. The scanner may require a faster machine, a specific operating system, or more memory than the Client. For more information about scanner requirements, refer to the manufacturer's documentation.</p>
Operating Systems	<p>Microsoft Windows 7, 8, and 8.1</p> <p>PEDS. If you use Perceptive Enterprise Deployment Suite (PEDS), note that PEDS requires Microsoft .NET Framework 4.</p>
Accessibility	<p>A dedicated, "always on" connection is required from the Perceptive Content Client to the Perceptive Content Server.</p> <p>Minimum bandwidth requirements include:</p> <p>A 1.5 Mb connection is required. A 4.5 Mb connection is recommended.</p> <p>Scanning: For a scan station, a 100 Mb Ethernet connection is required and a 1 Gb Ethernet connection is recommended for best performance. A high-volume scan station in a WAN is not recommended.</p>
Memory	<p>2 GB</p> <p>Consult your scanner manufacturer for recommended memory options.</p>

Specification	Description
Disk Space	1 GB Scan stations may require more temporary storage space, depending on scanning volume.

Perceptive Content Client in a virtual desktop environment

A desktop virtualization or application virtualization environment requires third-party products like Citrix or Microsoft Terminal Services. These requirements can vary depending on whether the terminal server environment uses a server farm and how many users are in the farm. The following table shows typical recommendations for the Client in these environments.

Specification	Description
Hardware	CPU: 1 core per every 10 users is required. Note that certain tasks, such as printing and scanning documents increase CPU utilization.
Virtualization Software	Citrix XenApp, version 6, 6.5, or 7.6 Microsoft Terminal Services
Operating Systems	Microsoft Server 2008 R2 Microsoft Server 2012
Accessibility	A dedicated, "always on" connection is required from the Perceptive Content Client to the Perceptive Content Server.
Memory	30 MB of available RAM per user
Disk Space	Requires the same disk space as a Perceptive Content Client installation, plus 5 MB per user in the application data (%APPDATA%) folder.

Interact Desktop

Interact Desktop offers users of the Perceptive Software process and content management system a next-generation client experience. It includes Pretrieve intelligent document-lookup technology, multiple content access points, a digital signing feature, and the option to use content models and folder banners for a more visual, configurable, efficient and organizationally customized user interface.

Interact Desktop in a Windows environment

The following table describes the requirements for running Interact Desktop on Windows.

Specification	Description
Operating Systems	Microsoft Windows 7 For virtual desktop specifications, refer to the same specifications shown in " Error! Reference source not found. ".
Software	Microsoft .NET Framework 4.
Hardware	Processor: Requires a 2.0 GHz or greater processor. A dual core processor is recommended for increased performance. Screen Resolution: The required minimum screen resolution is 1024 x 768. A 1280 x 1024 SVGA screen resolution is recommended.
Accessibility	A dedicated, "always on" connection is required from Interact Desktop to Perceptive Content Server.

WebNow

WebNow enables users to view and work with Perceptive Content documents in a web browser. WebNow is comprised of the WebNow Server and WebNow Client browsers that access Perceptive Content through the WebNow Server.

WebNow Server

The minimum technical specifications required for the WebNow Server appear in the following table.

Specification	Description
Hardware	A server class system is required to run WebNow in an enterprise environment.
Operating Systems	The same operating systems as the Perceptive Content Server, with the following condition: On Linux, only Oracle's version of Java is supported. Installation is supported on physical machines, as well as on VMWare-based machines, and Hyper-V.
Web Application Servers	64-bit Apache Tomcat 7 or 8 64-bit Oracle WebLogic 12c (not supported in Unicode installations) 64-bit IBM WebSphere Application Server 8.5.5.5, including Liberty profile (only Internet Explorer and Firefox browsers are supported in this configuration)

