

COPY

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

AGREEMENT
BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND

Northpointe Institute for Public Management

This agreement (the "Agreement") is made this 7th day of March, 2011, in the City and County of San Francisco, State of California, by and between: Northpointe Institute for Public Management, 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 San Francisco Adult Probation Department wishes to license certain software from Contractor which will be further configured and developed to meet the department's needs, giving the department the option to purchase a perpetual license to use the final developed product; 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 of the Project	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 9 (System Acceptance and Acceptance Plan).
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Acceptance Criteria	Specific details accompanying each stated Requirement, indicating the methods of measurement and expected results of Verification and Validation of that Requirement's satisfaction by Contractor.
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Acceptance Plan	A sub-plan component of the Project Narrative Plan documents, that defines and describes the elements which define Acceptance of the Project by the City.
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Acceptance Test Plan	A sub-plan of the Project Verification and Validation Plan that describes the procedures to be used to test the Licensed Software application system for fitness for satisfaction of requirements and fitness for operational use, as a condition of Acceptance of the project deliverables by the City, as provided in accordance with Appendix A.
Administrator (or "System Administrator")	A person assigned by Contractor or City whose full or part-time job responsibility is to oversee the department level maintenance and support of the Licensed Software.
Agile Development Methodology	Method relies on short "sprints" in which requirements are gathered and prioritized quickly, and the working software is developed, including only those requirements. Once the work product is tested, notes from the results and further requirements elicitation provide the input for the next iteration of development or "sprint." This iterative process allows more flexibility for changes as design flaws surface, problems occur, or better options are discovered throughout the lifecycle of the project. Once the deliverable product is deemed completed, the additive requirements list is used to verify and validate the product for acceptance.
Agreement	This document and any attached appendices and exhibits, including any future written and executed amendments.
Application	A specialized type of computer program that performs specific system functions involved in entering, updating, displaying and printing operational and statistical data about the operations of the San Francisco Adult Probation Department.
Authorization; Authorization document	This Agreement, a Blanket Purchase Order, Contract Order, or Purchase Order of the City, properly executed by the San Francisco Adult Probation Department and Purchasing, and certified by the Controller for the specific funding of this Agreement or any modification thereof.
City's Project Manager	The individual specified by the City pursuant to Section 5(b) hereof, as the Project Manager authorized to administer this Agreement on the City's behalf.
Commercial Off The Shelf Software (COTS)	Computer software, hardware, technology, or computer products, which are ready-made and available for sale, lease, or license to the general public.
COMPSTAT	COMPUter STATistics or COMParative STATistics is the New York City Police Department's accountability process which consists of a management philosophy or organizational management tool for agencies.

Configuration	Modifications of the COMPAS 8 Suite that are designed to be made or "set" by the User or System Administrator, such as customer-specific screen titles, field names, items in a "droplist," etc.
Contractor's Project Manager	The individual specified by Contractor pursuant to Section 5(b) hereof, as the Project Manager authorized to administer this Agreement on Contractor's behalf.
Data Conversion Plan	The formal plan to be prepared by Contractor, with the City support, that identifies the data conversion elements including schedule, information, personnel, and any other items agreed upon as integral to the conversion of existing systems data to the configured databases by the City's Project Manager and the Contractor's Project Manager.
Deliverables	Those items described and itemized in Appendix A which Contractor commits to provide to the City on the dates specified in the Project Verification and Validation Plan.
Design Review	The process by which the City reviews and approves the Detailed Design documents covering the configured hardware and software.
Design Review Report	A formal report of the outcome of the Design Review, listing any discrepancies, departures from Projective Narrative Plan, or other issues affecting Project delivery that were discovered during the Design Review. Used as input to update the Project Requirements Specification and Tracking Matrix of the V&V Plan.
Designated CPUs	Any central processing unit or attached processor complex, including its peripheral units, described in the Authorization Document. The Applications in criminal justice are intended to be available on a twenty-four hour per day, 7 day a week basis (24 X 7). Therefore, the application and the current data need to be on a second CPU, which is designed to take over processing if and when the first CPU system fails (failover). Additional CPUs are required for off-site protection in case of fire, sabotage, earthquake, floods or other calamities were to cause the primary CPUs to malfunction.
Design Document	The deliverable document, in whole or parts, provided by the Contractor to document the Design Specification. The detailed Design Document shall be reviewed and approved by the City.
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.
Errors, Defects and Malfunctions or Technical Issues	A deviation between the function of the Software or hardware or System infrastructure, and the specified required functionality as described and defined in the Requirements Specification and Tracking Matrix of the Project V&V Plan, Design Documents or the

documentation furnished by Contractor for the Software; or a failure of the Software or hardware or infrastructure which degrades the use of the Software or hardware or System infrastructure.

Final Acceptance Date

The date on which the City signs the Final V&V Report to indicate full Acceptance of the Project.

Final Iteration Release

The ultimate release of the developed Software Application for Acceptance testing, as described by the Contractor. This release must contain all required elements and functionality of Phases I, II and III of the Agreement, and be complete in all ways specified by the Project Narrative and V&V Plans and the attendant Requirements Specification and Tracking Matrix.

Fix

Repair or replacement of source, object or executable code in the Software to remedy an Error, Defect or Malfunction.

Force Majeure

An event beyond the reasonable control of either party, such as acts of God, acts of civil or military authority, fires, strikes, epidemics, quarantine, war, riot, delays in transportation, care shortages, and inability due to causes beyond Contractor's reasonable control to obtain necessary labor, materials or manufacturing facilities.

Go Live (and Go Live sub-plan)

The point at which the City approves Contractor's initiation of the System, or a phase of the Project, to a production status, and the City commences operational use of the System. At the completion of Go Live, the City may terminate use of the current Software System it uses. The process of preparation for, and implementation of, Go Live is detailed in the Go Live sub-plan of the Project V&V Plan.

Instance (of a software application)

A separate, "stand-alone" version of a software application or database, allowing individually secured access for a specified group of users. There may be several separate "instances" of a software application on a server, to allow development changes to one instance, testing of those changes on another, while a third is used in production. This prevents changes to one instance affecting the function of the others, while the parallel existence of three or more versions of the system is useful to developers, while not interrupting production work by users.

Iteration (of development)

In the Agile method of software development, a series of successive repetitions of gathering requirements, creating design documents, developing, releasing and testing increasingly robust versions of functional software. Each successive iteration's product contains the additive sum of all requirements specified to that point in the project, and any "lessons learned" from the previous iteration. Iteration of development continues until all project requirements are satisfied and the final released product is accepted by the customer as complete.

JUSTIS	JUSTice Tracking Information System – An integrated criminal justice information system serving participating criminal justice agencies in San Francisco. (San Francisco Administrative Code section 2A.85)
JUSTIS SDLC	The JUSTIS " <u>S</u> ystem <u>D</u> elivery <u>L</u> ife <u>C</u> ycle." This is a standardized project delivery methodology, formally adopted by the JUSTIS Council and based on a synthesis of information technology industry standards and recommended best practices for the selection, planning, construction, implementation and delivery to operational status of computerized information systems projects. All projects approved for funding by the JUSTIS Council are required to follow the guidelines of this methodology.
Licensed Software	COMPAS 8 Suite with Case Manager (also "COMPAS 8 Suite," "COMPAS," "COMPAS Case Manager"). Contractor's "COMPAS 8 Suite with Case Manager" includes, at signing of this Agreement, all of the applications/modules for adult probation assessment and case management listed in Section 7.1, "The Licensed Software," of Appendix A and, at Acceptance of this Project, all of the required enhancements, modifications or tailoring as described in the Requirements Specification and Tracking Matrix of the Project V&V Plan.
Module	Different subcomponents of an Application, described in Appendix A in the context of this Agreement. These constitute features and functions that taken together constitute a component of an Application.
Object code	Machine readable compiled form of Licensed Software to be provided by Contractor.
Patch	Temporary repair or replacement of code in the Software to remedy an Error, Defect or Malfunction. Patches may be made permanent and released in Subsequent Releases of the Software.
Priority Category	A priority assigned to an Error, Defect or Malfunction, designating the urgency of correcting an Error, Defect or Malfunction. Assignment of a Priority Category to an Error, Defect or Malfunction is based on City's determination of the severity of the Error, Defect or Malfunction and Contractor's reasonable analysis of the priority of the Error, Defect or Malfunction.
Priority Protocol	Based on the Priority Category, rules specifying the turnaround time for correcting Errors, Malfunctions and Defects; escalation procedures, and personnel assignment.

(The) Project

The intended work described in and planned, or expected, to be undertaken under this Agreement.

Project Verification and Validation Plan

The Project Verification and Validation Plan ("V&V Plan") defines the methods and procedures to be used to verify, or assure the physical presence of, a required element, and to validate, or test, the element's functionality or other quality for correctness, according to requirement specifications and Acceptance Criteria. The Project V&V Plan also contains the Project Requirements Specification and Tracking Matrix, the Acceptance Test Plan and the Go Live sub-plan, as well as prepared checklists for use in V&V activities.

Project Final Verification and Validation Report

The Final Verification & Validation Report ("Final V&V Report") documents all activities undertaken to verify and validate each project requirement's satisfaction of its Acceptance Criteria. Any noted discrepancies or departures from the Project Narrative Plan or V&V Plan are documented here, with justification, if appropriate, and details of the plan for their remediation. All completed checklists used for V&V are included as attachments. Once all Project requirements are documented as completed and satisfied, and within 90 days following Go Live and commencement of production use, a Final Project V&V Checklist is completed by Contractor and City to ensure that all required Project elements have been completed and delivered as planned, and signatory acceptance of the Final V&V Report will indicate acceptance and closure by the City of the Project.

Project Requirements Specification documents

Each successive development iteration will begin with requirements gathering meetings, followed by the provision of a Project Requirements Specification document by the Contractor that must each be approved by the City, prior to commencement of development of the next iteration. Each requirement in the document shall be accompanied by Acceptance Criteria, stating the method and expected result for testing the satisfaction of that requirement during final V&V activities.

Project Requirements Specification and Tracking Matrix

A table contained in the Project V&V Plan, wherein all project requirements and their Acceptance Criteria are documented, controlled and maintained current by the City Project Manager for the purposes of traceability and a single source of definitive information regarding project requirements, throughout the Project lifecycle, and as a basis for Final Verification and Validation activities for Acceptance of the Project's deliverables.

Review Period

The time period specified in Appendix A and the Project Verification and Validation Plan during which the City shall review the completed Work and give notice to Contractor of its Acceptance or rejection of the completed phase.

Software	Licensed programs and associated documentation licensed to City by Contractor, as listed in Exhibit A and any modification or Upgrades or modifications to the program(s) provided under this Agreement.
Subsequent Release	A release of the Software for testing or use in a particular operating environment which supersedes the Software. A Subsequent Release is offered and expressly designated by Contractor as a replacement to a previous release of a specified Software product. A Subsequent Release will be supported by Contractor in accordance with the terms of this Agreement. Multiple Subsequent Releases may be supported by Contractor at any given time.
Support Services	The Software support service required under this Agreement. Support Services include correcting an Error, Defect or Malfunction; providing telephone and/or online support concerning the installation and use of the Software; training in the installation and use of the Software; on-site consulting and application development services; detection, warning and correction of viruses; and disabled/disabling code.
Source code	The human readable compliable form of the Licensed Software to be provided by Contractor.
Contractor's Minimum Hardware Specifications	Contractor's recommendations for the minimum computer server and client hardware configuration and capabilities required to support proper function and operation of their software product.
Stakeholders	Persons with a vested interest in, or whose work or computer systems will be directly or indirectly affected by, the outcome and products of this project, and whose input will be desired by City during requirements definition and design of the project deliverables.
System	The Licensed Software and associated enhancements and interfaces furnished by Contractor for the City and the Equipment on which such software operates, the combination of which shall satisfy the requirements set forth in the Performance Specifications.
System Assurance (System Certification)	The process by which Contractor's technicians examine the completed computer System and Software Application, as installed on the City's server, against their published specifications for configuration and setup for operational use, and certify in writing that all current Software and hardware configuration settings meet or exceed their minimum requirements for commencement of successful operational use. This activity is typically performed as one of the last steps of the Go Live process.

Update	A revision of the Software released by Contractor to its end user customers receiving maintenance and support services from Contractor. "Update" does not include the release of a new product or added features for which Contractor generally imposes a separate charge.
Upgrade	Either an enhancement to the Software code to add new features or functions to the system or software programming revisions containing corrections to Errors, Defects and Malfunctions that have been reported by users or discovered by the Contractor.
User	A person who has been given, by the City System Administrator, appropriate security access to a computer system to enable their use of the system in their daily work.
Warranty Period	A period commencing with the installation and Final Acceptance of the developed Application during which reported Errors, Defects and Malfunctions for Software products are corrected without charge in accordance with the provisions below.
Work	The implementation, assembly, installation, optimization, and integration as required by this Agreement, whether completed or partially completed, including all labor, materials, and services provided, or to be provided by Contractor to fulfill Contractor's obligations hereunder. The Work, therefore, constitutes all of the requirements for providing the System to the City.
Workaround	A change in the procedures followed or end user operation of the software to avoid an Error, Defect or Malfunction without significantly impairing functionality or degrading the use of the Software.

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 San Francisco Adult Probation Department. The words "sufficient," "necessary," or "proper," and the like, mean sufficient, necessary or proper in the judgment of the San Francisco Adult Probation 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 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; City Options.

a. **Term of the Agreement.** Subject to Section 6 (License), the license granted under this Agreement shall commence upon the Effective Date of the Agreement and shall continue for a period of five (5) years, as outlined in Appendix B, *Calculation of Charges*, unless sooner terminated in accordance with the provisions of this Agreement. Upon the Effective Date of this Agreement, Contractor shall grant web based access to its COMPAS Application to an unlimited number of Users of the San Francisco Adult Probation Department for the duration of the Licensed Software's configuration and development period (as detailed in Appendix A, *Statement of Work*). Upon final acceptance of the Licensed Software (issuance and signing, by both City and Contractor, of the Final Verification and Validation Report), the 365 day Warranty Period shall commence. At the expiration of the Warranty Period, the Software Maintenance and Support Services will start for a period of three years or until the term of the license expires, whichever ever occurs first.

b. **City Options.** City shall, in addition, have the right to exercise either of the following options at City's sole and absolute discretion:

(1) To extend the Software Licensing, Software Maintenance and Support Services for up to four (4) additional years, so that the total term of the Agreement does not exceed nine years, at the price per year equal to the price under the fifth year of the current Agreement; or

(2) To extend the Agreement by purchasing a perpetual license for a one-time fee of three hundred and thirty thousand dollars and no cents (\$330,000.00), which price shall include the Software Maintenance and Support for the year of purchase. City shall have the option to extend the Software Maintenance and Support Services for up to four (4) additional years. Ongoing maintenance and support fees shall be charged on a yearly basis at a rate of thirty thousand dollars and no cents (\$30,000.00) with an annual increase in each year not to exceed 5% of the previous year's fee. These maintenance and support fee increases shall not exceed a total of 15% increase over any consecutive five year period.

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. Project Administration

a. **Project Schedule.** City shall draft, and with the Contractor's assistance, develop a detailed Project Narrative Plan and schedule as provided in Appendix A, the Scope of Work.

The Project Schedule is set forth in Appendix A which may be amended by mutual agreement between the City and Contractor.

1) **Delays.** To prevent or mitigate delays in the planned schedule for completion of the project, Contractor agrees that the assigned Contractor Project Manager will monitor all scheduled project activity and report, within 24 hours of discovery, to the City's Project Manager any current or projected issues that do, or may, have negative impact on project schedule. If such issues are within the scope of the Contractor's responsibility under this Agreement, Contractor agrees to implement appropriate measures to mitigate or eliminate the impact of those issues on the schedule.

2) **Time of the Essence.** The parties agree that time is of the essence, and that the System will be developed and implemented in accordance with the Project Schedule.

b. **Project Managers.** Contractor and the City shall each designate a Project Manager, who shall be accessible by telephone throughout the duration of the Agreement and shall be available from 9 a.m. to 5 p.m. Pacific Standard Time Monday through Friday, excluding weekends and holidays. These hours may be adjusted by mutual agreement of the City and Contractor.

