

Buyer: WKP

CONTRACT NUMBER: 009816

Event # NPC

CONTRACT between the COUNTY OF OAKLAND and CONTRACTOR

Not To Exceed Amount: \$1,069,700.00		Effective Date: 9/1/2022	Expiration Date: 8/31/2027
Contract Description:	Imaging Replacement System - P		
Contractor Address:		Contract Administrator:	
COMPULINK MANAGEMENT CENTER INC 3443 Long Beach Blvd Long Beach, CA 90807 <b>Vendor No: 20416</b>		Peter Wayman COMPULINK MANAGEMENT CENTER INC Peter.Wayman@Laserfiche.com	
Buyer and Purchasing Information:		County Contract Administrator and Using Department:	
Wendy Pucher OAKLAND COUNTY 2100 Pontiac Lake Rd 41W Waterford, MI 48328-2762 248-858-0511 purchasing@oakgov.com		Mike Timm OAKLAND COUNTY IT 1200 N. Telegraph Rd. Building 49 West Pontiac, MI 48341 248/858-0857 timmmr@oakgov.com	

The County and Contractor may be referred to individually as a "Party" or collectively as the "Parties." The Parties agree to the attached terms and conditions:

**FOR THE CONTRACTOR:**

SIGN: Peter Wayman  
Peter Wayman (Sep 19, 2022 15:34 PDT)

**FOR THE COUNTY:**

SIGN: Michael R Timm  
Michael R Timm (Sep 20, 2022 07:34 EDT)  
Contract Administrator

SIGN: Scott N. Guzzy  
Scott N. Guzzy (Sep 20, 2022 07:36 EDT)  
Scott N. Guzzy, CPPO, MBA, Purchasing Administrator

cjs

This Contract is organized and divided into the following Sections for the convenience of the Parties.

- Section 1. Contract Purpose
- Section 2. Contract Definitions
- Section 3. Contract Term and Renewal
- Section 4. Contract Administration and Amendments
- Section 5. Contract Termination
- Section 6. Scope of Deliverables and Financial/Payment Obligations
- Section 7. Contractor's Warranties and Assurances
- Section 8. Liability
- Section 9. Contractor Provided Insurance
- Section 10. Intellectual Property and Confidentiality
- Section 11. General Terms and Conditions

#### **CONTRACT PURPOSE**

- 1.1. After a competitive bidding and selection process by County, Contractor was chosen to provide services, described more fully in the Scope of Services Exhibits, to County. Contractor desires to extend the terms and conditions in this Contract to a PPB, to enable it to make purchases from Contractor according to the terms herein. A model Agreement to be used by PPBs is provided in Exhibit VII. Contractor may negotiate customized terms with the PPB at its own discretion. Contractor is under no obligation to provide services described in this Contract to a PPB if the Parties are not able to agree on customized terms.
- 1.2. County shall not be a party to a contract between Contractor and a PPB. County shall not have any liability, of any sort, for any harm or action that may arise from purchases made by any PPB pursuant to the terms of this Contract.
- 1.3. PPBs must deal directly with Contractor for any transactions such as purchases, invoices, price questions, disputes, etc. that relate to their individual agreement with Contractor. Contractor must respond timely to PPB inquiries. Failure to do so may result in County removing the Contract and Contractor's Information from the G2G MarketPlace Website.
- 1.4. County shall place this Contract and any amendments to it, on its G2G MarketPlace Website. County will provide the following information on its G2G MarketPlace Website:
  - 1.4.1. Identify Contractor on its G2G MarketPlace Website, this Contract and amendments, if applicable, and a summary of the services.
  - 1.4.2. State that the Contract was the result of a competitive bidding process.
  - 1.4.3. Provide Contractor's phone and email address for inquiries.
  - 1.4.4. Acknowledge that County and the PPB will receive a benefit from purchases subject to this Contract.

- 1.4.5. Provide a County contact to answer questions concerning the expiration date of the Contract, the procedure for purchasing off the Contract, and the competitive bidding process followed by County.
- 1.5. Contractor shall provide the following information to County and shall update the information timely whenever changes occur.
  - 1.5.1. Description of Contractor's services and products, contact information, and training opportunities for County to place on the G2G MarketPlace Website.
  - 1.5.2. Every four months a "**Contract Usage Statement**" which means the names, Scope of Services selected, quantities purchased, and dollar amount of each agreement signed by a PPB using this Contract. Contractor may provide the dollar amount of an agreement only if a PPB will not permit disclosure of the other items.
  - 1.5.3. The names of two representatives to act as a primary and secondary point of contact to provide County with the Contract Usage Statements and other information required in this Contract.
- 1.6. In recognition of the benefits to Contractor for County providing information to PPBs and potential participants, and the cost savings to Contractor for having this information available, Contractor shall provide County the G2G Fee described in a later section.

#### **CONTRACT DEFINITIONS**

The following words when printed with the first letter capitalized shall be defined and interpreted as follows, whether used in the singular or plural, nominative or possessive case, and with or without quotation marks:

- 1.7. "**Amendment**" means any change, clarification, or modification to this Contract.
- 1.8. "**Business Day**" means Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding County designated holidays.
- 1.9. "**Claims**" means any loss; complaint; demand for relief or damages; lawsuit; cause of action; proceeding; judgment; penalty; costs or other liability of any kind which is imposed on, incurred by, or asserted against the County or for which the County may become legally or contractually obligated to pay or defend against, whether commenced or threatened, including, but not limited to, reimbursement for reasonable attorney fees, mediation, facilitation, arbitration fees, witness fees, court costs, investigation expenses, litigation expenses, or amounts paid in settlement.
- 1.10. "**Confidential Information**" means all information and data that the County is required or permitted by law to keep confidential and the County's source code, object code, security procedures, and passwords.
- 1.11. "**Contract**" means this document and any other documents expressly incorporated herein.
- 1.12. "**Contractor**" means the entity or person listed under "Contractor" on the first page of this Contract.
- 1.13. "**Contractor Employee**" means any employee; officer; director; or manager of Contractor. Contractor Employee shall also include any person who was a Contractor Employee at any time during the term of this Contract but, for any reason, is no longer employed, appointed, or elected in that capacity.