Specification	Description
Software	<p>Minimum version: Oracle JRE version 1.8.x or 1.7.0_45</p> <p>Newer versions of JRE 1.8.x and 1.7.x will become available after our products are released. You can install a higher version of JRE 1.8.x or 1.7.x than the version we recommend.</p> <p>If a higher version of JRE 1.8.x or 1.7.x presents an issue, we will work to support it. However, there might be some rare cases where a newer version of JRE 1.8.x or 1.7.x is found to be incompatible and must be replaced. Contact Product Support before upgrading to a newer version to verify if known issues exist.</p>
Accessibility	100 Mb network minimum, configured at full duplex, is required and a 1 Gb network is recommended.
Memory	The WebNow Server must meet the minimum memory requirements of the selected web application server with an additional 5 MB per user.
Disk Space	<p><u>Web server requirements:</u> The WebNow Server must meet the minimum disk space requirements of the selected web application server.</p> <p><u>WebNow requirements:</u> An additional 10 MB is required for WebNow, plus the following:</p> <p>Additional temporary storage is required for documents and worksheets.</p> <p>The actual amount depends on system use, but plan for approximately 5 MB per user.</p>
Compatibility	When running WebNow Server with Tomcat, install WebNow on a different machine than the Business Insight machine.

WebNow Client

The WebNow Client communicates with the WebNow Server through a browser. The minimum technical specifications required for the WebNow Client appear in the following table.

Specification	Description
Hardware	<p>Processor: Requires a 2.0 GHz or greater processor. A dual core processor is recommended for increased performance.</p> <p>Screen Resolution: The required minimum screen resolution is 1024 x 768. A 1280 x 1024 SVGA screen resolution is recommended.</p>

Specification	Description
Software	<p>Java. Minimum version: Oracle JRE version 1.8.x or 1.7.0_45</p> <p>Newer versions of JRE 1.8.x and 1.7.x will become available after our products are released. You can install a higher version of JRE 1.8.x or 1.7.x than the version we recommend.</p> <p>If a higher version of JRE 1.8.x or 1.7.x presents an issue, Lexmark will work to support it. However, there might be some rare cases where a newer version of JRE 1.8.x or 1.7.x is found to be incompatible and must be replaced. Contact Product Support before upgrading to a newer version to verify if known issues exist.</p> <p>Browsers.</p> <p><u>WebNow supports the following web browsers:</u></p> <p>Internet Explorer 11.x for Windows</p> <p>Apple Safari web browser 7.1 or 8 on Mac OS X</p> <p>Mozilla Firefox for Windows</p> <p>Supported browser versions are listed, however we recommend that you upgrade to the latest patch of the supported browsers. Note that some browsers release automatic updates and some browsers no longer support version numbers.</p> <p>Browser versions that are updated after you install WebNow are also assumed to work unless otherwise noted. Contact Product Support if you find browser incompatibility.</p>
Accessibility	WebNow requires a high-speed Internet connection capable of 1.5 Mbps download and 384 Kbps upload. 1.5 Mbps upload is recommended when using the client to capture documents.
Memory	The amount of memory depends on the version of the JRE.
Disk Space	This client requires approximately 50 MB, excluding Java requirements.

Perceptive Mobile

Perceptive Mobile products provide Perceptive Content features and functionality that you can perform on your mobile device. The minimum technical specifications required for each product appear in the following tables.

Perceptive Experience for iOS (shell)

Specification	Description
Operating Systems	Apple iOS8
Compatible Hardware	Refer to the Apple website for a list of devices supported by iOS8.
Compatible Software	Integration Server
Accessibility	Supported iPhone, iPad, and iPod Touch with 3G, 4G, or Wi-Fi network connectivity.

Perceptive Experience for Android (shell)

Specification	Description
Operating Systems	Android 4.4 and higher.
Compatible Hardware	Android devices supported by Android Operating Systems 4.4 and higher.
Compatible Software	Integration Server
Accessibility	Supported Android devices with mobile network or Wi-Fi network connectivity.
Minimum Device Configuration	16 GB ROM, 2 GB RAM

Perceptive Mobile for iPhone and iPad (workflow client)

Specification	Description
Operating Systems	Compatible device running iOS8 or higher.
Compatible Hardware	Refer to the Apple website for a list of devices supported by iOS8.
Compatible Software	Integration Server
Accessibility	Supported iPhone, iPad, and iPod Touch devices with 3G, 4G, or Wi-Fi network connectivity.