The City's Project Manager will be authorized to make binding decisions for the City regarding this Agreement and will: (1) review all specifications, technical materials and other documents submitted by Contractor, request necessary corrections, and approve such documents; (2) provide requested City information and data and assume responsibility on the adequacy of the same; (3) advise Contractor of City's requirements; and (4) upon request provide access to City's staff, facility and hardware. City's Project Manager shall have the right to manage and direct any aspect of the project as may be necessary, in his or her opinion, to safeguard the interest of the City. City's Project Manager shall communicate all of his or her concerns to Contractor's Project Manager. In the event Contractor believes that any direction being given by City's Project Manager shall impair the performance of the project or any phase thereof, Contractor shall immediately inform City's Project Manager of its concern. Except as specifically provided under this Agreement, City's Project Manager's management of the project shall not relieve Contractor of any obligations or liabilities set forth in this Agreement and the Appendices thereto.

Throughout the term of this Agreement, whenever the Project Managers are not on site, he or she must be available by electronic means. Whenever the Project Managers will be unavoidably absent or otherwise unavailable by telephone or electronic pager for more than eight hours, then a substitute Project Manager must be designated to respond to contact from the City or Contractor. Contractor shall use its best efforts to maintain the same Project Manager until Final Acceptance of the System. The City may require Contractor to replace its Project Manager, by giving Contractor notification thereof and the City's objective reasons therefore.

Contractor's Project Manager:

Dan Hellem
Technical Project Manager
e-mail: dhellem@npipm.com
231-938-5959

Work Tel:

City's Project Manager:

Bella Fudym

City Project Manager

e-mail: Bella.Fudym@sfgov.org

Work Tel:

(415) -558-2421

c. Changing Project Managers. The City and Contractor shall use their best efforts to maintain the same Project Manager until Final Acceptance of the System. However, if a party needs to replace its Project Manager, the party shall provide the other party written notice thereof at least forty-five (45) days prior to the date the Project Manager shall be replaced. Such notice shall provide all the required information above. Notwithstanding the foregoing, the parties have the right to appoint temporary Project Managers in connection with short term unavailability, sick leave or reasonable vacations. Parties shall notify each other of any such temporary appointments.

d. Qualified Personnel/Staffing. Work under this Agreement shall be performed only by competent personnel appropriately trained in technical skills to perform their duties under the supervision of and in the employment of, Contractor. Contractor will comply with the City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at the City's request, must be supervised by Contractor. The personnel of each party, when on the premises of the other, shall comply with the security and other personnel regulations of the party on whose premises such individual is located.

e. Meetings. From the commencement date of the project until the Final Acceptance of the System, the Project Managers shall meet a minimum of once each week either in person or via phone as designated by the City to discuss the progress of the Project. Until the Final Acceptance of the System, the Project Managers shall report, as required, to apprise City and Contractor executives of the Project status, the progress against plan, assessment of Project risks, critical issues and resolution plans, plus any operational problems or defects that the City or Contractor have encountered. The City shall have the right to call a meeting at any time by providing Contractor forty-eight (48) hours written notice thereof. Such notice shall provide the time, place, and the purpose of the meeting. Contractor and the City's Project team must be available to meet as often as is reasonably necessary to facilitate timely implementation of the System.

f. Reports. Contractor's Project Manager shall provide a top level bi-weekly progress report to the City's Project Manager, which summarizes overall Project status, lists meetings that are planned, problems encountered and risks or issues to be resolved.

g. Inspection. City's Project Manager shall have the right to inspect and/or test, at any time all Work, Deliverables, and materials to be provided for the Project, and the manufacture, assembly, and installation of such Deliverables and materials. City's Project Manager's inspection shall be based on compliance with this Agreement. City's Project Manager's right to

inspect all aspects of the Project shall not relieve Contractor of its obligation to furnish material and workmanship in accordance with this Agreement. City's Project Manager may reject any portion of the System which fails to meet any applicable standard.

h. Defects Post-Inspection. Any Work, Deliverables, or materials found to be non-compliant with the Agreement or defective before Final Acceptance of the System, such Work or Deliverables shall be repaired or replaced within a reasonable period of time by Contractor at its own cost and expense notwithstanding any previous inspection, Acceptance, or payment by the City for any such Work, Deliverables, or materials.

i. Right to Stop Work. City's Project Manager shall have the right to stop any work on the Project: (i) if the City notifies Contractor of a defect in the Work and after such notice, Contractor fails to promptly commence correction of any identified defects in the Work, (ii) if Contractor fails to carry out work relating to any portion of the System in accordance with this Agreement, or (iii) in the event of Force Majeure. All stop work orders from the City shall be in writing and signed by City's Project Manager. The City shall specifically state the cause for the order to stop work. Upon receiving a stop work order, Contractor shall immediately cease working on that portion of the Work specified in the order until the cause for such order has been eliminated. The City's right to stop any work on the System shall not give rise to a duty on the part of the City to exercise this right for the benefit of Contractor or any other person or entity. In the event City's Project Manager orders work to be stopped without proper justification, the City shall reimburse Contractor for the actual and direct costs incurred by Contractor due to the delay. Furthermore, Contractor will be entitled to a time extension equal to the number of days delay the City has caused due to the unjustified work stoppage. In no event will a stop work order extend beyond 30 days.

j. City Facilities. The City will provide facilities or equipment for Contractor's use during the term of the Agreement and the conditions upon which access will be granted.

6. Licensed Software

a. Grant of License. Subject to the terms and conditions of this Agreement, Contractor grants to City a term, non-exclusive, non-transferable license, as described in Section 3a, "Term of the Agreement," to access and use the Licensed Software either by connection to Contractor's online hosting server during the course of the development project and prior to completion of the deliverables. Upon completion and acceptance of the Application deliverables of this Project, the Licensed Software shall be installed in the City's local server. City shall have access to the Licensed Software through any web-browser enabled computer given access by the City, so long as the total number of Users does not exceed the number of active individual licenses held by the City, except during the development project period where the City shall be allowed an unlimited number of Users. The user licenses are per user specific, one license one user and they are not to be shared. The licensing does not impact the number of servers or CPU's. The City is free to install the Application on multiple servers for disaster recovery, back up or redundancy purposes, testing/staging environments, training sites or other business needs at no extra charge. However, should additional individuals need access to the Application to perform those duties additional user licenses would need to be purchased. The City at any time may purchase additional user licenses to meet the needs of the City at the yearly per user fees indicated in

- 1) To use the programs provided by Contractor in whole or in any part thereof;
- 2) To train all users in the effective use of the Software;
- 3) To install, uninstall, or re-install the Software as many times as necessary to ensure that the programs are running properly;
- 4) To copy user manuals, for the exclusive use by City Users, in whole or in part and to make "cheat sheets" or other outlined material to assist users in learning or using the Software;
- 5) To receive upgrades, updates, bug fixes, new versions, supplements, or enhancements from Contractor within the provisions of any maintenance Agreements in force between City and Contractor.

Contractor agrees that in the event it discontinues its obligations under the terms of this Agreement, except as expressly provided for in Section 14 (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) working 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 stated above, Contractor agrees to maintain Source Code for all products within an approved Software Code Escrow Repository organization and to provide the City with sufficient legal documentation, including identification of the City as a beneficiary of the Escrow thereby enabling access to Contractor Source code under established conditions. Contractor shall provide Code Escrow services at no cost to the City for all COTS products purchased by the City.

b. **Warranties: Right to Grant License.** Contractor warrants that Licensed Software furnished pursuant to this Agreement will, prior to its transfer to the City, be the sole and exclusive property of Contractor, or Contractor is properly licensed to issue sublicenses for third-party software applications or components integrated with, or provided as part of, the Licensed Software.

c. **Warranty of Performance.** Contractor hereby warrants that when fully implemented, the Licensed Software, including all enhancements and all external interfaces developed and provided under this Agreement shall perform in accordance with the Requirements Specifications applicable thereto on the Acceptance Date.

d. **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 CPUs in accordance with the Contractor's specifications for the Licensed Software for a period of 365 days from City's Acceptance of such Licensed Software.

e. **Year 2020 Warranty.** The Contractor warrants that the Licensed Software shall, without human intervention, accurately and reliably transition from the Year 2001 through the Year 2020 with the correct system date, including leap year calculations. Since many terms of probation will exceed 5 and 10 years into the future, the Licensed Software shall provide correct results when moving forward or backward in time through and beyond January 1, 2002. The Contractor's failure to comply with these Year 2020 requirements shall entitle City to a refund of three (3) times the total contract amount as liquidated damages, or Contractor may repair the program to comply with the requirement free of charge.

f. **Restrictions on Use.** City is authorized to use the Licensed Software only for City's internal purposes as specified in the Authorization Document. City agrees that it will, through its best efforts, not use or permit the Licensed Software to be used in any manner, whether directly or indirectly, that would enable any other person or entity to use the Licensed Software without a proper user license.

g. **Documentation.** Contractor shall provide City with the Licensed Software specified in the Authorization Document in electronic form via electronic download, 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.

h. **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.

i. **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 permitted 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.

Contractor has no general objection to the City's use of third party programs in conjunction with the software licensed under this Agreement. Contractor recognizes that City has and will license third party programs that City will use with Contractor's products. Based on information provided to Contractor as of the effective date, Contractor agrees that such use does not constitute an unauthorized modification or violate the licenses granted under this Agreement.

j. **Option for Free On-Line Access to COMPAS Application.** On completion and acceptance of all project deliverables, as specified in this Agreement, Contractor shall provide the option to all CCSF JUSTIS Program member departments to access, at no fee, the COMPAS on-line hosted Application for one year. This will allow other criminal justice City departments to access and test the Application for their own business use. Such option must be exercised through a written modification to this Agreement. Following the one-year of free access all those wanting access will need to purchase a user license at fees detailed in Appendix B, *Calculation of Charges*.

h. **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, with the exception of program storage media, without charge, unless such products are supplied by the City.

7. Enhancements Development

a. **Enhancements Development.** Subject to the terms and conditions of this Agreement, and in consideration for the payments to be made, Contractor agrees to follow the structured project process outlined in Appendix A, *Statement of Work*, for the development of enhancements to the Licensed Software.

b. **Data Conversion.** Contractor shall be responsible for the conversion of existing City data from its current location and state in the existing SF-APD system to the new Application System's database and for verification and validation of the converted data against the original source data for accuracy of conversion, as detailed in the Go Live Plan included in the Project Verification and Validation Plan. City will facilitate and provide access to Contractor to the SF-APD existing system's data during the Data Conversion task.

c. **Interpretation of the Requirements Specification.** The Contractor hereby acknowledges that the Requirements Specifications provided by Contractor and documented and maintained in the Project Verification and Validation Plan will, upon approval of the final version of these Requirements Specifications by the City, provide the basis for the final Verification, Validation and Acceptance of the Licensed Software, enhancements and interfaces being developed.

d. **Interpretive Differences.** In the event the City and Contractor differ in their interpretations of the Design Specifications or Acceptance Tests, the City's interpretation, if reasonable, shall be determinative.

e. **Parallel Operation.** The parties contemplate that, although the City will continue to use the current Adult Probation Department case management system for its daily operations while the planned new version of Licensed Software is under development, there will be simultaneous operational (Production) use by City of one Instance of the Contractor hosted online version of the COMPAS 8 Suite for probationer assessments and case management, in order to collect data for current projects as well as for future use in the new System, and to generate reports. In support of Go Live, the parties contemplate that elements of the System(s) to be delivered under this Agreement and the existing Production system located in the City will operate in parallel in Production, until such time as the City decides to terminate use of its existing System.

8. Delivery

a. **Delivery.** One copy of the Licensed Software Application in downloadable computer readable form shall be made available to the City upon satisfactory performance of the COMPAS Application, all required external Application interfaces, enhancements and tailoring and other Application components described in Phases I, Phase II and Phase III (Appendix A, *Statement of Work*) and acceptance by City. Application is an intranet based system; Installation on city servers occurs through implementation by Contractor of Contractor scripts provided in install instruction documentation.

b. **Installation.** Contractor shall install, implement and assure the Licensed Software product and System as per the schedule shown in Appendix A, *Statement of Work*. "Install"

means to download the Application to the local server and activate it for use; "implement" means to set application and server configuration (administrator or user settable) settings such that the application may then be operationally used for testing or full production operation; "assure" means that, just prior to delivery to the City for testing or operational use, Contractor's technicians will verify and validate all of the installed System and Application configuration settings and required operating characteristics, using prepared checklists, and certify in writing that the installed and implemented System is ready for operational use for production.

c. **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.

9. **System Acceptance and Acceptance Plan**

a. **Acceptance Plan.** The City and Contractor shall collaboratively develop, and agree on the Acceptance Plan as detailed in Appendix A, *Statement of Work*. The Acceptance Plan establishes the performance standards and criteria by which the System, documents, and other contract Deliverable items will be Accepted by the City. The Project Narrative Plan, which includes the Implementation Plan and Acceptance Plan, shall be reviewed and approved by the City prior to implementation of the solution as defined in the Narrative Plan. The Acceptance Plan shall require that Acceptance of the project is contingent on successful completion of verification and validation of the satisfaction of all Project requirements and completion and delivery of all required deliverables, as detailed in the Project Verification and Validation Plan. Upon completion of each Deliverable, the City shall, within the Review Period as scheduled in the Project Narrative Plan, review and give notice to Contractor of the City's Acceptance or rejection of the specifications of each completed phase of Work. Should the City reject any Deliverable, then the City is entitled to another Review Period upon receipt from Contractor of the revised Deliverables. In the event that Contractor fails to provide a Deliverable which meets with approval and Acceptance by the City during the Project Acceptance phase of the Agreement, and a Final Verification and Validation Report fails to be issued, the City may, at its option, terminate this Agreement under Section 14(a), "Termination for Cause." The City may, in its discretion, provisionally accept contract Deliverables pursuant to the Acceptance Criteria. Cosmetic or minor imperfections shall not be cause for rejection or provisional acceptance of a Deliverable.

b. **Acceptance of System and Each Ancillary Component.** Upon completion of all phases identified in Appendix A, *Statement of Work*, the City and Contractor shall verify that all requirements in the Project Verification and Validation Plan have been completed. The City will not be deemed to have Accepted any Licensed Software or the System, or any ancillary component, until Contractor receives the Final Acceptance through the Final Verification and Validation Report from the City. Contractor must achieve final System Acceptance, in accordance with Appendix A, *Statement of Work*, within ninety (90) business days after completion of Phases 1, 2, & 3. City and Contractor will sign the Final V&V Report, evidencing Contractor's achievement of System Acceptance upon Acceptance of all phases and Contractor's furnishing all Deliverables required under the Agreement.

c. **Contractor's Assistance in Acceptance Tests.** Contractor must furnish all assistance necessary to conduct the Acceptance Tests.

d. **Failure to Pass Acceptance Tests.** In the event that City determines that the System fails to meet the standards set forth in the Project Verification and Validation Plan, City shall promptly report to Contractor each deficiency, and Contractor will correct the reproducible aspects of the problem or failure within 30 days from date of Contractor's receipt of notice of the problem or failure. Problems or failures that do not re-occur or cannot be repeated by Contractor, or by the City in Contractor's presence, shall not be considered a failure. In the event that Contractor cannot achieve System Acceptance within 90 days following the commencement of Acceptance Testing, Contractor shall be in default under this Agreement and, in addition to those remedies set forth in Section 14, "Termination," City is further entitled to a refund of all payments made to Contractor under this Agreement for those portions of the System which do not satisfy the Acceptance Criteria.