1.14. **“Contract Documents”** mean the following documents, which this Contract includes and incorporates:

**Exhibits (Applicable if Checked)**

- 1.14.1. ☒ Exhibit I: Contractor Insurance Requirements
- 1.14.2. ☒ Exhibit II: Business Associate Agreement (Health Insurance Portability and Accountability Act Requirements)
- 1.14.3. ☒ Exhibit III: License for Use of County Servicemark
- 1.14.4. ☒ Exhibit IV: Software License
- 1.14.5. ☐ Exhibit V: Reserved
- 1.14.6. ☒ Exhibit VI: Scope of Contractor Deliverables/Financial Obligations (“Statement of Work”)
- 1.14.7. ☒ Exhibit VII: PPB Model Agreement
- 1.15. **“County”** means the County of Oakland, a Municipal and Constitutional Corporation, its departments, divisions, authorities, boards, committees, and “County Agents” as defined below.
- 1.16. **“County Agent”** means any elected and appointed officials; directors; board members; council members; commissioners; employees; and volunteers of the County; whether acting in their personal, representative, or official capacities. “County Agent” shall also include any person who was a “County Agent” anytime during the term of this Contract but, for any reason, is no longer employed, appointed, or elected and in that capacity.
- 1.17. **“County Data”** means information or data provided by County to Contractor in the performance of this Contract, including, but not limited to any personally identifiable information such as names, e-mail addresses, passwords, phone numbers, and home or business addresses. County Data includes Confidential Information as defined in this Contract.
- 1.18. **“Day”** means any calendar day, which shall begin at 12:00:00 a.m. and end at 11:59:59 p.m., Eastern Time.
- 1.19. **“Deliverables”** means goods and/or services provided under this Contract, whether tangible or intangible, and more specifically described in the Exhibits .
- 1.20. **“Effective Date”** means midnight on the effective date listed on the first page of this Contract.
- 1.21. **“Expiration Date”** means 11:59.59 p.m. on the expiration date listed on the first page of this Contract.
- 1.22. **“E-Verify”** means an Internet based system operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA) that allows participating employers to electronically verify the employment eligibility of their newly hired employees. Information and the registration process are found at the E-Verify website: <https://e-verify.uscis.gov/enroll>.
- 1.23. **“G2G MarketPlace Website”** means an Internet site used by County to provide information to PPBs about businesses providing services to County and agreements used by County and available to PPBs to procure services.

- 1.24. **"Intellectual Property"** means any developments, improvements, designs, innovation, and materials that may be the subject of a trademark/servicemark, copyright, patent, trade secret, or Proprietary Information.
- 1.25. **"Iran-Linked Business"** is defined in the Michigan Compiled Laws (MCL), specifically MCL 129.312, being Section 2 of Public Act 517 of 2012.
- 1.26. **"Not to Exceed Amount"** means the dollar amount listed on the first page of this Contract, unless amended. The "Not to Exceed Amount" is not the County's financial obligation under this Contract, but the maximum amount that can be paid to Contractor during the term of this Contract.
- 1.27. **"PPB"** which stands for Participating Public Body, means an entity created by state or Federal law which is primarily funded by or through a governmental authority and which registers to access County's G2G MarketPlace Website.
- 1.28. **"Proposal"** means Contractor's response or bid to the County's Request for Proposal, Request for Qualifications, or Request for Quotes.
- 1.29. **"Proprietary Information"** means ideas, concepts, inventions, and processes related to the development and operation of computer software and systems such as source code, object code, security procedures, and passwords.
- 1.30. **"Purchase Order"** means the County's written request to Contractor for Deliverables pursuant to this Contract. The Purchase Order may include terms regarding delivery schedule, payment, and transportation.
- 1.31. **"Purchasing"** means the Purchasing Unit of the Oakland County Compliance Office.

#### **CONTRACT TERM AND RENEWAL**

- 1.32. **Contract Term.** This Contract shall begin on the Effective Date and shall end on the Expiration Date.
- 1.33. **Contract Renewal.** Unless otherwise provided herein, the Parties are under no obligation to renew or extend this Contract after the Expiration Date. This Contract may only be extended by an Amendment.
- 1.34. **Legal Effect.** This Contract shall be effective and binding when all of the following occur: (a) this Contract is signed by a Contractor Employee, legally authorized to bind Contractor; (b) this Contract is signed by an authorized County Agent; (c) all Contractor certificates of insurance, required by this Contract, are submitted and accepted by Purchasing; and (d) any other conditions precedent to this Contract have been met.

#### **CONTRACT ADMINISTRATION AND AMENDMENTS**

- 1.35. **Contract and Purchase Order Issuance.** Purchasing shall issue this Contract and any Purchase Orders that may be required. Purchasing is the sole point of contact in the County regarding all procurement and contractual matters relating to this Contract and any Purchase Orders. Purchasing is the only County office/department authorized to make any Amendments to this Contract or Purchase Orders.
- 1.36. **Purchase Orders.** Purchase Orders issued under this Contract are governed by the terms and conditions of this Contract and are included and incorporated herein.

- 1.37. **Project Managers.** Each Party may designate an employee or agent to act as a Project Manager. If Project Managers are selected, they shall be listed in Exhibit VI Scope of Contractor Deliverables/Financial Obligations ("Statement of Work"). The County's Project Manager has no authority to amend this Contract.
- 1.38. **Contract Administrators.** The County shall designate an employee or agent to act as Contract Administrator(s). Contractor may designate its employee or agent to act as Contract Administrator(s). The Contract Administrators shall be listed on the first page of this Contract. The County's Contract Administrator(s) shall be responsible for monitoring and coordinating day-to-day activities under this Contract, reviewing Deliverables and invoices, and submitting requests for Amendments to Purchasing. The County's Contract Administrator(s) have no authority to amend this Contract.
- 1.39. **Contract Amendments.** All Amendments to this Contract must be in writing. This Contract shall not be amended by any packing slip, Purchase Order, invoice, click through license agreement, or Contractor policies or agreements published on Contractor's website or otherwise. Amendments to this Contract shall be issued only by Purchasing. The Amendment shall be effective when signed by an authorized Contractor Employee and an authorized County Agent.
- 1.40. **Unauthorized Changes.** Contract changes shall not be effective until an Amendment containing the change is executed according to the procedures described in this Contract. Contractor will not be responsible for any delay that results from the negotiations of the Amendment and obtaining the County's approval. If the Contractor is directed to perform work that Contractor believes is a change in the Contract/Deliverables, then Contractor must notify Purchasing that it believes the requested work is a change to the Contract before performing the requested work. If Contractor begins the requested work without authorization or knowledge of Purchasing, then the County may deny or reduce payment to Contractor for any claims for additional compensation for performing the requested work, but only if and to the extent that County in good faith concludes that the amount claimed by Contractor exceeded the reasonable value of the work performed. If Contractor begins work that is outside the scope of this Contract or begins work before an Amendment is executed and then stops performing that work, Contractor must, at the request of the County, undo any out-of-scope work that the County believes would adversely affect the County.
- 1.41. **Precedence of Contract Documents.** In the event of a conflict, the terms and conditions contained in Sections 1 through 11 of this Contract shall prevail and take precedence over any allegedly conflicting provisions in all Contract Documents, Exhibits, Purchase Orders, Amendments, and other documents expressly incorporated herein. Terms and conditions contained in Contractor invoices, packing slips, receipts, acknowledgments, click-through licenses, and similar documents shall not change the terms and conditions of this Contract. Pre-Contract statements, presentations, promises, proposals, discussions, negotiations, and other communications between the parties will not be incorporated into the Contract or be binding on the Parties.