Perceptive Mobile for Windows (workflow client)

Specification	Description
Compatible Hardware	Any Windows 8 compatible tablet with the following system HW requirements. 1 GHz processor, ARM or x86 based. 2 GB RAM with 20 GB of available hard disk space. 1366 x 768 screen resolution. DirectX 9 graphics processor with WDDM driver.
Compatible Software	Integration Server
Operating Systems	Windows RT (for ARM based tablets) Windows 8 Pro (for x86 based tablets)
Disk Space	4 MB

Agents and extensions

Agents and extensions expand Perceptive Content capabilities.

AP Invoice eForm

Accounts Payable Invoice eForm is a pre-built eForm that supports invoice processing, including both non-PO and PO-based invoices.

Specification	Description
Compatible Versions	AP Invoice eForm version 12.1 and higher.
Operating Systems	AP Invoice eForm supports the same operating systems as the Perceptive Content Server.
Compatible Software	Internet Explorer, version 8 or higher, on each Perceptive Content Client workstation. iScript eForms
Disk Space	100 MB Additional space depends on the anticipated size of staging data files.

Business Insight

Business Insight enables you to report on the business intelligence contained in the Perceptive Content database. For specifications about Perceptive Business Insight, refer to the Business Intelligence 10.2.1 Supported Software Environments [specification](#) from Cognos.

Specification	Description
Required Software	Integration Server
Location	Install Business Insight on a different machine than the machine where WebNow Server, Forms Server, or Perceptive Content Server is located.

Conversion Module

The Conversion Module (formerly called "ImageNow Printer (Server-Side)") offers the ability to convert various file types to standard TIFFs. You can integrate this standard tool set into various automated processes to convert Microsoft Office documents, PDFs, text files, and HTML files to industry-standard, Group 4, TIFF images. These TIFFs can be readily imported, annotated as needed, or routed through workflow. In most cases, automatic document indexing can also occur.

Specification	Description
Operating Systems	Runs on all Windows operating systems that Perceptive Content Server supports. Connects to Perceptive Content Server via TCP/IP. When running, Conversion Module requires one core per instance.
Accessibility	100 Mb network minimum, configured at full duplex, is required and 1 Gb network is recommended
Memory	1 GB
Disk Space	1 GB

Direct Print Capture

Direct Print Capture is a cost-effective solution that enables you to preserve check runs, correspondence, invoice batches, and other types of business system or server output by storing legible versions of reports in the secure Content repository. After the reports are stored, authorized users across the enterprise have simultaneous, single-click access to reports from on-site and remote locations.

Specification	Description
Operating Systems	Windows 2008 R2, 2012, or 2012 R2
Additional Hardware	Any PC compatible with Intel Pentium Processor III or higher. For Cluster Environments: SFU must be installed on the local drive for each OS node in the cluster. Direct Print must be installed on a shared hard disk array (for example, NAS or SAN). Refer to hardware requirements from Microsoft to implement clustering services. Direct Print Capture can only process PCL5 and PCL5e print streams, so you need an appropriate print driver.
Accessibility	100 Mb network minimum, configured at full duplex, is required and 1 Gb network is recommended.
Memory	256 MB
Disk Space	10 GB

eForms

eForms allows your organization to collect business or process-specific information through user-friendly HTML-based forms. Users can quickly fill out forms in a familiar environment while the system's built-in logic ensures data consistency and accuracy. eForms can automatically format, calculate, look up, and validate form information while automatically routing forms and documents within specific workflow processes. In addition, data captured within forms can be shared with external business applications to provide a seamless, automated business process solution.

The following requirements are necessary if you are using the Forms Server and are rendering forms through a business portal or application. The Forms Server is not required if you are managing forms inside of a Perceptive Content client.

Forms Server

The minimum technical specifications required for the Forms Server appear in the following table.