10. Maintenance and Support

a. **Maintenance and Support Services.** Commencing upon the satisfactory performance and approval of the Licensed Software on City site and continuing for 365 days (the "Warranty Period"), after acceptance of the Licensed Software, without charge and subject to the terms and conditions, set forth in this Section, Contractor will provide City with maintenance and support services for the Licensed Software as described herein and 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; (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 Contractor develops a new version of the Licensed Software Product that operates under an operating system different from that required by the application in current use by City, and 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 90 business-day trial basis without additional charge, provided City has paid all maintenance and support charges then due. At the end of the 90 business-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.

c. Charges

1) **Limited Term License.** When the license term specified in the Authorization Document is less than perpetual, all charges will be detailed separately for the license fee and the maintenance and support fees, as detailed in Appendix B, *Calculation of Charges*.

2) **Perpetual License.** Where the license term specified in the Authorization Document is perpetual, all charges for maintenance and support are as follows:

(a) **Periodic Payment License.** If the license fee specified in the Authorization Document is payable in periodic payments, there will be no additional charge for maintenance and support during the period for which such periodic payments are payable or the first year of the term, whichever is longer.

(b) **Lump Sum Payment Licenses.** If the license fee specified in the Authorization Document is payable in one lump sum, there will be no additional charge for the maintenance and support during the first year of the term.

d. Charges for Subsequent Years. For each year after the period for which periodic payments are payable, or each year after the first year of the lump sum payment license, as the case may be, Contractor will continue to provide City with the maintenance and support services as described in subsection (a) above, and this Agreement, provided City issues a purchase order or modification to this License Agreement and pays Contractor in advance the annual maintenance and support charges then in effect. If there is an increase in annual maintenance and support charges, Contractor shall give City written notice of such increase at least thirty (30) days prior to the expiration of the applicable maintenance period.

11. Scope of Service Coverage

Contractor shall provide Support Services and provide Upgrades during the term of this Agreement for the Software.

a. During the term of this Agreement, Contractor will furnish Error, Defect or Malfunction correction in accordance with the Priority Categories listed below, based on the City's determination of the severity of the Error, Defect or Malfunction and Contractor's reasonable analysis of the priority of the Error, Defect or Malfunction.

1) Priority 1: An Error, Defect or Malfunction which renders the Software inoperative; or causes the Software to fail catastrophically.

2) Priority 2: An Error, Defect or Malfunction which substantially degrades the performance of the Software, but does not prohibit the City's use of the Software.

3) Priority 3: An Error, Defect or Malfunction which causes only a minor impact on the use of the Software.

b. Contractor will furnish Error, Defect or Malfunction correction in accordance with the following protocols:

1) Priority 1 Protocol: Within two hours, Contractor assigns a product technical specialist(s) to diagnose and correct the Error, Defect or Malfunction; thereafter, Contractor shall provide ongoing communication about the status of the correction; shall proceed to immediately provide a Fix, a Patch or a Workaround; and exercise all commercially reasonable efforts to include a Fix or Patch for the Error, Defect or Malfunction in the next Subsequent Release.

Contractor will escalate resolution of the problem to personnel with successively higher levels of technical expertise until the Error, Defect or Malfunction is corrected.

2) Priority 2 Protocol: Within four hours, Contractor assigns a product technical specialist(s) to diagnose the Error, Defect or Malfunction and to commence correction of the Error, Defect or Malfunction; to immediately provide a Workaround; to provide escalation procedures as reasonably determined by Contractor's staff; and to exercise all commercially reasonable efforts to include a Fix or Patch for the Error, Defect or Malfunction in the next Software maintenance release.

3) Priority 3 Protocol: Contractor may include a Fix or Patch in the next Software major release.

12. Hotline Support. Contractor shall provide remote access hotline support to City to help City answer routine questions with respect to the use of the Software. Contractor also shall provide remote access hotline support to City to initiate resolution of Priority 1 and Priority 2 Errors, Defects and Malfunctions. Hotline support shall be made available by phone between the hours of 8 a.m. and 6 p.m. Pacific time Monday through Friday, except legal holidays. Emergency maintenance may be accessed after normal business hours through Contractor's established paging service available by dialing Contractor's main office number (231-938-5959). Hotline support shall be available by electronic bulletin board, electronic mail or other service 24-hours a day, seven-days a week. Responses to questions posted by electronic means will be made within the time frame established under Priority Protocols for an Error, Defect or Malfunction in a Software Product.

13. City Responsibilities Related to Support. City shall use reasonable efforts to make available to Contractor reasonable access to the equipment on which City experienced the Error, Defect or Malfunction, the Software Product and all relevant documentation and records. City shall also provide reasonable assistance to Contractor, including sample output and diagnostic information, in order to assist Contractor in providing Support Services. City shall be responsible for the interface between the Software and other software products installed on City equipment. Unless otherwise agreed in writing between City and Contractor, City is responsible for installing, managing and operating any Software delivered under this Agreement.

14. Term and Termination/Termination for Convenience

a. **Termination for Cause.** In the event Contractor fails to perform any of its obligations under this Agreement, this Agreement may be terminated and all of Contractor's rights hereunder ended. Termination will be effective after ten (10) days written notice to Contractor. No new work will be undertaken after the date of receipt of any notice of termination, or five (5) days after the date of the notice, whichever is earlier. In the event of such termination, Contractor will be paid for those services performed under this Agreement to the satisfaction of the City, up to the date of termination. However, City may offset from any such amounts due Contractor any liquidated damages or other costs the City has or will incur due to Contractor's non-performance. Any such offset by the City will not constitute a waiver of any other remedies the City may have against Contractor for financial injury or otherwise.

b. **Termination for Convenience.** City may terminate this Agreement for City's convenience and without cause at any time by giving Contractor thirty (30) days written notice of such termination. In the event of such termination, Contractor will be paid for those services

performed, equipment ordered, and costs incurred for which notification, in writing, has been provided to City prior to contractual commitment, pursuant to this Agreement, to the satisfaction of City up to the date of termination. In no event will City be liable for costs incurred by Contractor after receipt of a notice of termination. Such non-recoverable costs include, but are not limited to, anticipated profits on this Agreement, post-termination employee salaries, post-termination administrative expenses, or any other cost which is not reasonable or authorized under this section. This section shall not prevent Contractor from recovering costs necessarily incurred in discontinuing further work under the contract after receipt of the termination notice.

c. **Obligations upon Termination.** Upon termination of this Agreement, Contractor will submit an invoice to the City for an amount which represents the value of its work or services actually performed prior to the effective date of termination for which Contractor has not previously been compensated, except that with respect to reimbursement for Contractor's services, in no event will the compensation paid for the month in which termination occurs be greater than the scheduled monthly fee multiplied by a fraction, the numerator of which will be the days in the month elapsed prior to the termination and the denominator of which shall be 31. Upon approval and payment of this invoice by the City, the City shall be under no further obligation to Contractor monetarily or otherwise.

15. Training. Contractor will provide up to 10 days of training in the manner, quality and quantity of time specified in Appendix A in the use and operation of the Licensed Software at the location identified by the San Francisco Adult Probation Department. Upon request by the City, Contractor will provide additional training at its current best government rates.

16. 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 ten (10) days written notice. Such termination does not waive any other legal remedies available to City.

17. Warranty of Authority: No Conflict. Each party hereby warrants to the other that it is authorized to enter into this Agreement and that its performance thereof will not conflict with any other agreement.

18. 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 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.

19. Payment. During the configuration/development period, the invoices shall be sent to the San Francisco Adult Probation Department upon approval of the milestones specified in Appendix A and subsequent annual billing for licensing fees after the 365 days Warranty Period as specified in Appendix A, *Statement of Work* and Appendix B, *Calculation of Charges*. The City reserves the right to negotiate City and County wide Site License user fee. Compensation shall be due and payable within 45 days of the date of invoice. In no event shall the amount of this Agreement exceed six hundred seventy nine thousand three hundred dollars and no cents (\$679,300.00). The breakdown of costs associated with this Agreement is based on the milestones as specified in Appendix A *Statement of Work* and the annual maintenance and support fees as specified in Appendix B *Calculation of Charges*. 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 San Francisco Adult Probation Department as being in accordance with this Agreement.

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

20. 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 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.

21. Invoice Format. Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller, and must include a unique identifying invoice 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 the section entitled "Notices to the Parties."

22. 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. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the web at <http://www.municode.com/Library/clientCodePage.aspx?clientID=4201>. 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.

23. 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.

24. 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 do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay.

25. 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. Contractor shall assign adequate personnel resources to provide the level of service within the response times specified in this Agreement.

26. 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, 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.

27. 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.

28. Insurance

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

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

2) 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

3) 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.

b. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

2) 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 effect 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.

29. Indemnification and General Liability. Contractor shall indemnify and save 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.

30. Incidental and Consequential Damages. Contractor shall 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.

31. Liability of City. CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 19 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.

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. Contractor shall provide individually signed non-disclosure agreements conformant with this section and section 34 below for each employee or Contractor that will have access to, or work with, City data or other proprietary materials.

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. Rights and Duties upon Termination or Expiration. This section and the following sections of this Agreement shall survive termination or expiration of this Agreement:

18	Infringement Indemnification.	32	Nondisclosure.
22	Submitting False Claims; Monetary Penalties.	33	Proprietary or Confidential Information of City
23	Taxes	34	Protection of Private Information
24	Payment Does Not Imply Acceptance of Work.	38	Subcontracting
26	Responsibility for Equipment	39	Assignment
27	Independent Contractor; Payment of Taxes and Other Expenses	44	Non-Waiver of Rights.
28	Insurance	45	Modification of Agreement
29	Indemnification and General Liability.	46	Dispute Resolution
30	Incidental and Consequential Damages	47	Agreement Made in California; Venue.
		48	Construction
		49	Entire Agreement

Subject to the immediately preceding sentence, upon termination of this Agreement prior to expiration of the term specified in Section 3, this Agreement shall terminate and be of no further force or effect. Contractor shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other materials produced as part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City. This subsection shall survive termination of this Agreement.

36. 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 e-mail, and shall be addressed as follows:

To City: Ms. Wendy S. Still
Chief Adult Probation Officer
San Francisco Adult Probation Department
880 Bryant Street, Room 200, San Francisco, CA 94103
wendy.still@sfgov.org; fax: (415) 553-1717

To Contractor: Northpointe Institute for Public Management
C/O: Brian Mattson, Vice President
112 N. Rubey Dr.
Golden, CO 80403
bmattson@npipm.com; fax: (303) 216-9459

Either party may change the address to which notice is to be sent by giving written notice thereof to the other party. If e-mail notification is used, the sender must specify a Receipt notice. Any notice of default must be sent by an overnight delivery service.

37. 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.

38. 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.

39. 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.

40. 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.

41. 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.

42. 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 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.

43. 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.

44. 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.

45. 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.

46. Dispute Resolution. City and Contractor agree to exercise their best efforts, and to negotiate in good faith, to amicably resolve any dispute that may arise concerning the performance by either party of their obligations under this Agreement. If City's and Contractor's Project Managers cannot resolve disputes through such negotiations, then the Parties will escalate the dispute to their respective executives who shall have authority to settle the controversy and who are at a higher level of management than the Project Managers. Either City or Contractor may give the other party written notice of any dispute not resolved by good faith negotiations between the Parties' respective Project Managers.

Within 15 days after delivery of the notice, the receiving party shall submit to the other a written response. The notice and response shall include (a) a statement of that party's position and a summary of arguments supporting that position, and (b) the name and title of the executive who will represent that party and of any other person who will accompany the executive. Within 15 days the initiating party shall provide the same information to the responding party. Within 30 days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information made by one party to the other will be honored. All negotiations pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

If the executives cannot resolve the dispute to the satisfaction of both Parties, then City and Contractor may attempt to mutually agree on the conditions under which such unresolved disputes can be referred to mediation or non-binding arbitration. If the parties do not mutually agree to mediation or non-binding arbitration, or mutually select a mediator or arbitrator for the dispute, or such efforts do not resolve the dispute, then either party may pursue any remedy available under California law.

47. 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.

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

49. 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.

50. 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.

51. Graffiti Removal. Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti. Contractor shall remove all graffiti from any real property owned or leased by Contractor in the City and County of San Francisco within forty eight (48) hours of the earlier of Contractor's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require a Contractor to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

Any failure of Contractor to comply with this section of this Agreement shall constitute a material breach of this Agreement.

52. 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 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.

53. Audit and Inspection of Records. Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Maintenance Agreement. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Maintenance Agreement, whether funded in whole or in part under this Maintenance Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Maintenance Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject of this Maintenance Agreement shall have the same rights conferred upon City by this Section.

54. Drug-Free Workplace. Contractor acknowledges that pursuant to the Federal Drug Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by the Contractor, its employees, agents or assigns shall be deemed a material breach of contract.

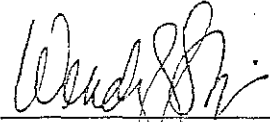
55. Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Maintenance Agreement. Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Maintenance Agreement, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two years. The Controller will not consider Contractor's use of profit as a violation of this section.

56. 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.

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

CITY

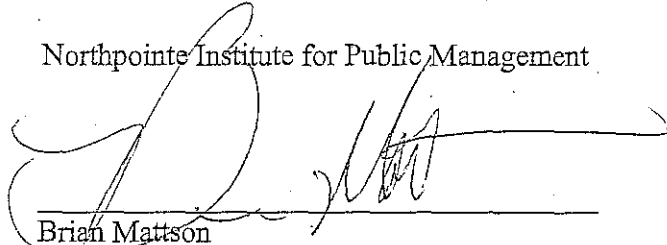
Recommended by:



Wendy S. Smith
Chief Adult Probation Officer
San Francisco Adult Probation Department

CONTRACTOR

Northpointe Institute for Public Management

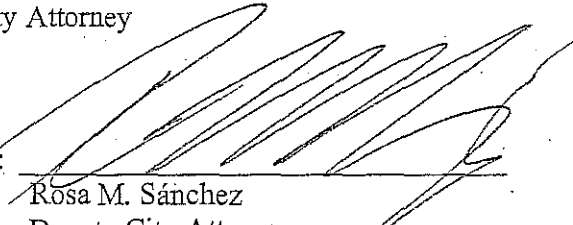


Brian Mattson
President
Northpointe Institute for Public Management
112 N. Rubey Dr.
Golden, CO 80403

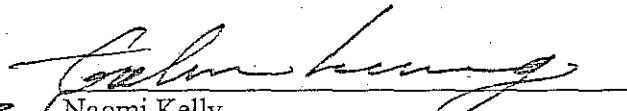
Approved as to Form:

City vendor number: 83611

Dennis J. Herrera
City Attorney

By: 
Rosa M. Sánchez
Deputy City Attorney

Approved:


For Naomi Kelly
Director of the Office of Contract
Administration, and
Purchaser

Appendices

- A: Statement of Work: Services to be Provided by Contractor
- B: Calculation of Charges
- C: Special Terms and Conditions
- C-1: HIPAA+ Business Associate Addendum
- D: Recovery Act Justice Assistance Grant, Grant Award Number: 2009-SB-B9-0817;
Documentation of Compliance.

APPENDIX A: STATEMENT OF WORK

March 7, 2011

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1 PURPOSE OF PROJECT

Contractor shall deliver a computerized information System Application satisfying the assessment and case management requirements of the San Francisco Adult Probation Department (City). This new System, based on the Contractor's existing COMPAS 8 Suite with Case Manager, is intended to replace the existing City Adult Probation case management and assessment systems.

The planned new case management System shall include upgrades and improvements satisfying City's requirements. The delivered Application shall provide, among many other required features, the collection and reporting of statistics required by California Senate Bill 678 to support City's eligibility for performance-based funding from the state, as well as provide the offender assessment data to be used by the new San Francisco Probation Alternatives Court (SFPAC), established in December of 2010. The new System shall provide all of the base functionality of the current City case management system, with improvements of usability and workflows better tailored to support City's business processes.

The overall purpose of this Project is to enhance functionality in the existing COMPAS 8 Suite with Case Manager Application System, to result in an improved version of the product that not only meets the requirements and needs of the City, but will also serve as the base Application offering by Contractor to support the planned data exchange partnership consortium between the City and several other California counties.

2 SCOPE OF PROJECT

Contractor shall perform the following work, to be implemented in three successive phases over a one year period:

2.1 Phase I

Commencement of Operational Use by City of the Contractor-hosted Online version of the existing COMPAS 8 Suite with Case Manager Application and Requirements Elicitation, Design and Development of the Required Upgrades and Tailoring of COMPAS 8 Suite with Case Manager for City.