#### **CONTRACT TERMINATION**

- 1.42. **County Termination.** In addition to any other legal rights the County may have to terminate or cancel this Contract, the County may terminate the Contract as follows:

- 1.42.1. **Immediate Termination.** The County may terminate or cancel this Contract, in whole or in part, immediately, upon notice to Contractor, if any of the following occur: (a) Contractor, officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense; or (b) if any third-party funding for this Contract is reduced or terminated.
- 1.42.2. **Termination for Convenience.** The County may terminate or cancel this Contract, in whole or part, at any time, upon ninety (90) Days' notice to Contractor, for any reason, including convenience without incurring obligation or penalty of any kind. The effective date for termination or cancellation shall be clearly stated in the notice.
- 1.43. **Contractor Termination.** Contractor may terminate or cancel this Contract, in whole or part, upon on ninety (90) Days' notice to the County, if the County breaches any duty or obligation contained herein and within such notice period has failed or has not attempted to cure the breach before expiration of the notice period. The effective date of termination or cancellation and the specific alleged default shall be clearly stated in the notice to the County.
- 1.44. **County's Obligations Upon Termination.** The County's sole obligation in the event of termination or cancellation of this Contract is for payment of the actual Deliverables provided to the County before the effective date of termination. Under no circumstances shall the County be liable for any future loss of income, profits, any consequential damages, any loss of business opportunities, revenues, or any other economic benefit Contractor may have realized but for the termination or cancellation of this Contract. The County shall not be obligated to pay Contractor any cancellation or termination fee if this Contract is cancelled or terminated as provided herein. If the County chooses to terminate the Contract in part, then the charges payable under this Contract must be equitably adjusted to reflect those Deliverables that are terminated.
- 1.45. **Contractor's Obligations Upon Termination.** If the County terminates this Contract, for any reason, then Contractor must do the following: (a) cease providing all Deliverables as specified at the time stated in the notice of termination; (b) take any action necessary, or as the County may reasonably direct, to preserve and protect Deliverables or other property derived or resulting from the Contract that are in Contractor's possession; and (c) return all materials, property, and County Data provided to Contractor by the County and (d) take any action to mitigate and limit any potential damages, as required by applicable law. Under no circumstances shall Contractor be liable for any future loss of income, profits, any consequential damages, any loss of business opportunities, revenues, or any other economic benefit the County may have realized but for the termination or cancellation of this Contract. Contractor shall not be obligated to pay the County any cancellation or termination fee if this Contract is cancelled or terminated as provided herein. If Contractor chooses to terminate the Contract in part, then the charges payable to Contractor under this Contract must be equitably adjusted to reflect those Deliverables that are terminated.
- 1.46. **Assumption of Subcontracts.** If the County terminates this Contract for breach by Contractor which is not cured as required by this Contract, then the County may assume, at its option, any subcontracts for Deliverables provided under the Contract and may pursue completion of the Deliverables by replacement Contract or otherwise as the County, in its sole judgment, deems expedient at the County's expense.



**SCOPE OF DELIVERABLES AND FINANCIAL/PAYMENT OBLIGATIONS**

- 1.47. **Performance of Deliverables.** Contractor shall provide all Deliverables identified in and as set forth in Exhibit VI, any Purchase Orders, or any Amendments to this Contract.
- 1.48. **Software License.** If this Contract includes a Software License as described in Exhibit IV, then the Parties shall follow the terms and conditions therein. Any applicable third party Software License(s) are also provided in Exhibit IV. Unless specifically agreed to by County, if County Agents are required to accept click through license terms to access any of the Deliverables in this Contract, the terms and conditions of those click through licenses are without force and effect.
- 1.49. **Financial Obligations.** Except as otherwise set forth in this Contract, the County's sole financial obligation under this Contract shall be set forth in the Exhibits. The amount and manner of payment of the financial obligation shall be set forth in Exhibit VI Scope of Contractor Deliverables/Financial Obligations ("Statement of Work") if applicable, or a Purchase Order.
- 1.50. **Payment Obligations.** Except as otherwise set forth in the Exhibits, Contractor shall submit an invoice to the County's Contract Administrator itemizing amounts due and owing under this Contract, as of the date of the invoice. Invoices shall contain the following information: (a) County Contract Number; (b) dates of Deliverables; (c) itemized list of Deliverables; (d) Contractor Tax ID Number (federal and State); (e) licenses; and (f) any other information requested by Purchasing. The County shall have no obligation to make a payment under this Contract until an invoice is submitted in the form set forth herein and shall have no obligation to pay for Deliverables, which have not been invoiced (as required herein) within sixty (60) Days of Contractor's performance unless otherwise set forth in the Exhibits. Unless otherwise set forth in Exhibit VI, the County shall only pay Contractor for Deliverables under this Contract and not any subcontractors or assignees of Contractor.
- 1.51. **Reserved.**
- 1.52. **Reserved.**
- 1.53. **Reserved.**
- 1.54. **Reserved.**
- 1.55. **Not to Exceed Amount.** The amount due and owing to Contractor, under this Contract, shall not exceed the "Not to Exceed Amount." If Contractor can reasonably foresee that the total financial obligation for the Contract will exceed the "Not to Exceed Amount," then Contractor shall provide Purchasing with notice of this fact at least ten (10) Days before this event.
- 1.56. **No Obligation for Penalties/Costs/Fines.** Neither Party shall be responsible for any cost; fee; fine; penalty; or direct, indirect, special, incidental, or consequential damages incurred or suffered by the other Party in connection with or resulting from the performance of this Contract under any circumstances.
- 1.57. **Set-Off of County Costs.** The County has the right to offset the amount of any County-provided equipment, supplies, or identification badges that are not returned by Contractor upon completion of the Services provided under this Contract; provided upon the subsequent return of such property by Contractor, the amounts previously withheld to offset the value of such property shall become immediate due and payable.