Specification	Description
Hardware	A server class system is required to run Forms Server in an enterprise environment. Installation is supported on physical machines, as well as on VMWare-based machines, and Hyper-V.
Operating Systems	The same operating systems as the Perceptive Content Server, with the following condition. In Linux, only Oracle's version of Java is supported.
Web Application Servers	64-bit Apache Tomcat 7 or 8
Software	<p>Minimum version: Oracle JRE version 1.8.x or 1.7.0_45</p> <p>Newer versions of JRE 1.8.x and 1.7.x will become available after our products are released. You can install a higher version of JRE 1.8.x or 1.7.x than the version we recommend.</p> <p>If a higher version of JRE 1.8.x or 1.7.x presents an issue, we will work to support it. However, there might be some rare cases where a newer version of JRE 1.8.x or 1.7.x is found to be incompatible and must be replaced. Contact Product Support before upgrading to a newer version to verify if known issues exist.</p>
Accessibility	100 Mb network minimum, configured at full duplex, is required and a 1 Gb network is recommended.
Memory	Meet the minimum memory requirements of the selected web application server with an additional 5 MB per user.
Disk Space	<p>Web server requirements: Meet the minimum disk space requirements of the selected web application server.</p> <p>eForms requirements: An additional 10 MB is required, plus the following:</p> <p>Additional temporary storage is required for documents and worksheets.</p> <p>The actual amount depends on system use, but plan for approximately 5 MB per user.</p>
Compatibility	Install Forms Server on a different machine than the Business Insight machine.

Forms Server eForms Viewing Requirements

Forms Server delivers forms through a browser as part of the eForms product. The technical specifications in the following table are specific to Forms Server version 7.1.x.

Specification	Description
Internet Browsers	<p>Supported Browsers:</p> <p>Microsoft Internet Explorer 11</p> <p>Mozilla Firefox (Microsoft Windows OS)</p> <p>Google Chrome (Microsoft Windows OS)</p> <p>Apple Safari (Mac OS v10.10, iOS 8)</p> <p>We recommend you upgrade to the latest patch of the supported browsers. Note some browsers release automatic updates and some browsers no longer support version numbers.</p> <p>Browser versions that you update after you install Forms Server are also assumed to work unless otherwise noted. Contact Product Support if you find browser incompatibility.</p>
Forms Server for iOS	<p>For an optimal experience using devices running iOS, confirm the specifications detailed below.</p> <p>Operating System: Apple iOS 8</p> <p>Devices: Refer to the apple website for a list of devices supported by iOS8.</p> <p>Network Connectivity: Supported product with 3G, 4G, or Wi-Fi connectivity.</p>
Forms Server for Android	<p>For an optimal experience using Android devices, confirm the specifications detailed below.</p> <p>Operating System: Android 4.4</p> <p>Devices: Android devices supported by Android Operating System 4.4.</p> <p>Network Connectivity: Supported product with mobile network or Wi-Fi connectivity.</p>

Envoy

Envoy provides capabilities you can use to facilitate automated, back-end integration of Perceptive Content with your business applications. Through Envoy, you can send unsolicited, web service-based requests to a remote system with minimal programming. With this capability, you can further automate your business processes. You can also use Envoy to enable Perceptive Content to make remote service operations available to users.

Specification	Description
Operating Systems	Runs on all of the operating systems that Perceptive Content Server supports. WS-Security is supported only on Linux.
Accessibility	100 Mb network minimum, configured at full duplex, is required and 1 Gb network is recommended.
Memory	256 MB

Fax Agent

Fax Agent is a scalable, inbound and outbound fax solution that is tightly integrated with workflow. For inbound faxing, Fax Agent is designed to allow customers to capture high volumes of inbound faxes, perform bar code processing, and automatically route them through various workflow processes based on predefined rules. For outbound faxing, Fax Agent's outbound faxing capability is fully integrated into the user interface, giving users with proper permissions the option to fax from the Explorer, Viewer, or iScript.

Specification	Description
Operating Systems	Supports the same Windows operating systems as the Perceptive Content Server. We recommend that you install Fax Agent on a remote server. Connects to Perceptive Content Server via TCP/IP.
Additional Hardware	Fax Agent requires a physical machine for the fax board. The fax board in the physical machine must be a Brooktrout 1034 fax board. Note: Brooktrout 1034 "low profile" boards are not supported at this time. For information on supported fax boards, contact your account representative.
Accessibility	100 Mb network minimum, configured at full duplex, is required and 1 Gb network is recommended.
Memory	1 GB
Disk Space	100 MB

Full Text Search Agent

This agent adds powerful search and retrieval capabilities to Perceptive Content object storage using specialized indexing technology. Full Text Search Agent is optimized for text-based retrieval, including advanced query expansion, custom thesaurus creation, natural language query input, automatic highlighting of search terms, and combined metadata and full text search.