2.1.1 City Begins Operational Use of Contractor-hosted Online System

Upon signing of the Agreement, Contractor shall provide City free access to the online COMPAS 8 Suite with Case Manager Application System (the "Licensed Software") hosted on Contractor's server for the term of the configuration and development period. City may assign access to as many Users as it deems necessary, in its sole discretion, for operational or testing use, until the date of Final Acceptance and signoff of this Project's deliverables (issuance of the Final V&V Report).

2.1.2 Contractor Provides Separate Application Instances for Operations and Testing

Following signing of the Agreement, Contractor shall provide several separate "Instances" of the COMPAS 8 Suite on its server, including:

- a. An "Operational" Instance to allow City free access as in # 2.1.1 above, for immediate operational use of the various assessment tools and other functions of the Suite and to securely store and access live data for current reporting and later conversion to the completed deliverable Application System.
- b. A "Development" instance, to be used by the Contractor to develop the required System upgrades, improvements and tailoring.
- c. A "Test" Instance to be used by City to view and test releases by Contractor of the products of each development Iteration, up to the date of Final Acceptance of Project deliverables.

2.1.3 City Drafts Project Narrative Plan

Within ten (10) days of the signing of the Agreement, City will draft a Project Narrative Plan as required by the CCSF JUSTIS Program System Delivery Life Cycle (SDLC) and this Agreement and detailed narrative of the plan. These tasks are to be completed in collaboration with Contractor. Both parties shall sign each successive published version of the Project Narrative Plan to indicate agreement of its content.

The Project Narrative Plan shall include details of any required Project elements to be determined (TBD), including: further definition of the Project organization, roles and responsibilities; a detailed Project schedule with known milestones, task assignments, deliverables and deliverable dates; sub-plans for Project document control, communications and reporting, cost, scope, schedule and risk management, description of methods and tools to be used, detailed descriptions of any phased activities, and requirements for any other deliverable Project documents, as well as the plan for Final Acceptance of the Project by the City.

The Project Narrative Plan must remain flexible to be modified in various ways throughout the lifecycle of the Project, as requirements change or new issues surface during design or construction of the deliverables of the Project. Because the Project Narrative Plan is required by the Agreement to be kept current with the status of the Project, it becomes the most current reflection of the overview of the Project at any given time in the lifecycle, and the final version of the document at the time of Project delivery becomes a basis, along with the final version of the Project V&V Plan, for final Verification and Validation of the Project's deliverables.

2.1.4 City Drafts Project Verification and Validation Plan (V&V Plan)

Within ten (10) days of the signing of this Agreement, City shall draft a Project Verification and Validation Plan (V&V Plan) as required by the CCSF JUSTIS Program System Delivery Life Cycle (SDLC) and this Agreement. Contractor shall assist in completing the content of this document in collaboration with City. City will approve the V&V Plan and both Contractor and City shall sign each successive published version of the V&V Plan to indicate agreement of its content. The V&V Plan will be modified during the Project lifecycle as requirements change or issues surface. The V&V Plan defines the methods and procedures to be used to verify, or assure the physical presence of, a required element; and to validate, or test, the element's functionality or other quality for correctness, according to requirement specifications and Acceptance criteria.

The V&V Plan shall contain: a.) the Project Requirements Specification and Tracking Matrix, which lists all current Project deliverable requirements, each with its defined Acceptance criteria, and categorized and numbered for traceability; b.) the Acceptance Test Plan, developed in collaboration with the Contractor, which specifies the activities that will be used to validate the fitness of the completed deliverables for operational use, and provide the basis for formal Acceptance of the deliverables by the City; and c.) the Go Live sub-plan, developed in collaboration with the Contractor, which specifies the individual tasks required to prepare the completed and locally installed Software Application for operational use by the City, and to implement the successful commencement of ongoing production use of the Application System.

The V&V Plan is required to be updated and republished with each change to requirements or other content. The V&V Plan becomes the current requirements and functionality specifications and reference for all Project requirements throughout the Project lifecycle. The Requirements Tracking Matrix of the final version of the V&V Plan approved by the City and Contractor shall be the source of the final listing

of Project requirements to be verified and validated for their satisfaction of their Acceptance Criteria just prior to Go Live, and at Final V&V and Acceptance of the Project.

A Final V&V Report will be published by City upon Final Acceptance of the Application. This Final V&V Report shall contain the details of the results of the activities conducted during Verification and Validation and Acceptance Testing, prior to Go Live, according to the V&V and Acceptance Test Plans, and the outcomes of, and any observations noted during, the Go Live process and commencement of production use of the Software. The Final V&V Report shall also provide the completed checklists used for all such activities as attachments, including the Final V&V Checklist used to ultimately verify and validate Project completion for Acceptance. Any discrepancies or departures from the specifications of the Plan being verified or validated shall be documented and justified, if required, and a description of the activities planned for their remediation shall be included in the Report. The Final Report shall provide the final check that all Project deliverable products have been delivered according to the Project Narrative Plan, and all requirements satisfied, in accordance with the Project V&V Plan.

Contractor shall have ninety (90) days following the end of the Go Live process to obtain signoff of the Final V&V Report by the City. The Final V&V Report will indicate acceptance of all Project deliverables by the City, and formally close the Project as successful.

2.1.5 Contractor and City Complete Initial Development Iteration Requirements Specifications

Contractor shall schedule meetings with City's Project team within ten (10) days following signing of the Agreement, to begin the requirements gathering activities. Contractor shall provide a Requirements Specification and Tracking document, in City's required format, which City will review and approve to be included in the Project V&V Plan within 30 days of the conclusion of the first requirements meetings.

Following the initial requirements elicitation sessions, the initial publication of the Requirements Specification Tracking Matrix included in the Project V&V Plan document shall contain only those requirements agreed to by City and Contractor., , These requirements are to be included in the first Iteration of development of new functionality. The Requirements Specification Tracking Matrix of the V&V Plan document shall be updated with each successive round of requirements gathering sessions, and will be the sole authorized and controlled repository for all Project requirements, through Final Acceptance.

2.1.6 Contractor and City Complete Initial Development Iteration Design Documents

Contractor shall develop, and deliver to City, as described in Section 8 "Milestones with Payment Schedule," below, Design Documents illustrating the proposed methods of development of the first Iteration of Phase I new Application functionality in satisfaction of City's requirements as specified. These documents shall describe how the developed Software will functionally meet each specified requirement. The Design Documents will include:

- System Architecture Design, including all required external System interfaces,
- Functional and Technical design of the System,
- System's management and monitoring, logging and error handling
- Database entity diagrams with the mapping to UI fields
- Prototype screens
- Process/Data flow diagrams
- Development timeline
- System Configuration
- Web Service Data Contacts

o Data Conversion from cTag and CAIS Export File Definitions

2.1.7 Contractor Commences Development of Required Initial Iteration Functionality

Upon Acceptance by City of the Design Documents described in # 2.1.6 above, Contractor shall commence development of the Phase I initial Iteration design elements, as specified in the delivered Requirements Specifications and Design Documents. Contractor shall deliver the release of the first Iteration development product for testing as specified in Section 8 "Milestones with Payment Schedule" below, unless City approves a time extension.

2.1.8 Contractor and City Hold a Design Review Meeting

Upon delivery by Contractor of the Phase I first Iteration development release of the Application for testing by City, Contractor will attend a Design Review meeting to be held at the offices of the SF-APD. City and Contractor's Project Managers and, as required, members of the development team assigned by the Contractor shall present the new release and demonstrate how each design element of the current Design Document, and its implementation in the released Software, satisfies the first Iteration requirements detailed in the Master Requirements Specification Tracking document. City shall document all issues, discrepancies, departures from the Project Narrative or V&V Plans, etc. with justification, as appropriate, or plans and schedules for their remediation. Following the Design Review meeting, City will draft a Design Review Report which will be reviewed by both Parties for accuracy, and signed by both parties indicating agreement as to its content. The information in the Design Review Report shall then be used to update the Requirements Specification and Tracking Matrix of the V&V Plan.

2.1.9 City Tests Initial Development Iteration's Released Product

Following the Design Review, City's assigned User test team will test the released Application on the Contractor's hosted server, and document and report to the City Project Manager any errors, discrepancies, design flaws, departures from , the Project Narrative or V&V Plans, or malfunctions not already documented from the Design Review. All such issues shall be added to, and documented in, the Design Review Report in a separate section entitled "Testing Results." The City Project Manager will report such issues to Contractor's Project Manager in accordance with the Project Narrative Plan and V&V Plans. Contractor shall establish a procedure for documenting and tracking all development technical issues so that they may be analyzed and resolved in a timely fashion.

2.1.10 City Approves Design Review Report and Updated Requirements Specifications and Design Documents

Upon approval by City and Contractor of the Design Review Report, Contractor shall update, as required, the Requirements Specification & Tracking Matrix of the V&V Plan and any affected Design Documents, and obtain written approval by City of the updated documents.

2.1.11 Contractor Commences Next Development Iteration

Upon approval by City of the updated Requirements and Design documents, the Contractor shall commence the next Iteration of development of the Application, incorporating all information gathered in the Design Review and subsequent User testing by City. Scheduling of the release of this and subsequent development products shall be in accordance with the Project Narrative Plan and V&V Plans.

2.1.12 City Tests Each Successive Development Iteration's Released Product

Upon delivery by Contractor of each successive release of Software, the City Users will test the Application, document and report, using the procedure specified in the Project V&V Plan, any discovered project issues, departures from the Project Narrative or V&V Plans, or other defects, discrepancies, malfunctions, or other technical issues, to the City and Contractor Project Managers for resolution by the Contractor.

2.1.13 Contractor and City Continue Requirements Elicitation, Design & Development of All Project Phase Deliverables

Upon completion of, or in parallel with, development of all Phase I deliverables, Contractor shall continue requirements gathering, design and development of the required Project elements of Phases II and III, following the process as described above in sections 2.1.5 through 2.1.12 including a design review and requirements elicitation meeting following each Iteration release, until all required Project elements are completed and released for testing by City.

2.2 Phase II

Contractor shall gather requirements for, design, develop and integrate document storage and management functionality, form templates and auto-generation of forms and letters, and expanded ad-hoc reporting capability into the product delivered in Phase I. These activities may occur in parallel with the activities related to Phase I of the Project.

2.3 Phase III

Contractor shall gather requirements for, design and develop the interface between the City Application delivered in Phases I and II, and the California Department of Corrections and Rehabilitation ("CDCR") database to exchange COMPAS data. These activities may occur in parallel with the activities related to Phase I of the Project.

2.4 Contractor Delivers Final Iteration Release for Initial Testing

Upon completion of the FINAL ITERATION RELEASE product, including all required elements of Phases I, II and III of the Project, as detailed in the Requirements Specification and Tracking Matrix of the Project V&V Plan, the released Application shall be installed and implemented on the Contractor's online hosted Test Instance for initial Testing and V&V. This testing shall be in accordance with the Project V&V Plan.

2.5 Final V&V of Requirements and Design and Acceptance Testing

Following successful initial testing of the Application on the Contractor's online-hosted Test Instance, and written approval by the City, Contractor shall install and implement the Application on the City's local server. Following installation, the City will perform final formal V&V, using prepared checklists, of all requirements and design elements included in the most current version of the Project V&V Plan and Acceptance Testing. Upon completion of formal V&V of requirements and design, the City will perform Acceptance Testing in conformance with the Acceptance Test Plan of the Project V&V Plan. Results of the Acceptance Test Plan will be documented in the Final V&V Report drafted by the City Project Manager.

2.6 Delivery of User and Administrator Manuals

Within 30 days of successful completion, of Acceptance Testing, formal Verification and Validation of requirements and design, and issuance – by City – of the draft Final V&V Report, in accordance with the Project V&V Plan, and prior to system Go Live, Contractor shall deliver the final versions of User and Operation/Administration manuals in electronic form, as Microsoft Word 2003 document files, for City review and approval. These manuals shall provide clear and simple instructions on the configuration, administration and operational use of the Licensed Software Application, including all purchased modules, enhanced or added functionality and interfaces.

2.7 User and Administrator Training

Following City approval of the User and Administrator manuals, Contractor shall conduct 5 (five) training sessions (3 for Users and 2 for System Administrators, for a total of 10 days of training), as scheduled in the Go-Live sub-plan of the Project V&V Plan.

2.8 Installation on City Production Server and Go Live System Assurance

Upon written approval by the City per Section 2.5 above, Contractor shall install and implement the City approved Application on the City local production server, and shall provide Go-Live System assurance services, as detailed in the Go Live sub-plan of the Project V&V Plan, including verifying and validating that the Application System installed on the City's server(s) meets or exceeds Contractor's minimum specifications for configuration or other System settings or conditions required for successful operational use, and provision of written certification of the installed System's fitness for production use, for the Licensed Software and all included interfaces to external systems.

2.9 Go Live

Following System assurance by Contractor, City and Contractor shall implement the Go Live sub-plan included in the Project V&V Plan, for commencing operational use of the new System. The Go Live sub-plan will include the plan for implementing, verifying and validating the final data conversion, as described in Section 7 b. of the Software License Agreement, from existing sources to the new System. Contractor shall provide on-site support for the implementation and completion of the Go Live process, in conformance with the Go Live sub-plan, through the commencement of operational production use by the City of the Licensed Software Application.

2.10 Project Acceptance

Following the City's commencement of production use of the Licensed Software Application, Contractor shall provide ongoing support as detailed the Software License Agreement. Within a 90 day period following Go Live, any technical issues that arise shall be documented and added to the Final V&V Report, and their resolution verified and validated according to the V&V Plan. On resolution of all outstanding issues, and successful completion of the Project Final V&V Checklist, both parties shall sign the Final V&V Report to indicate Acceptance and conclusion of the overall Project. The Warranty Period shall commence on the date the Final V&V Report is signed by City. At the conclusion of the Warranty Period, the first of three years of the License, Maintenance and Support shall commence.

3 KEY ASSUMPTIONS

The following key assumptions are fundamental to this SOW:

3.1 Project is Subject to JUSTIS Program Requirements

This Project is partially funded by, and is thus conducted under, and subject to, the policies and procedures of the City and County of San Francisco JUSTIS Program of projects. All proposed Project activities involving significant issues of Project cost, scope, schedule or risk, and especially issues of connection to, or exchange of data with, agencies or entities external to the CCSF JUSTIS domain, that may have impact on other Stakeholder members of the JUSTIS Program must be presented by SF-APD, as required, to the JUSTIS Technical Steering Committee or the JUSTIS Council for review and approval, prior to implementation. This is a Project constraint and shall be included as such in the Project Narrative Plan.

3.2 Project is Subject to Grant Requirements

This Project is partially funded by Recovery Act Justice Assistance Grant Award Number 2009-SB-B9-0817, and is subject to special conditions pertaining to information systems, as detailed in Appendix D, ("Recovery Act Justice Assistance Grant, Grant Award Number: 2009-SB-B9-0817; Documentation of Compliance") of this Authorization Document. Contractor must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, in its performance of this Agreement. This is a Project

constraint and shall be included as such in the Project Narrative Plan.

3.3 Venues Where Work Will Be Performed

Work will be performed, as required, at the San Francisco Adult Probation Department offices, various City and County of San Francisco IT infrastructure and data sites, and Contractor's Project offices and will be performed during normal business hours unless otherwise mutually agreed upon.

3.4 Contractor Acknowledges That City's Servers and Infrastructure Are Adequate

Contractor acknowledges that the City's servers and related hardware infrastructure meet or exceed the minimum recommended installation and operational specifications provided by Contractor for both the server and client computers.

4 PROJECT ORGANIZATION

The success of the Project is predicated on the coordination between all Stakeholders. City and Contractor will each appoint a Project Manager for this effort. City has also contracted with an IT Governance and Project Management Consultant who will act as Project Coordinator to provide required documentation, vendor oversight, and other services, as well as experienced guidance for liaison with the JUSTIS Program.