- 1.58. **In-Kind Services.** Unless expressly provided herein, this Contract does not authorize any in-kind services by either Party.
- 1.59. **County's G2G MarketPlace Administration.** Contractor has agreed to pay a marketing and administrative fee to the County to defray the County's cost in implementing, supporting, and administering its G2G MarketPlace Website ("**G2G Fee**"). Therefore, beginning in the second year of the Contract, Contractor will pay a G2G Fee to the County through the issuance of an annual credit valid for one year or other mutually agreed upon means. The G2G Fee will correspond to one percent (1%) of the revenue that Contractor has received from sales of Contractor's software and first-year LSAPs to PPBs who purchase software directly from Contractor through the G2G MarketPlace Website. Revenue from Contractor's professional services and support (other than first-year LSAPs) will be excluded in determining the G2G Fee. The G2G Fee is solely applicable if Contractor enters into G2G MarketPlace Website contracts with PPBs and receives payment from the PPB for software purchased. In no event will the G2G Fee payable in any year exceed the total annual LSAP payments by the County to Contractor for that year.
- 1.59.1. **Reserved.**
- 1.59.2. **Reserved.**

#### **CONTRACTOR'S WARRANTIES AND ASSURANCES**

- 1.60. **Full Knowledge of Contract Expectations.** Contractor warrants that it had a reasonable opportunity to review all County requirements and/or expectations for this Contract that the County has furnished to Contractor in writing. Contractor is responsible for being adequately and properly prepared to execute this Contract. To the best of its current actual knowledge, Contractor will be able to perform the Contract as specified herein.
- 1.61. **Complete and Accurate Representations.** Contractor certifies that all statements, assurances, records, and materials submitted to the County in connection with seeking and obtaining this Contract have been truthful, complete, and accurate to the best of Contractor's knowledge.
- 1.62. **Access to Contractor Policies.** If the Parties agree in this Contract to follow any Contractor policies, such as acceptable use or privacy policies, then Contractor shall retain each version of such policies and the effective dates and shall promptly provide such to the County, if requested.
- 1.63. **Grant Compliance.** If any part of this Contract is supported or paid for with any State, federal, or other third-party funds granted to the County, then Contractor shall comply with all applicable grant requirements furnished by the County to Contractor before the work commences.
- 1.64. **Contractor Incidental Expenses.** Except as otherwise expressly provided in this Contract, Contractor shall be solely responsible and liable for all costs and expenses associated or needed to perform this Contract, including, but not limited to, any professional dues, association fees, license fees, fines, taxes, and penalties.
- 1.65. **Equipment and Supplies.** Contractor is responsible for providing all equipment and supplies to perform this Contract, which are not expressly required to be provided by the County.

1.66. **Contractor Employees.**

- 1.66.1. **Number and Qualifications of Contractor Employees.** Contractor shall assign qualified Contractor Employees as necessary and appropriate to perform this Contract. Contractor shall ensure all Contractor Employees have the knowledge, skill, and qualifications to perform this Contract and possess any necessary licenses, permits, certificates, and governmental authorizations as may be required by law.
- 1.66.2. **Control and Supervision of Contractor Employees.** Contractor shall solely control, direct, and supervise all Contractor Employees with respect to all Contractor obligations under this Contract. Contractor will be solely responsible for and fully liable for the conduct and supervision of any Contractor Employees.
- 1.66.3. **Use of Subcontractors** Contractor shall not use any subcontractors to fulfill any obligations under this Contract without the express written permission of County.
- 1.66.4. **Removal or Reassignment of Personnel at the County's Request.** Contractor shall remove a Contractor Employee performing work under this Contract at the County's request provided that the County's request is based on legitimate, good-faith reasons. Replacement personnel for the removed person must be fully qualified for the position. If the removal of a Contractor Employee results in an unanticipated delay, which is attributable to the County, then this delay shall not be considered a breach of the Contract and the terms and conditions of this Contract affected by the removal will be adjusted accordingly.
- 1.66.5. **Contractor Employee Identification.** If requested by the County, Contractor Employees shall wear and display appropriate County-provided identification at all times while working on County premises. Contractor shall return all County-provided identification upon completion of Contractor's obligations under this Contract.
- 1.66.6. **Background Checks.** At the County's request, Contractor Employees performing work under this Contract shall be subject to a background check by the County. The scope of the background check is at the discretion of the County and the results will be used to determine Contractor Employee's eligibility to perform work under this Contract. Any request for background checks initiated by the County will be reasonably related to the type of work requested and will be paid for by the County. Contractor and Contractor Employees shall provide all information or documents necessary to perform the background check.
- 1.66.7. **Compliance with County Security Policies and Use Policies.** Contractor shall require all Contractor Employees to comply with the County's security and acceptable use policies for County property (tangible and intangible), equipment, resources, facilities, and systems. Upon request, the County shall provide such policies to Contractor.
- 1.66.8. **Contractor Employee Expenses.** All Contractor Employees shall be employed at the Contractor's sole expense (including employment-related taxes and insurance). Contractor warrants that all Contractor Employees shall fully comply with and adhere to the terms of this Contract. Contractor shall be solely liable for all applicable Contractor Employees' federal, state, or local payment withholdings or contributions and/or all Contractor Employee related pension or welfare benefits plan contributions under federal or state law. Contractor shall indemnify and hold the County harmless for all Claims

against the County by any Contractor Employee, arising out of any contract for hire or employer-employee relationship between Contractor and any Contractor Employee including, but not limited to, Worker's Compensation, disability pay, or other insurance of any kind.

- 1.66.9. **Contractor's Compliance with the Patient Protection and Affordable Care Act.** If Contractor is subject to the Patient Protection and Affordable Care Act ("ACA"), PL 111-148, 124 Stat 119, then Contractor shall ensure that all Contractor's own employees, under assignment to the County, and their dependents, as defined by the ACA, are provided with or have access to insurance as required by the ACA. If Contractor is subject to the ACA, Contractor warrants it offers group health coverage to Contractor's own employees and their dependents that is affordable, that provides minimum essential coverage and value, and that each offer of coverage meets the timing requirements of the ACA. Contractor warrants, whether or not it is subject to the ACA, that it will pay all applicable fees, taxes, or fines, as set forth in the employer mandates of the ACA under Tax Code §4980H and related regulations for any Contractor employee, whether the fee, tax, or fine is assessed against the Contractor or the County.
- 1.67. **Acknowledgment of Independent Contractor Status.**
- 1.67.1. **Independent Contractor.** Nothing in this Contract is intended to establish an employer-employee relationship between the County and Contractor or any Contractor Employee. In no event, shall Contractor Employees be deemed employees, agents, volunteers, or subcontractors of the County. Contractor shall ensure that Contractor Employees are apprised of their status as independent contractors and the limitations of this status.
- 1.67.2. **Contractor/Contractor Employee Representations.** Contractor and/or Contractor Employees shall not represent themselves as County employees. Contractor shall ensure that Contractor Employees do not represent themselves as County employees.
- 1.67.3. **County Benefits and Plans.** Contractor and Contractor Employees shall not be entitled to participate in any County employee benefit plans and programs, including but not limited to, retirement, deferred compensation, insurance (including without limitation, health, disability, dental, and life), and vacation pay. This limitation includes access to benefit plans and programs that are not described by a written plan. However, Contractor Employees who are retired County Employees may receive vested post-employment benefits such as retiree health care and pension benefits from Oakland County.
- 1.67.4. **County Reliance.** The County entered into this Contract in reliance of the representations made by Contractor regarding its understanding of the role of independent contractors, its stated relationship to Contractor Employees, and other representations Contractor has made regarding the management and performance oversights of Contractor Employees.
- 1.68. **Permits and Licenses.** Contractor shall be responsible for obtaining and maintaining, throughout the term of this Contract, all licenses, permits, certificates, governmental authorizations, and business/professional licenses necessary to perform this Contract. Upon request by the County, Contractor shall furnish copies of any permit, license, certificate, or governmental authorization necessary to perform this Contract.
- 1.69. **E-Verify.** In accordance with Miscellaneous Resolution No.09116 (BOC Minutes, July 30, 2009, pp 37-38), unless otherwise exempted, all service contractors who wish to contract with the County to