Specification	Description
Operating Systems	Supports the same Windows operating systems as the Perceptive Content Server.
Accessibility	100 Mb network minimum, configured at full duplex, is required and 1 Gb network is recommended.
Memory	100 MB
Disk Space	Varies depending on the number of documents that are indexed. The disk requirement grows over time, based on content and use. In general, a page of text requires approximately 40KB of storage per page.

Integration Server

Integration Server provides application integration capabilities using HTTP web services. Based on the HTTP protocol, it gives customers maximum flexibility to incorporate Content services directly into their existing enterprise systems. This includes, but is not limited to, the ability to log on, log off, store, retrieve, move, copy, delete, and search for documents, place documents into workflow, route workflow items, set and get status, and be notified of workflow events from within any third-party application.

Specification	Description
Operating Systems	Supports the same operating systems as Perceptive Content Server.
Web Application Servers	64-bit Apache Tomcat 7.x or 8.x 64-bit IBM WebSphere Liberty 8.5.5.6 64-bit IBM WebSphere Classic 8.5.5.6
Software	Minimum version: Oracle JRE version 1.8.x or 1.7.0_45 Newer versions of JRE 1.8.x and 1.7.x will become available after our products are released. You can install a higher version of JRE 1.8.x or 1.7.x than the version we recommend. If a higher version of JRE 1.8.x or 1.7.x presents an issue, we will work to support it. However, there might be some rare cases where a newer version of JRE 1.8.x or 1.7.x is found to be incompatible and must be replaced. Contact Product Support before upgrading to a newer version to verify if known issues exist.
Compatible Hardware	Installation is supported on physical machines, as well as on VMWare-based machines, and Hyper-V.
Accessibility	100 Mb network minimum, configured at full duplex, is required and a 1 Gb network is recommended.

Specification	Description
Memory	Minimum 1 GB physical memory. For higher volume usage, we recommend a minimum of 6 GB physical memory allocated to Tomcat with 8 GB RAM on the host server.
Disk Space	Footprint of the installed product is approximately 100 MB, but we would recommend sufficient disk space to support log file growth, and would not recommend installing on a disk smaller than 1GB.
Dependencies	Some calls depend on File Conversion Service. For more information, see File Conversion Service Technical Specifications Guide .

Message Agent

Message Agent is a service that provides a window into Perceptive Content functionality. Message Agent exports a rich set of functions as web services enabling third-party application developers to embed Content functionality, such as document management and workflow, directly into their applications. Developers can use toolkits, with standard development tools for Java, C++, or a .NET managed language to embed this functionality. You can install multiple instances of this service.

Specification	Description
Operating Systems	Supports the same operating systems as Perceptive Content Server.
Accessibility	100 Mb network minimum, configured at full duplex, is required and 1 Gb network is recommended.
Memory	128 MB
Disk Space	1 GB

Output Agent

Output Agent is a server-side process that provides flexible options for printing or exporting data from Perceptive Content. Output Agent can send documents to a specific printer, convert them to .jpg and export them to a specified directory, or create DICOM formatted or PDF output. Output Agent can be driven by events in workflow, the server-side API, other agents, or even text files containing specific values generated by external applications.

Specification	Description
Operating Systems	Runs on all operating systems that Perceptive Content Server supports. Connects to Perceptive Content Server via TCP/IP. When running, Output Agent requires one core.
Accessibility	100 Mb network minimum, configured at full duplex, is required and 1 Gb network is recommended.
Memory	512 MB
Disk Space	1 GB

Recognition Agent

Recognition Agent enables robust capture technologies to meet enterprise needs. Recognition Agent provides excellent recognition accuracy on a wide variety of documents, including faxes, photocopies, and documents with complex layouts. Recognition Agent extracts data from scanned documents and automatically populates any or all document properties with the extracted data.