4.1 Project Organization Chart

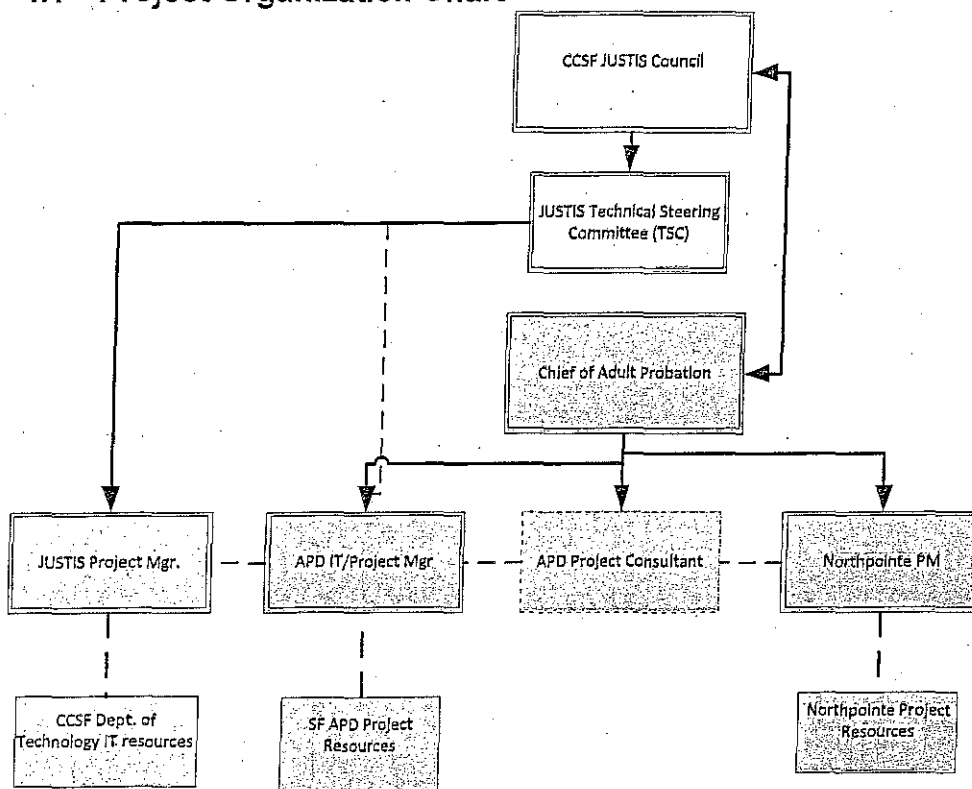


Figure 1 Project Organization

4.2 Project Management Responsibilities

4.2.1 City Project Management Responsibilities

The SF-APD project manager (PM) will manage and coordinate the SF-APD project team's internal project assignments and work with the Contractor Project Team.

The City Project Manager will:

- a) Draft the Narrative Project Plan and V&V Plan, including the Requirements Specification and Tracking Matrix, the Project Acceptance Test Plan, and the Go Live sub-plan, as detailed in Sections 2.1.3 and 2.1.4 above, in conformance with the JUSTIS Program SDLC, and in collaboration with the Contractor. The City Project Manager will also ensure that all Project Plans are approved by both the City and Contractor, kept under document version control and regularly reviewed and updated to reflect the most current status of the Project.
- b) Ensure that, upon notification from Contractor, selected SF-APD Users be brought into the configuration and development process to provide input regarding the requirements and design planning to ensure the Application will be correctly designed to support User workflows and processes, and will function as expected.
- c) Provide sufficient resources to review, test or V&V and approve the deliverables, pursuant to the V&V Plan.

4.2.2 Contractor Project Management Responsibilities

The Contractor Project Manager shall have the knowledge, skills and authority necessary to ensure the Project is on schedule, budget and scope and will be responsible for meeting Contractor's obligations under this Contract toward a successful implementation. The Contractor Project Manager shall arrange for their personnel to be available as needed to adhere to the schedule. They will track all checklists, Acceptance Testing, certifications, and documentation.

The Contractor Project Manager shall:

- a) Ensure that the Project Narrative Plan and V&V Plan, including the Master Requirements Tracking Matrix, the Project Acceptance Test Plan, and the Go Live sub-plan, as drafted by the City Project Manager, are reviewed and agreed to by Contractor. Assist the City Project Manager, through regular review and reporting of any discrepancies, to keep the Project Narrative Plan and V&V Plan regularly updated to reflect the most current status of the Project.
- b) Ensure that all responsibilities and activities assigned to Contractor staff by this Agreement through its SOW and the Project Narrative and V&V Plans are fulfilled and completed as scheduled and that high Project quality is maintained.
- c) Ensure that adequate key Contractor resources are dedicated to the Project in order to maintain timelines. These resources are critical in establishing the Project requirements.

- d) Notify the City Project Manager when representatives of all groups of SF-APD Users should be brought into the process for requirements and design planning and at time of testing, to ensure their input, so that the Application will be correctly designed and will function as expected.
- e) Ensure that status of Project cost, scope, schedule and risk are assessed on a weekly basis and reported to Contractor management and the City Project Manager.
- f) Ensure that regular weekly contact with the City Project Manager is maintained and bi-weekly written reports are sent.
- g) Ensure that all Project activities assigned to Contractor resources in the Project Narrative and V&V Plans are started and completed on schedule, and any issues that may cause schedule slippage are promptly identified, the City Project Manager notified immediately, and that the issues are quickly and properly dealt with according to the Project Narrative and V&V Plans.

4.2.3 Joint Project Management Responsibilities

Both the City and Contractor Project Managers will collaborate on the following tasks:

- a) Work together to complete the detailed content of the Project Narrative Plan and Project V&V Plan drafted by the City.
- b) Maintain frequent communication with each other by telephone or email, or in on-site meetings, regarding Project issues and status.

5 SECURITY

5.1 Physical Security:

- a) Contractor shall provide certification and written evidence that all Contractor staff assigned to this Project have been fingerprinted and have successfully passed an FBI criminal history background check. Each staff member shall sign an individual Non-Disclosure Agreement as detailed in paragraph 33, "Proprietary or Confidential Information of City," of the License Agreement.
- b) Contractor staff assigned to the Project shall wear their company identification badges at all times. The City will require Contractor to provide a letter of clearance on behalf of each Contractor staff member assigned stating that the Company has found each person to be suitably skilled for the tasks assigned and to be reliable; that each has signed a non-disclosure agreement regarding privacy of San Francisco data and other proprietary materials or intellectual property; and that résumé verification has been completed.

5.2 Information Security:

- a) Contractor shall be responsible for properly establishing security for City's data entered into the Application while the Application, both test and production environments, is located at Contractor's https: secured server on their host site, and for ensuring that such security is conformant, or compliant with, applicable local, California or Federal Department of Justice standards, such as CLETS and 28 C.F.R. Part 23 (Appendix D, *Recovery Act Justice Assistance*

Grant, Grant Award Number: 2009-SB-B9-0817; Documentation of Compliance) governing security of criminal justice or related similar data, and the requirements of HIPAA (Appendix C-1, *Business Associate Addendum*) regarding medical or health history data security. Contractor will provide guidance regarding the implementation of controls for the data's access and use. Contractor agrees to host City's test and production (operational) Application Instance environments on a server secured with the HTTPS protocols.

- b) Contractor shall provide for adequate Administrator and end-user file back-up procedures as part of the installation of the required Instances of the Application Software, and for supplying all back-up media (i.e., diskette or tape) required for existing and new programs and data while installed and operated on Contractor's servers. Following installation by Contractor of the Application on the City's server(s) and approval of the installation by the City, City will be responsible for System file backup and restoration of its data, and provision of required storage media.

6 TECHNICAL SUPPORT

Contractor shall provide the support services, as defined in Sections 11, 12 and 13 of the Software License Agreement, to City by phone, email or web five (5) days per week, eight (8) hours per City business day (9 am-6 pm Pacific Standard Time). For critical issues (system down, data loss and/or data corruption). The Contractor shall provide 24x7 support within one hour response time. Contractor shall assist with the implementation of most current Software releases and versions including any fixes, patches and workarounds.

7 PROJECT DELIVERABLES

The following are the expected deliverables of this Project.

7.1 The Licensed Software

The "baseline" COTS product being acquired from Contractor for this Project is the Northpointe COMPAS 8 Suite with Case Manager. Upon signing of the License Agreement, City will be granted free access to operationally use the Contractor-hosted online version of this product for performing assessments and storing live data. The base product includes the following modules:

- COMPAS Assessment Modules
 - Core
 - Reentry
 - Women
- COMPAS Case Manager Module
 - COMPAS Integrated Case Plan
 - Secondary Assessments:
 - Static 99,
 - VASOR,
 - TCU-Drug Screen,
 - TCU- Criminal Thinking Scale,
 - COMPAS Case Supervision Review,
 - URICA Motivation to Change Assessment,
 - ODARA DV Risk Assessment (in Development),
 - COMPAS Ad Hoc Report Generator
 - COMPAS Service Provider Database

- Supervision Planning
- Event Log
- Case Information:
 - case summary,
 - legal status,
 - assessed needs,
 - sex offender case information,
 - parole case information,
 - program tracking,
 - case notes
 - case termination.
- Scheduling:
 - offender scheduling (includes some community service scheduling),
 - case worker/agent scheduling
- Work and Education History
- Demographics:
 - physical description,
 - contact information,
 - offender contacts,
 - any alias,
 - gang membership
 - miscellaneous demographic information
 - sex offender registration.
- Charges/Court:
 - arrest information,
 - arrest charges,
 - bail/bond information,
 - incarceration information,
 - complaints,
 - compliant charges,
 - docket information,
 - victim information,
 - current charges,
 - pre-trial release,
 - failure to appear,
 - pre-sentence investigation information.
- Operations:
 - batch drug testing,
- Medical History:
 - medical provider,
 - insurance information,
 - treatment history,
 - substance abuse,
 - medical questions,
 - medication information.
- Accounting:
 - fines & costs,
 - program/testing fees,
 - residential inmate accounts

7.2 Enhancements to the Base Product

The following lists of required Project elements are those that are currently known and desired to be implemented in the completed and upgraded COTS product that is the final deliverable of this Project. As formal requirements analysis and design activities are implemented, some of these elements may be changed or discarded by City in favor of other requirements, and new items added as they are discovered by City in collaboration with Contractor.

7.2.1 Desired Capabilities of the Completed and Upgraded COMPAS 8 Suite with Case Manager

- a) Provide improved functionality and ease of use over the existing City case management system without the loss of any required functionality available in the current system.
- b) Provide assessment and case management functionality to support adult probation officers' work with offenders in the community.
- c) Provide aggregate data and reporting capabilities that will be used for evaluating the ability of the agency to reduce recidivism and protect the public.
- d) Provide a continuum of risk and needs data and reporting to support local and state efforts to work across agencies from the time of initial detention in the jail, through final release on probation and parole.
- e) Provide a consolidated database with efficient functionality.
- f) Provide COMPAS data exchange with the California Department of Corrections and Rehabilitation (CDCR) to:
 - 1. facilitate intake protocols in the state reception centers using an automated pre-sentence investigation (PSI) and
 - 2. facilitate successful reentry of people from prison to San Francisco communities.
- g) Provide the ability to track and report performance measures that trigger financial incentives under the SB-678 legislation.

Objective #1: Provide the total number of adult probationers (including percentage) on felony probation that will be supervised with evidence-based practices. Data to include, age and sex of probationer, and:

- Number of probationers who successfully complete probation;
- Number of probationers who violate probation and receive additional terms and conditions;
- and
- Number of probation revocations due to new charges.

Objective #2: Provide the total number of contacts with each active adult probationer per month. Data to include number of contacts:

- made in the field;
- in-person in the office; and
- by phone.

Objective #3: Provide the total number of adult probationers referred to outpatient treatment programs. (Please identify the individual treatment programs/services referred including, but not limited to, drug/alcohol treatment; domestic violence, anger management, job training, family counseling, education, etc.)

Objective #4: Provide the total number of adult probationers referred to a residential treatment program. Data to include:

- number of treatment days provided;
 - number of probationers who dropped out;
 - number of probationers terminated from residential treatment; and
 - number of probationers who successfully completed the program
- h) Provide the capacity within the City to answer routine and reasonable questions about the quality and impact of probation services and report the results.
- i) Provide functionality to support the Pre-Sentence Investigation (PSI).
- j) Integrate the Supervised Release File (SRF) functionality consisting of an FTP process to create an output file of the extracted data from the SF-APD database and send it to the California Department of Justice. The process will also trap transmission errors and create and send error messages to the SF-APD database.
- k) Provide an interface to the JUSTIS Hub database.
- l) Provide data collection and reporting capabilities that support the City's plan to move toward a COMPSTAT performance measurement system.
- m) Support the JUSTIS Infrastructure Project's model of "federated" architecture, e.g., the Application shall be ultimately hosted, secured and maintained by the CCSF Department of Technology at the City's Data Center, with failover to the secondary site at the Hall of Justice, and City will administer local use and access.

7.3 Configuration and Tailoring of the Standard Software

A number of modifications are anticipated and general need areas have been identified that will require tailoring. These items will be addressed in order of priority, as specified by City, over the three phases of this Project. The discovery, requirements and design activities of the Project will fully determine the extent and details of the modifications. Items that are currently expected to require modification or tailoring are as follows (this list is subject to change based on discoveries during the requirements elicitation and Project planning stages):

7.3.1 Modification/Tailoring Items

Contractor shall develop functionality during Phase I of the Project, including, but not limited to, the following, based on currently known City requirements. Some items may change in the course of the Project, at City's request.

- a) System configuration, setup, administration
- b) Capture complete probationer (client) Information during the City intake process

- c) Capability of assigning and transfer clients between officers, Units and external organization.
- d) Capability of searching, viewing the clients based on location and officer
- e) Search Capability for clients IDs, Names, Demographics, Location, Status
- f) Search for Persons associated with the client on the case basic
- g) Tracing capability of the Historical client information
- h) Tracing capability of the Officer actions historical information
- i) Capability capture the client Cases, Court Orders and City requests actions, Client's charges, Terms and Condition of Probation and violation of probation.
- j) Capability to track the City reports submission business flow with alerts to notify responsible parties of upcoming required report submission (state, federal, etc).
- k) Capability to manage the client location assignment
- l) Capability of tracking and managing client's required activities, including community service scheduling, work crew scheduling, attendance and batch scheduling for classrooms/groups, and workload driver "to do" lists; batch accounting; risk and needs assessment and development of case plan.
- m) Documentation
- n) Programs and Services
- o) Capability of capture and track the location the physical client's file
- p) Capability of assigning the work items to the officers and monitor the progress and completion of work.
- q) Configurable Dashboard
- r) Presentence Investigation (PSI)
- s) City existing systems Data Conversion
- t) Alerts and Notifications
- u) Training
- v) Custom fields for each page
- w) JUSTIS Interface, based on Use Cases
- x) SRF data processing for submission to DOJ (extracting probationers' data from COMPAS to an ASCII file, formatting data according to DOJ standards (if need it) submitting the file for ftp process, process DOJ's return an output file and an error message and updating COMPAS 8 Suite database to reflect the status of the transaction.
- y) Capability to Export data to a file
- z) Drug Court Module, including:
 - Judge screen
 - supervisor level case progress screen
 - violation view screen
 - program progress notes
 - violation/non-compliance summary
 - program attendance information

7.3.2 Data Conversion

City will facilitate and provide access to the Contractor to the SF-APD existing system's data. The Data Conversion Plan will be provided as a section of the Narrative Project Plan.

7.3.3 Analysis of Known Deltas Between COMPAS 8 and City Current System

The following table illustrates currently known deltas between the existing COMPAS 8 Suite product and the current City case management System Application. Contractor shall make such modifications or enhancements to the existing COMPAS 8 Suite product to provide the same or similar functionality as

exists in the City's current system, as are agreed upon between City and Contractor, following completion of each Iteration of requirements elicitation as specified in 2.1.5 and 2.1.13 above, and in satisfaction of City's requirements as stated in the Project Narrative Plan and V&V Plan.