provide services must first certify they have registered with, will participate in, and continue to utilize, once registered, the E-Verify Program (or any successor program implemented by the federal government or its departments or agencies) to verify the work authorization status of all newly hired employees employed by the Contractor. Breach of this term or condition is considered a material breach of this Contract. Contractor's execution of this Contract constitutes a certification that they are authorized to certify on behalf of Contractor and do hereby certify on behalf of Contractor that the Contractor has registered with, has and will participate in, and does and will continue to utilize once registered and throughout the term of this Contract and any permissible extension hereof, the E-Verify Program (or any successor program implemented by the federal government or its departments or agencies) to verify the work authorization status of all newly hired employees employed by the Contractor.

- 1.70. **Iran-Linked Business Certification.** Contractor certifies that it is not an Iran-Linked Business. Contractor further certifies that it was not an Iran-Linked Business at the time it submitted its Proposal for this Contract. Contractor must promptly notify the County, if Contractor becomes an Iran-Linked Business at any time during this Contract.
- 1.71. **Taxes.**
  - 1.71.1. **Contractor Taxes.** Contractor shall collect and pay its local, state, and federal taxes, including but not limited to, all employment taxes, sales taxes, personal property taxes, and real property taxes. The County shall not be liable to or required to reimburse Contractor for any local, state, or federal tax of any kind.
  - 1.71.2. **County Tax-Exempt.** The County is exempt from state and local sales tax, personal property tax, and real property tax. Prices under this Contract shall not include taxes, unless the County is not tax-exempt for a specific Deliverable. Exemption certificates for sales tax will be furnished upon request.
- 1.72. **Warranty for Services.** Contractor warrants that all Deliverables that are services shall be performed in compliance with all applicable laws, statutes, regulations, ordinances, and professional standards.
- 1.73. **Warranty for Goods.** All Deliverables that are goods shall be subject to the following warranties:
  - 1.73.1. **Limited Warranty.** Goods provided by Contractor pursuant to this Contract shall substantially conform to the specifications and descriptions contained in the Contract.
  - 1.73.2. **NO CONSEQUENTIAL DAMAGES.** UNDER NO CIRCUMSTANCES WILL CONTRACTOR OR ITS SUBSIDIARIES, AFFILIATES, RESELLERS, DISTRIBUTORS, AGENTS, EMPLOYEES, OFFICERS, DIRECTORS, CONSULTANTS, OR SUPPLIERS (COLLECTIVELY, "REPRESENTATIVES") BE LIABLE TO LICENSEE OR ANYONE ELSE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS; LOSSES FROM BUSINESS INTERRUPTION; LOSS OF BUSINESS REVENUES, INFORMATION OR DATA; COSTS OF RECREATING LOST INFORMATION OR DATA; OR COSTS OF SUBSTITUTE SOFTWARE, SERVICES, OR SUPPORT; OR ANY OTHER PECUNIARY LOSS WHATSOEVER), REGARDLESS OF WHETHER CONTRACTOR OR ITS REPRESENTATIVES HAVE BEEN NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES.
  - 1.73.3. **ADDITIONAL LIMITATIONS ON DAMAGES.** ANY AND ALL DAMAGES SUFFERED BY COUNTY OR ANYONE ELSE FOR WHICH CONTRACTOR OR ITS REPRESENTATIVES ARE LIABLE, WHETHER RELATING TO THE DELIVERABLES, WHETHER BASED ON A BREACH OF CONTRACT OR WARRANTY, OR

NEGLIGENCE, MISREPRESENTATION OR OTHER TORT, OR ON ANY OTHER LEGAL OR EQUITABLE THEORY, WILL BE STRICTLY LIMITED TO THE ACTUAL DOLLAR AMOUNT THAT LICENSEE ACTUALLY PAID FOR THE DEFECTIVE DELIVERABLE WITHIN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THAT LASERFICHE RECEIVES NOTICE OF AN EXISTING OR POTENTIAL CLAIM OR SUIT AGAINST IT. NO CLAIM OR SUIT MAY BE BROUGHT AGAINST CONTRACTOR OR ITS REPRESENTATIVES BASED ON A BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, MISREPRESENTATION OR OTHER TORT, OR ON ANY OTHER LEGAL OR EQUITABLE THEORY, MORE THAN ONE YEAR AFTER COUNTY FIRST DISCOVERED OR SHOULD HAVE DISCOVERED ANY OF THE FACTS THAT GAVE RISE TO THE CLAIM OR SUIT. THIS LIMITATION APPLIES EVEN IF THE DAMAGES AVAILABLE TO COUNTY OR ANY OTHER CLAIMANT DO NOT FULLY COMPENSATE THEM FOR ANY OR ALL OF THEIR LOSSES OR CONTRACTOR WAS ADVISED, KNEW OR SHOULD HAVE KNOWN, ABOUT THE POSSIBILITY OF DAMAGES OR A CLAIM.

- 1.74. **Section 508 Compliance.** If Contractor is providing a Deliverable that requires County Agents or the general public to access a website, Contractor warrants that end users will have the ability to download , input and submit forms provided for in Exhibit VI: Scope of Contractor Deliverables/Financial Obligations (“Statement of Work”) in accordance with the accessibility requirements of Section 508 Amendment to the Rehabilitation Act of 1973 (29 U.S.C. § 794(d).
- 1.75. **Price Warranty.** Contractor warrants that it will provide County and PPBs with its lowest published prices available for the same level of services and quantity of software products offered to other similarly situated public bodies. County acknowledges that Contractor commonly provides unique and individualized services and software products to its customers, and that individual facts, circumstances, configurations, integrations, and other issues, which inevitably occur in each particular purchase and sale, can and will affect price.