Specification	Description
Hardware	As a minimum requirement, use a 2 GHz processor. When running, each Recognition Agent requires an additional core.
Operating Systems	Runs in the same supported Windows environments as Perceptive Content Server.
Accessibility	100 Mb network minimum, configured at full duplex, is required and 1 Gb network is recommended.
Processing Capability	Plan on about 1000 pages per hour per Recognition Agent.
Memory	1 GB
Disk Space	400 MB

User Replication Agent

User Replication Agent simplifies the management of Content users and groups in LDAP-focused identity environments by allowing Content and your LDAP servers to work together. Going a step beyond the application's standard capability to authenticate users against LDAP servers and import users in bulk from LDAP servers, the User Replication Agent module actively manages the relationship to keep the user list synchronous.

Specification	Description
Operating Systems	Runs on all operating systems that Perceptive Content Server supports. Connects to Perceptive Content Server via TCP/IP.
Accessibility	100 Mb network minimum, configured at full duplex, is required and 1 Gb network is recommended.
Memory	128 MB
Disk Space	100 MB

Interact Products

Interacts are a suite of products that are designed to allow end users to "interact" with the Perceptive Content repository within the context of their native business and collaboration applications.

Interact for Dell

Interact for Dell enables a Dell Multifunction Printer (MFP) user to convert paper documents to electronic images, index them, and store them in a Perceptive Content system—all with a few button clicks on the

printer's control panel. Once captured, the document is immediately available for subsequent retrieval and optional workflow processing using Perceptive Content Client or WebNow.

Interact for Dell is licensed per device. Your Perceptive Content Server software must match the version number of Interact for Dell. Message Agent is required to manage communication between your Dell device and Perceptive Content.

Specification	Description
Operating Systems	Runs on all operating systems that Perceptive Content Server supports. Connects to a Perceptive Content Server via TCP/IP.
Software	Message Agent (required)
Accessibility	100 Mb network minimum, configured at full duplex, is required and a 1 Gb network is recommended.
Memory	The printer must have a minimum of 256 MB RAM.
Disk Space	The printer must have a hard drive if using "Custom Job" functionality to allow the combining of multiple scans into a single job. Otherwise, no hard drive is required.

Supported Dell MFPs

Supported MFP Models	Additional Memory requirements
Dell 5535dn	Comes standard with 256 MB, so no additional memory is required.
Dell 3333dn	Requires the addition of at least a 128 MB memory module, since 256 MB is the minimum requirement.
Dell 3335dn	Requires the addition of at least a 128 MB memory module, since 256 MB is the minimum requirement.

Interact for Lexmark

Interact for Lexmark enables a Lexmark Multifunction Printer (MFP) user to convert paper documents to electronic images, index them, and store them in a Perceptive Content system—all with a few button clicks on the printer's control panel. Once captured, the document is immediately available for subsequent retrieval and optional workflow processing using Perceptive Content Client or WebNow.

Interact for Lexmark is licensed per device. Your Perceptive Content Server software must match the version number of Interact for Lexmark. Message Agent is required to manage communication between your Lexmark device and Perceptive Content.

Specification	Description
Operating Systems	Runs on all operating systems that Perceptive Content Server supports. Interact for Lexmark can connect to a Perceptive Content Server running on any supported operating system via TCP/IP, as per Message Agent specifications.
Software	Message Agent (required)
Accessibility	100 Mb network minimum, configured at full duplex, is required and 1 Gb network is recommended.
Memory	1 GB
Disk Space	80 MB

Compatible MFPs

Supported MFP Model/Series	eSF Version	Required Firmware
X644e / X646e / X646dte	1.2	LC2.MC.P307aS1 or later
X646ef	1.2	LC2.TI.P305aS1 or later
X782e	1.2	LC2.TO.P305cS1 or later
X85x	1.2	LC4.BE.P457S1 or later
X94x	1.2	LC.BR.P051HDS1 or later
X65x	2.0	LR.MN.P626 or later
X73x	2.0	LR.FL.P626 or later
X46x	2.0	LR.BS.P626 or later
X86x	2.0	LP.SP.P626 or later
X548x	3.1	LHS2.VK.P244a or later
X74x / XS74x	3.1	LHSC.NY.P260e or later
X792x / XS79x / XS798	3.1	LHS2.MR.P244a or later
X925x / XS925 / XS955	3.1	LHS2.HK.P244b or later
X95x	3.1	LHS2.TQ.P244a or later
6500e	3.1	LHS2.JR.P244b or later
MX6500e	4.0	LW30.JD.P328 or later