Item	Description
Search Capability	
Historical Record Summary Search	Does not currently exist in the COMPAS Application. Additional search capability and case/person history screens would be added.
Client Intake	
Contact vs. Case	Currently the COMPAS Application does not identify cases and contacts/bookings. Clarification on how this will work in COMPAS will be established during the requirements phase.
Client Intake Information	Additional information is needed in COMPAS to meet the City requirements
Assign and Transfer Client	
Workflow in assigning clients to primary officer	Currently the functionality in COMPAS may not meet the City requirements when transferring offenders and tasks to different officers and locations. The COMPAS system would be modified to fit the requirements of the City.
Transferring client from supervisor to subordinates	
Transfer client(s) or client tasks (case, case notes, case plan etc.) between officers in the same location	
Transfer client to a new location internal to City (different Unit or Division) or external outside agency	
Track transfer of ownership history (Ability to Query assigned Clients by Unit and by Officer)	
Court Cases, Orders and Probation terms	
Client's Court Cases, Court Orders, City and Court Requests, Charges, Sentence, Supervision Terms, Conditions, Disposition and Violation of Probation. The City reports submission business flow	<p>The City use of cases, charge, order, requests, sentence, supervision, conditions, terms and disposition appear to be integrated with work tasks and assignments. Full analysis is needed to deconstruct and understand the requirements of this process.</p> <p>Modifications will be needed to fill the requirements of the City in this process.</p>
Other Jurisdiction Registration	Other Jurisdiction Registration is currently not recorded in COMPAS.
Manage the Client's system location assignment	
Attach interested locations to a client	Attaching work items (tasks) for one offender to multiple officers by the primary officer and/or primary officer's supervisor. This functionality is a

Attach work item to an officer where their location is attached to the client	cross between caseload permissions and workload driver and will require tailoring.
Programs and Services	
Conditions of Sentence Credits and Performance Measures	COMPAS does not currently have this feature and modifications may be needed.
Offender Evaluation upon program completion	COMPAS does not currently have this feature and modifications may be needed.
Reporting	
SQL Server Reporting Services	If extreme reporting requirements are needed Contractor suggests the use of SQL Server Reporting Services. Contractor will generate full databases documentation and diagrams to make the process of creating custom reports as easy as possible.
Other Additional Items	
PSI Generation	Tailoring of the PSI Report data entry and reporting format in COMPAS.
Field Matchups	Ensure all CM fields have a data entry interface in COMPAS.

7.3.4 COMPAS 8 Items in Contractor Development Process

(This list is subject to change based on discoveries during Phase I)

Item	Description
Configuration	
Caseload	Caseload transferring and management may need to be modified to meet data sharing requirements.
Agency and Unit	In order to comply with the vision of sharing data across counties and state level agencies, the agency system will need to allow for "unit" organization inside an agency. Permissions and configuration will be modified accordingly.
Client Intake	
Family Information	Family information is currently not recorded in COMPAS.
Languages	Language information is currently not records in COMPAS.
Military History	Military History is currently not recorded in COMPAS.
Finances	Finance information is currently not recorded in COMPAS.
Vehicle Information	Vehicle Information is currently not recorded in COMPAS.
Case Management	
Office / Officer Diary	COMPAS System currently allows the officer to create appointments in his/her calendar from the scheduler screen. Additional information is needed in COMPAS to meet City requirements.

Programs and Services	
Program Referrals	These features will be added components and should require minimal tailoring.
Service Provider Schedules	
Client Attendance	
Client Physical File Tracking	
Transferring of files within a location	COMPAS has a paper file-tracking feature scheduled for a later development phase. Analysis is needed determine the extent of modifications needed for City. Details will be determined during the requirements documentation process.
Transferring of files to another location	
Request File Transfer	
File Merging	
File Delivery and Receipts Generation	
File Transaction History	
Searching and Administrative Reports	
Workload Management	
Contractor Workload Driver System	Contractor has currently developed requirements for the "workload driver" that will be used for assigning work tasks. Additional information may be needed in COMPAS to meet City requirements.
Reporting	
PSI Generation	Generate PSI Report template and data entry inside the COMPAS System. The System would also manage the storage of the PSI report.
Ad-Hoc Report Generator	The COMPAS System has its own report generator module. Enhancements to the Application to fit City's requirements will also be applied to the report generator system.
Dashboard	Dashboard parts are used for quick reports and can be tailored for each user.
Quick Charts	Quick charts can be used to generate quick rosters and charts of all data elements in the System. Contractor staff and eventually onsite staff can easily add these quick charts.
Required Interfaces	
JUSTIS Interface	JUSTIS Interface will be developed based on City Use Cases. Data elements specified in the City Use Cases (Exhibit 8) will be available in COMPAS Application User Interface (UI).
CLETS Interface	California Law Enforcement Tracking System interface functionality will be developed based on CA CLETS requirements and integrated into COMPAS System. This interface will use City's existing connection to the SF Police Department's Level II switch for CLETS access.
ICOTS Interface	Interstate Compact Offender Tracking System interface functionality will be developed based on federal Interstate Compact requirements and integrated

	into COMPAS 8 Suite with Case Manager System to allow probation officers to initiate, receive and track interstate probationer case transfers.
SRF	Supervised Release File functionality will be developed based on DOJ requirements and integrated into COMPAS System.
Other Additional Items	
Presentence Investigation	Ability to enter data and produce a Presentence Investigation Report in the COMPAS System. User will select fields from a universe of known presentence data elements and will configure output consistent with the needs of the jurisdiction.
Custom fields for each page	City may need control over modified fields on each data entry screen.
Alerts and Notices	Alert and Notice System to properly alert interested parties when a specific event takes place on the offender.

8 PHASES I-III PROJECT MILESTONES

Milestone Dates shown in estimated completion date column are included as a guide to estimated durations for each milestone and do not imply payment based on any set duration or calendar schedule. Actual schedule milestone dates and related payments will be developed during the planning stage of each Project phase and incorporated into the Project Narrative Plan. Payment will be authorized by the City by invoice payment approval as satisfactory work deliverables are received and accepted by City from Contractor as detailed in the schedule below and Appendix B.

The Project is estimated to be completed in one calendar year (12 months). In the first 30 days following the Effective Date of the Agreement, Contractor will work with the City to finalize a more detailed timeline including Project milestones and deliverables.

8.1 Milestones with Payment Schedule

Milestone #	Estimated Duration (Business Days)	Milestones	Payment Amount
0	3 days	On signing of the Agreement, Contractor's design engineer(s) will be scheduled to come to City Site for at least 3 Business Days to collect and finalize the requirements for Milestone #1 and Milestone #2.	
1	Within 30 Days following the Contractor's requirements visit	Contractor completes and delivers first Iteration of written detailed functional requirements, and System architecture to the City Project Manager, completing milestone #1	
2	City Approves and Accepts First Iteration	City reviews mutually derived Functional Requirements in Milestone #1. Upon the City approval of first	

	Requirements Spec within 20 days following its delivery by Contractor	Iteration requirements (milestone sign-off) the payment will be authorized by the City	\$158,600
3	Within 40 Days after City approves milestone #2	Contractor Completes and Delivers the First Iteration Design Documents listed in Section 2.1.6 above to the City Project Manager	
4	City Reviews and Approves Design Documents within 25 days following their delivery by Contractor	City reviews and approves mutually derived Design Documents in Milestone #3.	
5	Within *90 Days after City approves milestone #4	Contractor Completes Build and internal Test of Application and integrated interfaces. This includes: Delivery and implementation of the COMPAS Application on the Contractor's testing environment for evaluation by the City. Note that this Milestone and Milestone 6 may be repeated several times as "Iterations" of development of successive versions of the Application, under the Agile development methodology. Each Iteration's product will be individually tested and accepted, but only approval of the FINAL Iteration product will initiate milestone 7 and subsequent milestones.	
6	*Up to 60 days after City approves milestone #5	City conducts initial testing of the Application produced in Milestone #5 on Contractor's Testing environment. Note that this Milestone and Milestone 5 may be repeated several times as "Iterations" of development of successive versions of the Application, under the Agile development methodology. Each Iteration's product will be individually tested for City approval, but only City approval of the FINAL Iteration release product will initiate milestone 7 and subsequent milestones.	
7	30 Days after	Contractor deploys completed FINAL	

	City approves milestone #6	release of the COMPAS 8 Application on City environment for Acceptance Testing.	
8	30 Days after City approves milestone #7	City conducts Acceptance Testing of the FINAL Application release delivered in Milestone #7 on City's Testing environment, according to the Acceptance Test Plan of the Project V&V Plan. Upon City approval (milestone sign-off) payment will be authorized by the City.	\$76,800
9	Within 30 Days after City approves milestone #8	Contractor delivers the final versions of User and Operation/Administration manuals and conducts 5 training sessions (3 for users and 2 for System Administrators for a total of 10 days of training). Contractor installs and implements City approved Application and interfaces on the production environment at the City's site. Contractor shall provide Go-Live System assurance services for the COMPAS Application and all included interfaces.	
10	Within 30 Days after City approves milestone #9	On delivery by Contractor of written System assurance certification and City approval of COMPAS Application and all included interfaces' readiness for Go Live at City site, and following successful completion, with Contractor's support, of the Go Live sub-plan of the Project V&V Plan, including delivery of User and Administrator manuals and training and commencement of production operation of the System by the City, (milestone sign-off) payment will be authorized by the City.	\$25,000**
11	90 Days after City approves milestone #10	On satisfactory performance of the COMPAS Application and JUSTIS Interface System for a period of no fewer than 90 days following commencement of production operation of the Application by the City, and on approval and signoff of the Final V&V Report (milestone 11 sign-off) by the City the final	\$148,600

		payment will be authorized by the City and the Project formally Accepted and closed.	
		*A final deliverable schedule including duration of Acceptance Testing and Go-Live date to be determined once Project plan and timelines are established during City and Contractor Project Management meetings.	
		** The amount of \$ 25,000 for training and product manuals is not a part of \$384,000	

9 PROJECT PHASES I-III TIME & COST ESTIMATE

9.1 Time & Cost Estimate Gantt Chart

Work Versions - Versions will involve use of multiple staff resources	Estimate (in days)	1	2	3	4	5	6	7	8	9	10	11	12
System Analysis, Requirements and Design	90												
Application Development	290												
Data Conversion	90												
JUSTIS Interface – based on JUSTIS Hub Interface Use Cases	160												
Help Documentation	10												
Staff Training	10												
Total Estimate @ \$150/hr	\$768,000												
50% Development Discount: Total Enhancement and Interface Costs @ \$75/hr. = \$384,000	\$384,000												

9.2 Time and Cost Estimate Table

LINE ITEMS	DAYS	PRICE
System Analysis and Requirements Design*	90	\$108,000
Application Development and Testing	290	\$348,000
Data Conversion	90	\$108,000
JUSTIS Interface Development and Testing	160	\$192,000

Documentation	10	\$12,000
Development Price	640	\$768,000
Final Pricing on Development Includes 50% Discount		\$384,000

*Includes T&L and on-site work by Contractor business analysts

Training	10	\$25,000
User Training Materials @ \$35 per user (100 users)	\$35 x 100	\$3,500
Pre-Approved Travel, not to exceed		\$25,000
Total Contract Price		\$437,500

Appendix B

Calculation of Charges

Five Year Pricing for COMPAS Licensed Software and Software Support and Maintenance Fees

In accordance with Section 19 of this Agreement, the Contractor's total compensation under this Agreement is detailed below, inclusive of all costs required to complete all work specified in Appendix A. In no event shall the total costs under this Agreement exceed the amount provided in Section 19 of this Agreement.

Travel expenses (budgeted in Appendix A. "Statement of Work," Section 9.2 Time and Cost Estimate table):

Actual and reasonable costs of travel, meals, lodging must be approved in advance by City. The cost must be within reason when compared to available alternatives. Contractor must submit all invoices for travel must include documentation of expenditures. Billing for travel time is not allowed.

In general, hotels should be selected for proximity to the business site, adequacy of facilities, and cost. Reservations made early will frequently be at more favorable rates than reservations made at the last minute. When making arrangements for local transportation, all available alternatives should be considered. Buses/limos, subways, and other public transportation are frequently good alternatives to rental cars and taxis, both in terms of time and costs.

Every effort should be made to use discount airfares where they are available and to purchase tickets two weeks in advance where possible. No payment under this Agreement for "expenses" incurred for flights paid for by frequent-flyer miles will be permitted.

Payments for Deliverables or Tasks

Payments for deliverables/tasks will be paid on a "not-to-exceed" fixed price basis. "Not-to-exceed" means that Contractor shall perform its obligations under the Agreement for the amounts listed in Appendix A, "Statement of Work," Section 9, "Project Phases I-III Time & Cost Estimate," even if Contractor is required to expend more than the number of hours or direct costs listed in the Time and Cost Estimate.

Partial payments will not be made for deliverables/tasks that are not approved by the City or that are not deemed completed by the City.

Payments will be made by City to Contractor within 45 days after the City has received Contractor's payment request, provided that:

- 1) The City has accepted as satisfactory, in the City's sole and absolute discretion, the services rendered by the Contractor to the City in accordance with this Agreement;
- 2) A written status report has been provided to the City by Contractor as part of the Contractor's payment request documenting completion of each task in accordance with Cost and Work Estimate below and associated deliverable/task or activity in accordance with the amounts below for which payment is requested (each status report shall be signed by the SF-APD Project Manager indicating his/her agreement with the Contractor's description of completion in the status report);
- 3) Insurance documentation is current in accordance with Section 28 of the Agreement.

Pricing below is based on a per user fee for licensing of all modules listed above:

Year	Notes	Price
Year 1	Phases I, II and III Includes Development, Training and Travel costs outlined in SOW – SF-APD shall have free on-line access to COMPAS Suite Modules during this time	\$437,500 (Breakdown detailed in Appendix A, Section 9)
Year 2	Warranty Period: Year two will commence upon sign off and Acceptance of Application	No Charge
Year 3	Pricing based on 100 users. Additional users will increase license fee at a rate of \$650/user.	Software Support and Maintenance Total: \$78,000
Year 4	Pricing based on 100 users with a 5% increase bringing the per user fee to \$682.50..	Software Support and Maintenance Total: \$81,900
Year 5	Pricing Based on 100 users. Per user fee is \$682.50.	Software Support and Maintenance Total: \$ 81,900

Total not to exceed amount for this 5 year period shall be six hundred seventy nine thousand three hundred dollars and no cents (\$679,300.00).

Appendix C

Special Terms and Conditions

1. Health Insurance Portability and Accountability Act

Contractor shall execute the form attached as Appendix "C-1".

2. Confidential Records

Contractor acknowledges that any information generated, received or disseminated pursuant to its performance under this Contract is confidential and shall not be disclosed in any manner unless authorized by law.

APPENDIX C-1

BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum is entered into to address the privacy and security protections for certain information as required by federal law. City and County of San Francisco is the Covered Entity and is referred to below as "CE". The CONTRACTOR is the Business Associate and is referred to below as "BA".

RECITALS

- A. CE wishes to disclose certain information to BA pursuant to the terms of the Contract, some of which may constitute Protected Health Information ("PHI") (defined below).
- B. CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.
- C. As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations ("C.F.R.") and contained in this Addendum.

In consideration of the mutual promises below and the exchange of information pursuant to this Addendum, the parties agree as follows:

1. Definitions

- a. **Breach** shall have the meaning given to such term under the HITECH Act [42 U.S.C. Section 17921].
- b. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including, but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
- c. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.

- d. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- e. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- f. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.
- g. **Electronic Health Record** shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. Section 17921.
- h. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- i. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- j. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; and (ii) that identifies the individual or with respect to where there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].
- k. **Protected Information** shall mean PHI provided by CE to BA or created or received by BA on CE's behalf.
- l. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
- m. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).

2. **Obligations of Business Associate**

- a. **Permitted Uses.** BA shall not use Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Addendum. Further, BA shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, BA may use Protected Information (i) for the proper management and

administration of BA, (ii) to carry out the legal responsibilities of BA, or (iii) for Data Aggregation purposes for the Health Care Operations of CE [45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)].