#### **LIABILITY**

- 1.76. **Contractor Indemnification.** Contractor shall indemnify, defend, and hold the County harmless from all Claims, incurred by or asserted against the County by any person or entity, which have been caused directly or indirectly by the acts or omissions of Contractor or Contractor’s Employees in breach of this Contract or by negligence. The County’s right to indemnification is in excess and above any insurance rights/policies required by this Contract.
- 1.77. **No Indemnification from the County.** Contractor shall have no rights against the County for indemnification, contribution, subrogation, or any other right to be reimbursed by the County, except as permitted by applicable law.
- 1.78. **Limitations.** Contractor’s indemnification obligations set forth in this Contract will not apply if, and to the extent that, a Claim arises from: (a) the County’s data or applications; (b) Contractor’s compliance with any designs, specifications or instructions of the County; (c) the County’s use of the Deliverables or Software in a way not specified or intended by Contractor; (d) the combination of the Deliverables or Software with other products, services, equipment, devices, software, systems or data not supplied by Contractor to the extent such Claim is caused by such combination; (e) the modification, alteration, integration, or reconfiguration of the Deliverables or Software, except when performed, approved or recommended by Contractor; (f) modification of the Deliverables or Software by the County or a third party without the prior knowledge and written approval of Contractor; (g) use by the County after

notice by Contractor to discontinue use of all or a portion of the Deliverables or Software, provided that Contractor offers the County a reasonable alternative, temporary fix, or workaround; (h) any use by the County of any third-party services or software unless the Claim arose against Contractor's Deliverables or Software independently of any of these specified actions. The Parties recognize that a court may find that both Parties are partially responsible for, or the cause of, a Claim and the court may apply the principles of comparative negligence to apportion the amount of the Claim between each Party..

- 1.79. **Prompt Notice of Claim Required.** Contractor's indemnification obligations apply only if the County promptly notifies Contractor in writing of the Claim, but the County's failure to provide timely notice shall only relieve Contractor from its indemnification obligations (i) if and to the extent such late notice prejudiced the defense or resulted in increased expense or loss to Contractor, or (ii) the County delays by more than ninety (90) days giving written notice to Contractor of the Claim after first learning of the Claim.
- §2. **CONTRACTOR PROVIDED INSURANCE.** At all times during this Contract, Contractor shall obtain and maintain insurance according to the specifications listed in Exhibit I.

#### **INTELLECTUAL PROPERTY AND CONFIDENTIALITY**

- 2.1. **Contractor Use of Confidential Information/County Data.** Contractor and/or Contractor Employees shall not reproduce, provide, disclose, or give access to Confidential Information or County Data to any Contractor Employee not having a legitimate need to know the Confidential Information or County Data or to any third-party. Contractor and Contractor Employees shall only use the Confidential Information and County Data for performance of this Contract. Notwithstanding the foregoing, Contractor may disclose the Confidential Information or County Data if required by law, statute, or other legal process; provided that Contractor: (a) gives the County prompt written notice of the impending disclosure, (b) provides reasonable assistance to the County in opposing or limiting the disclosure, and (c) makes only such disclosure as is compelled or required. This Contract imposes no obligation upon Contractor with respect to any Confidential Information or County Data which Contractor can establish by legally sufficient evidence: (a) was in possession of or was known by Contractor, prior to its receipt from the County, without any obligation to maintain its confidentiality; or (b) is obtained by Contractor from a third party having the right to disclose it, without an obligation to keep such information confidential or (c) the information was freely available to the general public; (d) the information was developed independently of any disclosures made by the other party of such information; or (e) the information was disclosed by a party pursuant to subpoena or other legal process and which as a result becomes lawfully obtainable by the general public .
- 2.2. **Contractor Use of County Licensed Software.** In order for Contractor to perform this Contract, the County may permit Contractor or Contractor Employees to access certain Software licensed to the County. Contractor or Contractor Employees shall not transfer, remove, use, copy, or otherwise provide or make available any such Software or documentation to any other person or entity, for any purpose, without the prior written consent of the County and/or the licensor. Furthermore, neither Contractor nor Contractor Employee shall produce a source listing, decompile, disassemble, or otherwise reverse engineer any copyrighted Software. Neither Contractor nor Contractor Employee



shall use any Software contrary to the provisions of any applicable Software license agreement or state or federal law.

- 2.3. **Contractor License to Use County Servicemarks.** If this Contract involves the use of County servicemarks to perform this Contract, then Contractor is granted a license to use the servicemarks subject to the terms listed in Exhibit III. Contractor shall only use the servicemarks as directed by the County. Contractor shall cease using County servicemarks upon expiration or termination of the Contract and may be requested to return any images of the servicemark retained by Contractor.
- 2.4. **Obligations upon Expiration, Termination or Cancellation of Contract.** At the County's sole discretion, upon expiration, termination, or cancellation of this Contract, Contractor shall return County Data in a mutually agreeable format in a prompt and orderly manner or provide for the secure disposal of County Data as directed by County.

#### **GENERAL TERMS AND CONDITIONS**

- 2.5. **Access to County Property or Facilities.** As set forth in this Contract, Contractor has access to and the right to use County property and facilities necessary to perform this Contract. Unless otherwise provided in this Contract or Contractor receives prior written permission from the County's Director of Information Technology or successor, Contractor may only access and use County property and facilities for performance of this Contract on Business Days.
- 2.6. **Signs on County Property or Facilities.** Contractor shall not place any signs or advertisements on County property or facilities without the prior written permission of the County's Director of Facilities Management or successor.
- 2.7. **Use of County Property or Facilities.** While performing this Contract, Contractor shall keep County property or facilities and anything stored thereon in a clean, safe, and healthful condition and shall keep the property and facilities in a manner that will not prevent or interfere with the County's performance of its functions.
- 2.8. **Removal of Contractor Personal Property.** At the expiration or termination of this Contract, Contractor shall leave County property or facilities in the same condition that Contractor found them and clean of all rubbish. Contractor shall remove all of its personal property within thirty (30) Days of expiration or termination of this Contract. If Contractor does not remove its personal property within the thirty (30) Day period, then the County shall dispose of it and bill Contractor for any costs associated with the removal and disposal.
- 2.9. **Damage to County Property or Facilities.** Contractor shall be responsible for any property damage to any County property or a facility that is caused by Contractor or Contractor Employees. If damage occurs, the County shall make the necessary repairs and/or replacements or cause a third party to make the necessary repairs or replacements, provided, however, that Contractor shall reimburse the County for all costs associated with repairing and/or replacing the damaged property or facilities.
- 2.10. **Damage to Contractor Property.** Contractor shall be solely liable and responsible for any property loss or damage resulting from fire, theft, or other cause to Contractor's personal property located, kept, or stored on or at County property or facilities during performance of this Contract.