Supported MFP Model/Series	eSF Version	Required Firmware
CX510 / XC2132	4.0	LW30.GM7.P32 or later
CX41x	4.0	LW30.GM4.P328 or later
MX41x	4.0	LW30.SB4.P328 or later
MX51x / XM1145	4.0	LW30.SB4.P328 or later
MX61x / MX3150	4.0	LW30.SB7.P328 or later
MX71x / MX81x / XM5163 / XM5170 / XM7155 / XM7163 / XM7170	4.0	LW30.TU.P328 or later
MX91x / XM9145 / XM9155 / XM9165	4.0	LF.MG.P039 or later

Interact for Microsoft Office

Extend the power of Content by bringing document management to every user of Microsoft Office, whether or not they have WebNow or Perceptive Content Client installed. Interact for Microsoft Office provides key functions in an interface that allows users to create and manage Office-format Content documents directly from Microsoft Office 2003, 2007, and 2010.

Specification	Description
Operating Systems	This product supports the same operating systems as Perceptive Content Client.
Compatible Software	Microsoft Office 2003: Word, Excel, PowerPoint, and Visio Microsoft Office 2007 Word, Excel, and PowerPoint Microsoft Office 2010 Word, Excel, and PowerPoint
Accessibility	100 Mb network minimum, configured at full duplex, is required and 1 Gb network is recommended.
Memory	256 MB and additional storage is required to open documents in their native application.
Disk Space	1 GB

Interact for Microsoft Outlook

Interact for Microsoft Outlook version 1.x lets you capture your email and attachments to the Content document management system directly from Microsoft Outlook. You can also view a document contained in a drawer or folder that you have the privileges to view. If you allow public access to the document by other users, those users can then view the document as well.

Interact for Microsoft Outlook embeds controls within the Outlook interface that allow the user to capture emails. The user can view a list of captured documents in the Interact for Outlook pane.

Specification	Description
Operating Systems	Runs on Windows 7, 8, or 8.1.
Compatible Software	Microsoft Outlook 2010
Disk Space	5 MB

Interact for Xerox

Use Interact for Xerox to provide your enterprise with another capture option to store documents inside the Perceptive Content repository using Xerox EIP-enabled multifunction peripherals (MFP). The Xerox custom services empowers the user to pre-populate any document key or workflow queue, resulting in faster document indexing and improved business process.

Specification	Description
Operating Systems	Microsoft Server 2008 R2.
Web Application Servers	Requires Apache Tomcat, 7.x or 8.x.
Software	<p>Minimum version: Oracle JRE version 1.8.x or 1.7.0_45</p> <p>Newer versions of JRE 1.8.x and 1.7.x will become available after our products are released. You can install a higher version of JRE 1.8.x or 1.7.x than the version we recommend.</p> <p>If a higher version of JRE 1.8.x or 1.7.x presents an issue, we will work to support it. However, there might be some rare cases where a newer version of JRE 1.8.x or 1.7.x is found to be incompatible and must be replaced. Contact Product Support before upgrading to a newer version to verify if known issues exist.</p>

Specification	Description
Compatible Hardware	<p>Xerox Multifunction Devices: Applicable Xerox multifunction devices (MFDs) must be capable of running the Extensible Interface Platform (EIP). The following list shows the EIP capable MFDs that are current supported devices.</p> <p>WorkCentre</p> <p>5225/5230 5632/5638 5645/5655 5665/5675/5687 5735/5740/5745/5755 5765/5775/5790 6400</p> <p>WorkCentre Color</p> <p>7328/7335/7345/7346 7525/7530/7535/7545/7556 7425/7428/7435 7655/7665/7675</p> <p>WorkCentre Pro</p> <p>232/238 265/275 245/255 265/275 Bookmark 40 & 55</p> <p>ColorQube</p> <p>9201 9202 9203</p> <p>Copier/Printer</p> <p>4112/4127</p> <p>Note: This list may be updated as additional models are evaluated.</p>
Accessibility	100 Mb network minimum, configured at full duplex, is required and 1 Gb network is recommended.
Memory	1 GB
Disk Space	100 MB

Interact for Salesforce

Interact for Salesforce offers you a web-based solution by combining Perceptive Content capabilities with the Salesforce portal. This solution enables you to manage documents within Salesforce through Interact Viewer and perform many of the key tasks that you can perform in Perceptive Content, such as view, capture and download a document.