- b. **Permitted Disclosures.** BA shall not disclose Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Addendum. BA shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by CE. However, BA may disclose Protected Information (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of CE. If BA discloses Protected Information to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable *written* assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Addendum and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a *written* agreement from such third party to immediately notify BA of any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach [42 U.S.C. Section 17932; 45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)].
- c. **Prohibited Uses and Disclosures.** BA shall not use or disclose Protected Information for fundraising or marketing purposes. BA shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates 42 U.S.C. Section 17935(a). BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2); however, this prohibition shall not affect payment by CE to BA for services provided pursuant to the Contract.
- d. **Appropriate Safeguards.** BA shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Contract or Addendum, including, but not limited to, administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Section 164.308(b)]. BA shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316 [42 U.S.C. Section 17931]

- e. **Reporting of Improper Access, Use or Disclosure.** BA shall report to CE in writing of any access, use or disclosure of Protected Information not permitted by the Contract and Addendum, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than 10 calendar days after discovery [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.F.R. Section 164.308(b)].
- f. **Business Associate's Agents.** BA shall ensure that any agents, including subcontractors, to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to BA with respect to such PHI. If BA creates, maintains, receives or transmits electronic PHI on behalf of CE, then BA shall implement the safeguards required by paragraph c above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. BA shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).
- g. **Access to Protected Information.** BA shall make Protected Information maintained by BA or its agents or subcontractors available to CE for inspection and copying within ten (10) days of a request by CE to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)]. If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).
- h. **Amendment of PHI.** Within ten (10) days of receipt of a request from CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BA or its agents or subcontractors shall make such Protected Information available to CE for amendment and incorporate any such amendment to enable CE to fulfill its obligation under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from BA or its agents or subcontractors, BA must notify CE in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors shall be the responsibility of CE [45 C.F.R. Section 164.504(e)(2)(ii)(F)].
- i. **Accounting Rights.** Within ten (10) calendar days of notice by CE of a request for an accounting for disclosures of Protected Information or upon any disclosure of Protected Information for which CE is required to account to an individual, BA and its agents or subcontractors shall make available to CE the information required to provide an accounting of

disclosures to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an electronic health record and is subject to this requirement. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to BA or its agents or subcontractors, BA shall within five (5) calendar days of a request forward it to CE in writing. It shall be CE's responsibility to prepare and deliver any such accounting requested. BA shall not disclose any Protected Information except as set forth in Sections 2.b. of this Addendum [45 C.F.R. Sections 164.504(e)(2)(ii)(G) and 165.528]. The provisions of this subparagraph h shall survive the termination of this Agreement.

- j. **Governmental Access to Records.** BA shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary of the U.S. Department of Health and Human Services (the "Secretary") for purposes of determining BA's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)]. BA shall provide to CE a copy of any Protected Information that BA provides to the Secretary concurrently with providing such Protected Information to the Secretary.
- k. **Minimum Necessary.** BA (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)(3)] BA understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
- l. **Data Ownership.** BA acknowledges that BA has no ownership rights with respect to the Protected Information.

- m. Business Associate's Insurance.* BA shall maintain a sufficient amount of insurance to adequately address risks associated with BA's use and disclosure of Protected Information under this Addendum.
- n. Notification of Breach.* During the term of the Contract, BA shall notify CE within twenty-four (24) hours of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.
- o. Breach Pattern or Practice by Covered Entity.* Pursuant to 42 U.S.C. Section 17934(b), if the BA knows of a pattern of activity or practice of the CE that constitutes a material breach or violation of the CE's obligations under the Contract or Addendum or other arrangement, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the Contract or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS. BA shall provide written notice to CE of any pattern of activity or practice of the CE that BA believes constitutes a material breach or violation of the CE's obligations under the Contract or Addendum or other arrangement within five (5) calendar days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.
- p. Audits, Inspection and Enforcement.* Within ten (10) calendar days of a written request by CE, BA and its agents or subcontractors shall allow CE to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this Addendum for the purpose of determining whether BA has complied with this Addendum; provided, however, that (i) BA and CE shall mutually agree in advance upon the scope, timing and location of such an inspection, (ii) CE shall protect the confidentiality of all confidential and proprietary information of BA to which CE has access during the course of such inspection; and (iii) CE shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties, if requested by BA. The fact that CE inspects, or fails to inspect, or has the right to inspect, BA's facilities, systems, books, records, agreements, policies and procedures does not relieve BA of its responsibility to comply with this Addendum, nor does CE's (i) failure to detect or (ii) detection, but failure to notify BA or require BA's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of CE's enforcement rights under the Contract or

Addendum, BA shall notify CE within ten (10) calendar days of learning that BA has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights.

3. Termination

- a. **Material Breach.** A breach by BA of any provision of this Addendum, as determined by CE, shall constitute a material breach of the Contract and shall provide grounds for immediate termination of the Contract, any provision in the Contract to the contrary notwithstanding. [45 C.F.R. Section 164.504(e)(2)(iii)].
- b. **Judicial or Administrative Proceedings.** CE may terminate the Contract, effective immediately, if (i) BA is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.
- c. **Effect of Termination.** Upon termination of the Contract for any reason, BA shall, at the option of CE, return or destroy all Protected Information that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, BA shall continue to extend the protections of Section 2 of this Addendum to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible [45 C.F.R. Section 164.504(e)(ii)(I)]. If CE elects destruction of the PHI, BA shall certify in writing to CE that such PHI has been destroyed.

4. Limitation of Liability

Any limitations of liability as set forth in the contract shall not apply to damages related to a breach of the BA's privacy or security obligations under the Contract or Addendum.

5. Disclaimer

CE makes no warranty or representation that compliance by BA with this Addendum, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for BA's own purposes. BA is solely responsible for all decisions made by BA regarding the safeguarding of PHI.

6. Certification

To the extent that CE determines that such examination is necessary to comply with CE's legal obligations pursuant to HIPAA relating to certification of its security practices, CE or its authorized agents or contractors, may, at CE's expense, examine BA's facilities, systems, procedures and records as may be necessary for such agents or contractors to certify to CE the extent to which BA's security safeguards comply with HIPAA, the HITECH Act, the HIPAA Regulations or this Addendum.

7. Amendment

- a. Amendment to Comply with Law.* The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Contract or Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that CE must receive satisfactory written assurance from BA that BA will adequately safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule or other applicable laws. CE may terminate the Contract upon thirty (30) calendar days written notice in the event (i) BA does not promptly enter into negotiations to amend the Contract or Addendum when requested by CE pursuant to this Section or (ii) BA does not enter into an amendment to the Contract or Addendum providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

8. Assistance in Litigation or Administrative Proceedings

BA shall make itself, and any subcontractors, employees or agents assisting BA in the performance of its obligations under the Contract or Addendum, available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees based upon a claimed violation of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where BA or its subcontractor, employee or agent is a named adverse party.

9. No Third-Party Beneficiaries

Nothing express or implied in the Contract or Addendum is intended to confer, nor shall anything herein confer, upon any person other than CE, BA and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

10. Effect on Contract

Except as specifically required to implement the purposes of this Addendum, or to the extent inconsistent with this Addendum, all other terms of the Contract shall remain in force and effect.

11. Interpretation

The provisions of this Addendum shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Addendum. This Addendum and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

12. Replaces and Supersedes Previous Business Associate Addendums or Agreements

This Business Associate Addendum replaces and supersedes any previous business associate addendums or agreements between the parties hereto.

IN WITNESS WHEREOF, the parties hereto have duly executed this Addendum as of the latter of the dates that the parties signed below.

COVERED ENTITY

By: [Signature]
Print Name: Wendy S. Still
Title: Chief Adult Probation Officer
Date: 3/9/11

BUSINESS ASSOCIATE

By: [Signature]
Print Name: Brian Mattson
Title: President
Date: 3/08/11

Appendix D

Recovery Act Justice Assistance Grant, Grant Award Number: 2009-SB-B9-0817;
Documentation of Compliance. (Document starts in the next page.)

TO GRANT FILE:

RECOVERY ACT JUSTICE ASSISTANCE GRANT
GRANT AWARD NUMBER: 2009-SB-B9-0817

DOCUMENTATION OF COMPLIANCE WITH SPECIFIED
SPECIAL CONDITIONS PERTAINING TO INFORMATION TECHNOLOGY
SYSTEMS

PURPOSE

The purpose of this document is to:

1. Acknowledge that the information technology equipment and software intended to be purchased with Recovery Act Justice Assistance Grant (JAG) funds may be subject to the below noted special conditions pertaining to information technology systems;
2. Document the steps taken by the City and County of San Francisco (the City) to comply with the below noted special conditions by determining the applicability of each special condition to the City's proposed Recovery Act JAG information technology purchases;
3. Provide sufficient explanation and documentation to support a determination of non-applicability or, if necessary, to detail and document the steps taken by the City to fulfill the requirements of the applicable special condition(s).

PROPOSED INFORMATION TECHNOLOGY PROJECTS

As detailed in the grant proposal, Recovery Act JAG funds are intended to support critical improvements to the City's public safety/law enforcement information technology infrastructure currently known as JUSTIS. Specifically, of the \$650,000 that has been awarded to the City for intra-criminal justice system technology improvements:

- \$546,000 has been allocated to the San Francisco Department of Technology to purchase information technology equipment that will support critical JUSTIS information technology infrastructure expansion efforts; and,
- \$104,000 has been allocated to the San Francisco Adult Probation Department to purchase COMPAS from Northpointe, a State-supported comprehensive risk and needs assessment tool that will include the JUSTIS interface and facilitate decision making within the Adult Probation Department.

SPECIAL CONDITIONS REVIEWED AND CONSIDERED

Special Condition No. 8: To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the grantee can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

Special Condition No. 10: The recipient agrees that any information technology system funded or supported by OJP will comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 42 U.S. C. 3789g(c)-(d). Recipient may not satisfy such a fine with federal funds.

Special Condition No. 12: The recipient agrees to ensure that the State Information Technology Point of Contact receives written notification regarding any information technology project funded by this grant during the obligation and expenditure period. This is to facilitate communication among local and state governmental entities regarding various information technology projects being conducted with these grant funds. In addition, the recipient agrees to maintain an administrative file documenting the meeting of this requirement.

California Department of Justice
Primary Contact: William Stobie
4949 Broadway, D-214
Sacramento, California 95820
(916) 227-3043
william.stobie@doj.ca.gov

DETERMINATION OF APPLICABILITY

The table below details the applicability of the aforementioned special conditions to each information technology project proposed to be funded by Recovery Act JAG funds. Each determination was made after careful review and consideration by designated information technology staff within the Departments of Technology and Adult Probation, in consultation with other appropriate technical and supervisory staff. By confirming the applicability of a special condition, the department also agrees to comply with the requirements of that condition, as it pertains to their respective information technology project.

	JUSTIS Equipment		COMPAS Software	
	Deemed Applicable?			
	Special Condition	Yes	No	Yes
8		X		X
10	X		X	
12	X		X	

CERTIFICATION OF REVIEW, AUTHORITY AND COMPLIANCE

By signing below, the Designated IT Personnel certifies and the Department Head confirms that the individual: (1) has reviewed and understands the aforementioned special conditions pertaining to information technology projects funded by Recovery Act JAG funds; (2) is the most appropriate person within the department to determine the applicability of such special conditions to the departmental information technology project proposed to be funded by Recovery Act JAG funds; and, (3) agrees to ensure departmental compliance with each special condition deemed applicable throughout the duration of the grant award.

DEPARTMENT OF TECHNOLOGY

ADULT PROBATION DEPARTMENT

James J. Lubb, CISSP 11-3-2010
 Signature of Designated IT Personnel Date
[Signature] 11-3-10
 Signature of Department Head Date

[Signature] 11/1/2010
 Signature of Designated IT Personnel Date
[Signature] 11/1/2010
 Signature of Department Head Date

DEPARTMENT OF CHILDREN, YOUTH & THEIR FAMILIES

MAYOR'S OFFICE

[Signature] 10/22/10
 Signature of Department Head Date

[Signature] 11/16/2010
 Signature of Mayor's Policy Advisor Date

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF CONTRACT ADMINISTRATION

COPY

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT (this "Assignment") is made as of January 23, 2012, in San Francisco, California, by and between **Northpointe Institute for Public Management, Inc.** ("Assignor") and **Northpointe, Inc.** ("Assignee").

RECITALS

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

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

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

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

(a) **Agreement.** The term "Agreement" shall mean the Agreement dated the 7th day of March 2011 between Assignor and City and County of San Francisco, a municipal corporation ("City").

(b) **Effective Date.** "Effective Date" shall mean May 4, 2011.

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

2. **Assignment.** Assignor hereby assigns, transfers and conveys to Assignee all of Assignor's right, title and interest in and to the Agreement and all of Assignor's duties and obligations thereunder, to the extent arising on or after the Effective Date.

3. **Assumption.** Assignee hereby accepts the assignment transfer and conveyance set forth in Section 2 and agrees to perform all of Assignor's duties and obligations under the Agreement, to the extent arising on or after the Effective Date.

4. **Left Blank by Agreement of the Parties.**

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

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

7. **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.

8. **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.

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. Except as set forth in Section 12, 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: Brian Mattson
Northpointe Institute for Public Management, Inc.
112 N. Rubey Dr., Suite 135
Golden, CO 80403

If to Assignee: Northpointe, Inc.
Judy Kimminau
112 N. Rubey Dr. #135
Golden, CO 80403
Fax: (303) 216-9459
E-mail: Judy.kimminau@northpointeinc.com

If to City: Ms. Wendy S. Still
Chief Adult Probation Officer
San Francisco Adult Probation Department
880 Bryant Street, Room 200
San Francisco, CA 94103
Fax: (415) 553-1717;
E-mail: wendy.still@sfgov.org

12. **Consent of City; No Release of Assignor; Waivers.** Each of Assignor and Assignee acknowledges that the prior written consent of City to this Assignment is required under the

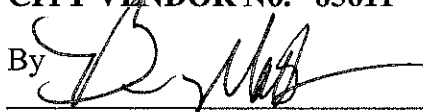
terms of the Agreement. City shall be a third party beneficiary of this Assignment (other than Section 4) and shall have the right to enforce this Assignment. Neither this Assignment nor the consent of City set forth below shall release Assignor in whole or in part from any of its obligations or duties under the Agreement if Assignee fails to perform or observe any such obligation or duty. Assignor has entered into this Assignment and obtained such consent of City based solely upon Assignor's independent investigation of Assignee's financial condition and ability to perform under the Agreement, and Assignor assumes full responsibility for obtaining any further information with respect to Assignee or the conduct of its business after the date of this Assignment. Assignor waives any right to require City to (a) proceed against any person or entity including Assignee, (b) proceed against or exhaust any security now or hereafter held in connection with the Agreement, or (c) pursue any other remedy in City's power. Assignor waives any defense arising by reason of any disability or other defense of Assignee or any other person, or by reason of the cessation from any cause whatsoever of the liability of Assignee or any other person. Assignor shall not have and hereby waives any right of subrogation to any of the rights of City against Assignee or any other person and Assignor waives any right to enforce any remedy of Assignor against Assignee (including, without limitation, Section 4(b)) or against any other person unless and until all obligations to City under the Agreement and this Assignment have been paid and satisfied in full. Assignor waives any benefit of any right to participate in any collateral or security whatsoever now or hereafter held by City with respect to the obligations under the Agreement. Assignor authorizes City, without notice or demand and without affecting Assignor's liability hereunder or under the Agreement to: (i) renew, modify or extend the time for performance of any obligation under the Agreement; (ii) take and hold security for the payment of any obligation under the Agreement and exchange, enforce, waive and release such security; and (iii) release or consent to an assignment by Assignee of all or any part of the Agreement.