- 2.11. **County's Right to Suspend Contract Performance.** Upon written notice, the County may require Contractor to suspend performance of this Contract if Contractor has failed to comply with federal, state, or local laws or any requirements contained in this Contract. The right to suspend performance of this Contract is in addition to the County's right to terminate and/or cancel this Contract. The County shall incur no penalty, expense, or liability to Contractor if the County suspends performance of this Contract under this Section.
- 2.12. **Discrimination.** Contractor shall not discriminate against any employee or applicant for employment in violation of state or federal law. Contractor shall promptly notify the County of any complaint or charge filed and/or of any determination by any court or administrative agency of illegal discrimination by Contractor.
- 2.13. **Conflict of Interest.** Pursuant to Public Act 317 and 318 of 1968, as amended (MCL 15.301, et seq. and MCL 15.321, et seq.), no contracts shall be entered into between the County and any County Agent. To avoid any real or perceived conflict of interest, Contractor shall identify any Contractor Employee or relative of Contractor's Employees who are presently employed by the County. Contractor shall give the County notice if there are any County Agents or relatives of County Agents who are presently employed by Contractor.
- 2.14. **Access and Records.** Contractor will maintain accurate books and records in connection with performance of this Contract for thirty-six (36) months after the end of this Contract and Contractor shall provide the County with reasonable access to such books and records, upon request.
- 2.15. **Audit.** The County or an independent auditor hired by the County may perform contract audits (in its sole discretion) and shall have the authority to access all pertinent records and data and to interview any Contractor Employee during the term of this Contract and for a period of twelve (12) months after final payment. Contractor shall explain any audit findings, questioned costs, or other Contract compliance deficiencies to the County within thirty (30) Business Days of receiving the draft audit report. Contractor's written response shall include all necessary documents and information that refute the draft audit report and an action plan to resolve the audit findings. A copy of Contractor's response will be included in the final report. Failure by Contractor to respond in writing within thirty (30) Business Days shall be deemed acceptance of the draft audit report and will be noted in the final report.
- 2.16. **Assignments/Delegations/Subcontracts.**
- 2.16.1. **Prior Written Consent Required.** Except by operation of law, neither Party may assign, delegate, or subcontract any of its duties, obligations, or rights under this Contract without the prior written consent of the other Party; provided, however, Contractor may assign, delegate, or subcontract this Contract to an affiliate or subsidiary as long as the affiliate or subsidiary is adequately capitalized and can provide adequate written assurances to the County that the affiliate or subsidiary can perform this Contract. The County may withhold consent, if the County determines that the assignment, delegation, or subcontract would impair performance of this Contract or the County's ability to recover damages under this Contract. Contractor shall also provide the County with adequate information to allow the County to make a determination regarding the assignment, delegation, or subcontract.
- 2.16.2. **Flow Down Clause Required.** Any assignment, delegation, or subcontract by Contractor must include a requirement that the assignee, delegee, or subcontractor will comply with the terms and conditions

of this Contract. The assignment, delegation, or subcontract shall in no way diminish or impair performance of any term or condition of this Contract.

- 2.16.3. **Contractor Responsibility for Assigns/Delegates/Subcontractors.** If Contractor assigns, delegates, or subcontracts this Contract, in whole or in part, Contractor shall remain the sole point of contact regarding all matters under this Contract and shall remain liable for performance of this Contract. Contractor is solely responsible for the management of assignees, delegees, and subcontractors.
- 2.16.4. **Performance Required.** If an assignee, delegee, or subcontractor fails to perform as required under this Contract, Contractor shall contract with another entity for such performance. Any additional costs associated with securing another assignee, delegee, or subcontractor shall be the sole responsibility of Contractor.
- 2.17. **Non-Exclusive Contract.** This Contract is a non-exclusive agreement. No provision in this Contract limits or is intended to limit, in any way, Contractor's right to offer and provide its services to the general public, other business entities, municipalities, or governmental agencies during or after the term of this Contract. Similarly, the County may freely engage other persons to perform the same work that Contractor performs. Except as provided in this Contract, this Contract shall not be construed to guarantee Contractor or any Contractor Employee any fixed or certain number of Deliverables.
- 2.18. **No Third-Party Beneficiaries.** Except as provided for the benefit of the Parties, this Contract does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to be indemnified, right to be subrogated to the Parties' right in this Contract, or any other right in favor of any other person or entity.
- 2.18.1. **Survival of Terms and Conditions.** The following terms and conditions shall survive and continue in full force beyond the termination or cancellation of this Contract (or any part thereof) until the terms and conditions are fully satisfied or expire by their nature: **Section 1.** Contract Purpose, **Section 2.** Contract Definitions, **Section 6.** Scope of Deliverables and Financial/Payment Obligations, **Section 7.** Contractor's Warranties and Assurances, **Section 8.** Liability, **Section 9.** Contractor Provided Insurance, **Section 10.** Intellectual Property and Confidentiality, and **Section 11.** General Terms and Conditions.
- 2.19. **Reservation of Rights.** This Contract does not, and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, or other legal right, privilege, power, obligation, duty, or immunity of the County.
- 2.20. **Compliance with Laws.** Contractor shall comply with all federal, state, and local laws, statutes, ordinances, regulations, insurance policy requirements, and requirements applicable to its activities under this Contract.
- 2.21. **Force Majeure.** Notwithstanding any other term or condition of this Contract, neither Party shall be liable for failure to perform contractual duties or obligations caused by events beyond their reasonable control, including but not limited to: (a) acts of public enemies; (b) natural disasters; (c) terrorism; (d) war; (e) insurrection or riot; (f) natural disasters; (g) strikes, lockouts, work stoppages, or other labor difficulties; or (h) compliance with law. Reasonable notice shall be given to the affected Party of such event. Contractor is expected, through insurance or alternative temporary or emergency service

arrangements, to continue its contractual duties or obligations if a reasonably anticipated, insurable business risk, such as business interruption or any insurable casualty or loss occurs.

2.22. **Notices.**

2.22.1. **Written Notice.** All notices required under this Contract shall be in writing. Notices shall be effective: (a) the next Business Day, if personally delivered; (b) the third Business Day, if sent by U.S. mail, postage prepaid, return receipt requested; (c) the next Business Day, if sent by a nationally recognized overnight express courier with a reliable tracking system; or (d) the next Business Day with a receipt of confirmation, if sent by e-mail or fax.

2.22.2. **Notice to Contractor.** Unless otherwise specified, Notice to Contractor shall be addressed to the Contract Administrator listed on the first page of this Contract.

2.22.3. **Notice to County.** Unless otherwise specified herein, Notice to the County shall be addressed to Purchasing, the County Project Manager (if applicable), and the County Contract Administrator(s) listed on the first page of this Contract.