Specification	Description
Operating Systems	OS capable of running the compatible browser.
Compatible Software and Web Browser	Browsers The following browsers are supported: Mozilla Firefox (recommended) Google Chrome Microsoft Internet Explorer, versions 8.x, 9.x, 10.x (disable Compatibility Mode), and 11.x Apple Safari

Connectors

EDI Engine

EDI is a server-side process that provides flexible options for management of both input and output EDI and XML based data streams. EDI can capture multiple EDI/XML data streams, and then convert that data to a TIFF or PDF format for storage in Perceptive Content.

Specification	Description
Operating Systems	EDI supports the same operating systems as the Perceptive Content Server.
Required Software	Java JRE or JDK, version 1.8.x or 1.7.x (32-bit or 64-bit) iScript
Memory	2 GB
Disk Space	100 MB

HL7 Engine

HL7 Agent enables Perceptive Content to send and receive HL7 messages to and from any Healthcare Information System, using both version 2 and 3 of the HL7 messaging standard. These transactions can include outbound report transactions necessary to build links to Perceptive Content images from the client's core system (example: URL).

Specification	Description
Operating Systems	HL7 uses the Corepoint Integration Engine, which is a Windows service. Microsoft Server 2008, including R2.
Compatible Hardware	Recommended processor: Intel Xeon processors, (1 or 2 CPU server)
Compatible Software	Microsoft Message Queuing service is required. This service is an optional component provided by Windows through Add/Remove Programs.
Accessibility	100 Mb network minimum, configured at full duplex, is required and a 1 Gb network is recommended. HL7 Agent requires an ODBC connection to the Perceptive Content Server machine.
Memory	2 GB
Disk Space	250 MB, SCSI drive. Space required depends on the message volume and message size anticipated at your site.

APPENDIX B – Documentation of Transfer

DocuSign Envelope ID: 3AF507A2-DFB0-4BFB-9351-658B723ABCB2



EU-33000-25565305

April 24, 2023

City & County of San Francisco Health Service System
1145 Market Street, 3rd Floor
San Francisco, CA 94103

Re: Attorney Opinion Letter

Dear Sir or Madam:

Hyland has been asked to provide an attorney opinion letter confirming that Hyland Software, Inc. ("Hyland") has properly become the successor in interest to Hyland LLC in connection with the transfer of the Software License Agreement effective January 4, 2016, as amended, entered into by Hyland LLC and the City & County of San Francisco (the "City"), and any other agreements existing between Hyland LLC and the City (the "Underlying Agreements").

Effective January 1, 2023, Hyland LLC was merged into Hyland Holdings LLC under the laws of the State of Delaware. Hyland Holdings LLC was the surviving entity of that merger. Subsequently, effective on January 1, 2023, Hyland Holdings LLC was merged into Hyland Software, Inc. in accordance with the laws of the States of Delaware and Ohio, with Hyland being the surviving entity. Both such events resulting in Hyland LLC becoming Hyland Software, Inc. are referred to herein collectively as the "Merger". The Merger was properly authorized by the board of directors of each entity involved, and the proper documentation has been filed with the Secretaries of State of Delaware and Ohio in accordance with the applicable laws. Based upon our review of the relevant documents and the applicable laws, we are of the opinion that the Merger was validly, properly, and legally effected in accordance with the laws of Delaware and Ohio.

This opinion is limited to the matters related to the Underlying Agreements as set forth herein and is for your use only. Accordingly, this opinion may not be relied upon by any other person for any other reason without our prior written consent.

If you have any questions or require further information, please do not hesitate to contact me, or your Hyland representative.

Sincerely,

HYLAND SOFTWARE, INC.

DocuSigned by:
By: *Michelle Pratt*
7556CC5AFAB04B3
Title: AVP, Legal

Hyland Legal
Approved By: *EP*
Date: April 24, 2023 | 12:55:32 EDT

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