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

ASSIGNOR

Northpointe Institute for Public
Management, Inc.
CITY VENDOR No. 83611

By

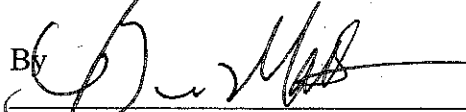


B. Mattson, GM
Name and Title

ASSIGNEE

Northpointe, Inc.
CITY VENDOR No. 85589

By

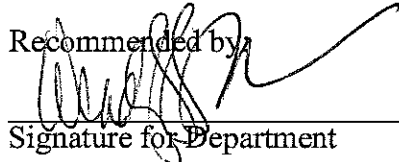


B. Mattson, GM
Name and Title

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



Signature for Department

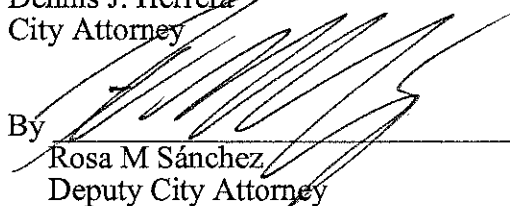
Wendy S. Still
Printed Name

Chief Adult Probation Officer
San Francisco Adult Probation Department
Title and Department

Approved as to Form:

Dennis J. Herrera
City Attorney

By



Rosa M. Sanchez
Deputy City Attorney

Approved:



Naomi Kelly
Director of Office of Contract Administration/ Purchaser

CERTIFICATE OF INSURANCE

SEE ENDORSEMENT # 142

NAMED INSURED

CONSTELLATION SOFTWARE INC. and
NORTHPOINTE INC.
1764 FOREST RIDGE DRIVE
TRAVERSE CITY, MI 49686

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies below.

INSURANCE COMPANIES AFFORDING COVERAGE

COMPANY
A Zurich Insurance Company Ltd. (AM Best rating A)

COMPANY
B Liberty Mutual Fire Insurance Company (AM Best rating A)

COMPANY
C

COMPANY
D

COMPANY
E Zurich American Insurance Company

CERTIFICATE HOLDER

SAN FRANCISCO ADULT PROBATION
880 BRYANT ST., ROOM 200
SAN FRANCISCO, CA 94103

COVERAGES

This is to certify that the policies of insurance listed below have been issued to the Insured named above for the policy period indicated, notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain. The insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.
LIMITS ARE IN U.S. DOLLARS UNLESS INDICATED OTHERWISE.

LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	CO LTR	POLICY NUMBER	POLICY EFFECTIVE DATE (YYYY/MM/DD)	POLICY EXPIRATION DATE (YYYY/MM/DD)	LIMITS OF LIABILITY	
COMMERCIAL GENERAL LIABILITY OCCURRENCE BASIS INCLUDING: PRODUCTS AND COMPLETED OPERATIONS CROSS LIABILITY / SEVERABILITY OF INTERESTS / BLANKET CONTRACTUAL LIABILITY PERSONAL INJURY \$1,000,000 LIMIT, ADVERTISING LIABILITY \$1,000,000 LIMIT TENANT'S LEGAL LIABILITY \$1,000,000 LIMIT, MEDICAL EXPENSES \$25,000 LIMIT WAIVER OF SUBROGATION WHERE REQUIRED BY WRITTEN CONTRACT	E	GLO8249874	2011/09/27	2012/09/27	\$ 1,000,000	EACH OCCURRENCE
					\$ 1,000,000	GENERAL AGGREGATE
					\$ 1,000,000	PRODUCTS - COMPLETED OPERATIONS AGGREGATE
ADDITIONAL INSURED: THE CITY AND COUNTY OF SAN FRANCISCO, ITS OFFICERS, AGENTS AND EMPLOYEES, AND SAN FRANCISCO ADULT PROBATION, ITS OFFICERS, AGENTS AND EMPLOYEES, but only with respect to liability arising out of the operations of the Named insured.						
Such insurance as is afforded by the Commercial General Liability coverage on this policy will be considered as primary insurance, not contributory and not excess of any other insurance.						
NON-OWNED & HIRED AUTOMOBILE LIABILITY	A	8839016	2011/09/27	2012/09/27	\$1,000,000	EACH OCCURRENCE
ADDITIONAL INSURED: THE CITY AND COUNTY OF SAN FRANCISCO, ITS OFFICERS, AGENTS AND EMPLOYEES, AND SAN FRANCISCO ADULT PROBATION, ITS OFFICERS, AGENTS AND EMPLOYEES, but only with respect to liability arising out of the operations of the Named insured.						
UMBRELLA LIABILITY	A	8838706	2011/09/27	2012/09/27	\$14,000,000	PER OCCURRENCE & IN THE AGGREGATE
NOT APPLICABLE						
PROFESSIONAL LIABILITY AND TECHNOLOGY ERRORS & OMISSIONS CLAIMS MADE BASIS \$500,000 DEDUCTIBLE	E	IPR0435933200	2011/09/27	2012/09/27	\$ 5,000,000	PER CLAIM & IN THE AGGREGATE
NOT APPLICABLE						
NOT APPLICABLE	E	MCP4476069				
NOT APPLICABLE						
WORKERS COMPENSATION & EMPLOYER'S LIABILITY WC - STATUTORY LIMITS INCLUDING WAIVER OF SUBROGATION WHERE REQUIRED BY WRITTEN CONTRACT	B	WC2-B71-170802	2011/09/27	2012/09/27	\$ 1,000,000	EL: -EACH ACCIDENT -EACH DISEASE/ EMPLOYEE -DISEASE POLICY LIMIT

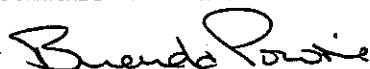
DESCRIPTION OF OPERATIONS / LOCATIONS / SPECIAL PROVISIONS:**BROKER**

The CG&B Group Inc.
120 South Town Centre Blvd.
Markham, ON L6G 1C3

CANCELLATION

Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavour to mail 30 days written notice to the certificate holder named above. Failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives

SIGNATURE OF AUTHORIZED REPRESENTATIVE



PRINT NAME

BRENDA POWRIE

DATE (YYYY/MM/DD)

2012/01/24

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

First Amendment

THIS AMENDMENT (this "Amendment") is made as of **August 30, 2012**, in San Francisco, California, by and between **Northpointe, Inc.** ("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 update standard contractual clauses;

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 **March 7, 2011** between Contractor and City, as amended by the **Assignment and Assumption Agreement** dated **January 23, 2012**.

1b. 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. Appendix A, "Statement of Work," Section 8.1, "Milestones with Payment Schedules," Milestones # 0 – 2, of the Agreement currently reads as follows:

8.1 MILESTONES WITH PAYMENT SCHEDULE

Milestone #	Estimated Duration (Business Days)	Milestones	Payment Amount
0	3 days	On signing of the Agreement, Contractor's design engineer(s) will be scheduled to come to City Site for at least 3 Business Days to collect and finalize the requirements for Milestone #1 and Milestone #2.	

1	Within 30 Days following the Contractor's requirements visit	Contractor completes and delivers first Iteration of written detailed functional requirements, and System architecture to the City Project Manager, completing milestone #1	
2	City Approves and Accepts First Iteration Requirements Spec within 20 days following its delivery by Contractor	City reviews mutually derived Functional Requirements in Milestone #1. Upon the City approval of first Iteration requirements (milestone sign-off) the payment will be authorized by the City	\$158,600

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

8.1 MILESTONES WITH PAYMENT SCHEDULE

Milestone #	Estimated Duration (Business Days)	Milestones	Payment Amount
0	3 days	On signing of the Agreement, Contractor's design engineer(s) will be scheduled to come to City Site for at least 3 Business Days to collect and finalize the requirements for Milestone #1 and Milestone #2.	
1	Within 30 Days following the Contractor's requirements visit	Contractor completes and delivers first Iteration of written detailed functional requirements, and System architecture to the City Project Manager, completing milestone #1	
2a		Contractor delivers mutually derived Functional Requirements in Milestone #1 as they become available for City's use and continued testing prior to City's approval of all required Functional Requirements in Milestone 2b.	\$53,500
2b	City Approves and Accepts First Iteration Requirements Spec within 20 days following its delivery by Contractor	City reviews mutually derived Functional Requirements in Milestone #1. Upon the City approval of first Iteration requirements (milestone sign-off) the payment will be authorized by the City	\$105,100

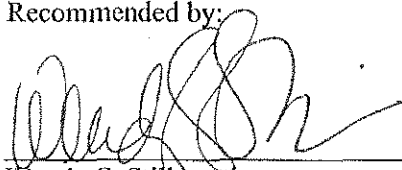
3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after the date of this Amendment.

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

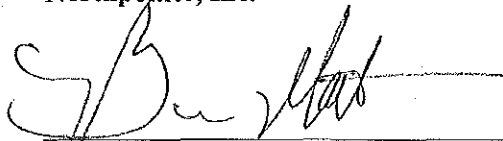
Recommended by:



Wendy S. Still
Chief Adult Probation Officer
San Francisco Adult Probation Department

CONTRACTOR

Northpointe, Inc.

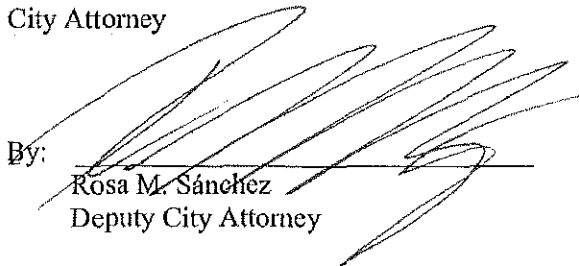


Brian Mattson
General Manager
112 N. Rubey Dr., Suite 135
Golden, CO 80403

City vendor number: 85589

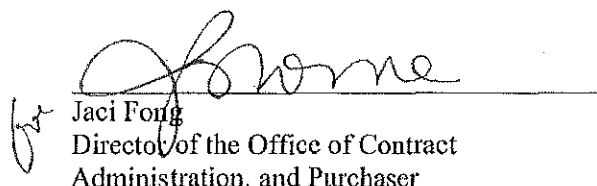
Approved as to Form:

Dennis J. Herrera
City Attorney

By: 

Rosa M. Sanchez
Deputy City Attorney

Approved:


for Jaci Fong
Director of the Office of Contract
Administration, and Purchaser

CERTIFICATE OF INSURANCE

SEE ENDORSEMENT # 142

NAMED INSURED

CONSTELLATION SOFTWARE INC. and
NORTHPOINTE INC.
1764 FOREST RIDGE DRIVE
TRAVERSE CITY, MI 49686

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies below.

INSURANCE COMPANIES AFFORDING COVERAGE**COMPANY****A** Zurich Insurance Company Ltd. (AM Best rating A)**COMPANY****B** Liberty Mutual Fire Insurance Company (AM Best rating A)**COMPANY****C****COMPANY****D****COMPANY****E** Zurich American Insurance Company**CERTIFICATE HOLDER**

SAN FRANCISCO ADULT PROBATION
880 BRYANT ST., ROOM 200
SAN FRANCISCO, CA 94103

COVERAGES

This is to certify that the policies of insurance listed below have been issued to the insured named above for the policy period indicated, notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain. The insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies. LIMITS ARE IN U.S. DOLLARS UNLESS INDICATED OTHERWISE.

LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	CO LTR	POLICY NUMBER	POLICY EFFECTIVE DATE (YYYY/MM/DD)	POLICY EXPIRATION DATE (YYYY/MM/DD)	LIMITS OF LIABILITY	
COMMERCIAL GENERAL LIABILITY OCCURRENCE BASIS INCLUDING: PRODUCTS AND COMPLETED OPERATIONS GROSS LIABILITY / SEVERABILITY OF INTERESTS / BLANKET CONTRACTUAL LIABILITY PERSONAL INJURY \$1,000,000 LIMIT, ADVERTISING LIABILITY \$1,000,000 LIMIT TENANT'S LEGAL LIABILITY \$1,000,000 LIMIT, MEDICAL EXPENSES \$25,000 LIMIT WAIVER OF SUBROGATION WHERE REQUIRED BY WRITTEN CONTRACT	E	GLO8249874	2011/09/27	2012/09/27	\$ 1,000,000	EACH OCCURRENCE
					\$ 1,000,000	GENERAL AGGREGATE
					\$ 1,000,000	PRODUCTS - COMPLETED OPERATIONS AGGREGATE

ADDITIONAL INSURED: THE CITY AND COUNTY OF SAN FRANCISCO, ITS OFFICERS, AGENTS AND EMPLOYEES, AND SAN FRANCISCO ADULT PROBATION, ITS OFFICERS, AGENTS AND EMPLOYEES, but only with respect to liability arising out of the operations of the Named Insured.

Such insurance as is afforded by the Commercial General Liability coverage on this policy will be considered as primary insurance, not contributory and not excess of any other insurance.

NON-OWNED & HIRED AUTOMOBILE LIABILITY	A	8839016	2011/09/27	2012/09/27	\$1,000,000	EACH OCCURRENCE
ADDITIONAL INSURED: THE CITY AND COUNTY OF SAN FRANCISCO, ITS OFFICERS, AGENTS AND EMPLOYEES, AND SAN FRANCISCO ADULT PROBATION, ITS OFFICERS, AGENTS AND EMPLOYEES, but only with respect to liability arising out of the operations of the Named Insured.						

UMBRELLA LIABILITY	A	8838706	2011/09/27	2012/09/27	\$14,000,000	PER OCCURRENCE & IN THE AGGREGATE
NOT APPLICABLE						

PROFESSIONAL LIABILITY AND TECHNOLOGY ERRORS & OMISSIONS CLAIMS MADE BASIS \$500,000 DEDUCTIBLE	E	IPR0435933200	2011/09/27	2012/09/27	\$ 5,000,000	PER CLAIM & IN THE AGGREGATE
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NOT APPLICABLE						
NOT APPLICABLE	E	MCP4476069				

NOT APPLICABLE						
WORKERS COMPENSATION & EMPLOYER'S LIABILITY WC - STATUTORY LIMITS INCLUDING WAIVER OF SUBROGATION WHERE REQUIRED BY WRITTEN CONTRACT	B	WC2-B71-170802	2011/09/27	2012/09/27	\$ 1,000,000	EL: -EACH ACCIDENT -EACH DISEASE/ EMPLOYEE -DISEASE POLICY LIMIT

DESCRIPTION OF OPERATIONS / LOCATIONS / SPECIAL PROVISIONS:**BROKER**

The CG&B Group Inc.
120 South Town Centre Blvd.
Markham, ON L6G 1C3

CANCELLATION

Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavour to mail 30 days written notice to the certificate holder named above. Failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives

SIGNATURE OF AUTHORIZED REPRESENTATIVE



PRINT NAME

BRENDA POWRIE

DATE (YYYY/MM/DD)

2012/01/24

**CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF CONTRACT ADMINISTRATION**

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT (this "Assignment") is made as of January 23, 2012, in San Francisco, California, by and between **Northpointe Institute for Public Management, Inc.** ("Assignor") and **Northpointe, Inc.** ("Assignee").

RECITALS

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

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

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

1. **Definitions.** The following definitions shall apply to this Assignment:
 - (a) **Agreement.** The term "Agreement" shall mean the Agreement dated the 7th day of March 2011 between Assignor and City and County of San Francisco, a municipal corporation ("City").
 - (b) **Effective Date.** "Effective Date" shall mean May 4, 2011.
 - (c) **Other Terms.** Terms used and not defined in this Assignment shall have the meanings assigned to such terms in the Agreement.
2. **Assignment.** Assignor hereby assigns; transfers and conveys to Assignee all of Assignor's right, title and interest in and to the Agreement and all of Assignor's duties and obligations thereunder, to the extent arising on or after the Effective Date.
3. **Assumption.** Assignee hereby accepts the assignment transfer and conveyance set forth in Section 2 and agrees to perform all of Assignor's duties and obligations under the Agreement, to the extent arising on or after the Effective Date.
4. **Left Blank by Agreement of the Parties.**
5. **Governing Law.** This Assignment shall be governed by the laws of the State of California, without regard to its conflict of laws principles.
6. **Headings.** All section headings and captions contained in this Assignment are for reference only and shall not be considered in construing this Assignment.
7. **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.