2.23. **Captions.** Section and subsection numbers, captions, and any index to sections or subsections contained in this Contract are intended for the convenience of the reader and are not intended to have any substantive meaning and shall not be interpreted to limit or modify any substantive provisions of this Contract. In this Contract, for any noun or pronoun, use of the singular or plural form, use of the nominative, possessive, or objective case, and any reference to gender (masculine, feminine, and neuter) shall mean the appropriate form, case, or gender as the context requires.

2.24. **Waiver.** Waiver of any term or condition under this Contract must be in writing and notice given pursuant to this Contract. No written waiver, in one or more instances, shall be deemed or construed as a continuing waiver of any term or condition of this Contract. No waiver by either Party shall subsequently affect its right to require strict performance of this Contract.

2.25. **Cumulative Remedies.** A Party's exercise of any remedy shall not preclude the exercise of any other remedies, all of which shall be cumulative. A Party shall have the right, in its sole discretion, to determine which remedies are to be exercised and in which order.

2.26. **Severability.** If a court of competent jurisdiction finds a term or condition of this Contract to be illegal or invalid, then the term or condition shall be deemed severed from this Contract. All other terms or conditions shall remain in full force and effect. Notwithstanding the above, if Contractor's promise to indemnify or hold the County harmless is found illegal or invalid, Contractor shall contribute the maximum it is permitted to pay by law toward the payment and satisfaction of any Claims against the County.

2.27. **Dispute Resolution.** All disputes arising under or relating to the execution, interpretation, performance, or nonperformance of this Contract involving or affecting the Parties may first be submitted to the respective Project Manager (if applicable) and Contract Administrators for possible resolution.

2.28. **Governing Laws/Consent to Jurisdiction and Venue.** This Contract shall be governed, interpreted, and enforced by the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Contract shall be brought in the Sixth Judicial Circuit Court of the State of Michigan, the 50<sup>th</sup> District of the State of

Michigan, or the United States District Court for the Eastern District of Michigan, Southern Division, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above. The choice of forum set forth above shall not be deemed to preclude the enforcement of any judgment obtained in such forum or taking action under this Contract to enforce such judgment in any appropriate jurisdiction.

- 2.29. **Entire Contract.** This Contract represents the entire agreement and understanding between the Parties. This Contract supersedes all other prior oral or written understandings, communications, agreements, or contracts between the Parties. The language of this Contract shall be construed as a whole according to its fair meaning and not construed strictly for or against any Party.

**EXHIBIT I**

**CONTRACTOR INSURANCE REQUIREMENTS**

During this Contract, the Contractor shall provide and maintain, at their own expense, all insurance as set forth and marked below, protecting the County against any Claims, as defined in this Contract. The insurance shall be written for not less than any minimum coverage herein specified.

**Primary Coverages**

**Commercial General Liability Occurrence Form** including: (a) Premises and Operations; (b) Products and Completed Operations (including On and Off Premises Coverage); (c) Personal and Advertising Injury; (d) Broad Form Property Damage; (e) Independent Contractors; (f) Broad Form Contractual including coverage for obligations assumed in this Contract;

\$1,000,000 – Each Occurrence Limit

\$1,000,000 – Personal & Advertising Injury

\$2,000,000 – Products & Completed Operations Aggregate Limit

\$2,000,000 – General Aggregate Limit

\$ 100,000 – Damage to Premises Rented to You (formally known as Fire Legal Liability)

**Workers' Compensation Insurance** with limits statutorily required by any applicable Federal or State Law and Employers Liability insurance with limits of no less than \$500,000 each accident, \$500,000 disease each employee, and \$500,000 disease policy limit.

1. ☒ Fully Insured or State approved self-insurer.
2. ☐ Sole Proprietors must submit a signed Sole Proprietor form.
3. ☐ Exempt entities, Partnerships, LLC, etc., must submit a State of Michigan form WC-337 Certificate of Exemption.

**Commercial Automobile Liability Insurance** covering bodily injury or property damage arising out of the use of any owned, hired, or non-owned automobile with a combined single limit of \$1,000,000 each accident. This requirement is waived if there are no company owned, hired or non-owned automobiles utilized in the performance of this Contract.

**Commercial Umbrella/Excess Liability Insurance** with minimum limits of \$2,000,000 each occurrence. Umbrella or Excess Liability coverage shall be no less than following form of primary coverages or broader. This Umbrella/Excess requirement may be met by increasing the primary Commercial General Liability limits to meet the combined limit requirement.

**Supplemental Coverages (Required as Checked)**

1. ☒ **Professional Liability/Errors & Omissions Insurance** (Consultants, Technology Vendors, Architects, Engineers, Real Estate Agents, Insurance Agents, Attorneys, etc.) with minimum limits of \$1,000,000 per claim and \$1,000,000 aggregate.
2. ☐ **Commercial Property Insurance.** The Contractor shall be responsible for obtaining and maintaining insurance covering their equipment and personal property against all physical damage.
3. ☐ **Liquor Legal Liability Insurance** with a limit of \$1,000,000 each occurrence shall be required when liquor is served and/or present.
4. ☐ **Pollution Liability Insurance** with minimum limits of \$1,000,000 per claim and \$1,000,000 aggregate when cleanup & debris removal are part of the services utilized.
5. ☐ **Medical Malpractice Insurance** with minimum limits of \$1,000,000 per claim and \$1,000,000 aggregate.
6. ☐ **Garage Keepers Liability Insurance** with minimum limits of \$1,000,000 per claim and \$1,000,000 aggregate.
7. ☒ **Cyber Liability Insurance** with minimum limits of \$1,000,000 per claim and \$1,000,000 aggregate.
8. ☐ **Other Insurance Coverages** as may be dictated by the provided product/service and deemed appropriate by the County Risk Management Department.

**General Insurance Conditions**

The aforementioned insurance shall be endorsed, as applicable, and shall contain the following terms, conditions, and/or endorsements. All certificates of insurance shall provide evidence of compliance with all required terms, conditions and/or endorsements.

All policies of insurance shall be on a primary, non-contributory basis with any other insurance or self-insurance carried by the County;

The insurance company(s) issuing the policy(s) shall have no recourse against the County for subrogation (policy endorsed written waiver), premiums, deductibles, or assessments under any form. All policies shall be endorsed to provide a written waiver of subrogation in favor of the County;

1. Any and all deductibles or self-insured retentions shall be assumed by and be at the sole risk of the Contractor;
2. Contractors shall be responsible for their own property insurance for all equipment and personal property used and/or stored on County property;
3. The Commercial General Liability and Commercial Automobile Liability policies along with any required supplemental coverages shall be endorsed to name the County of Oakland and its officers, directors, employees, appointees and commissioners as additional insured where permitted by law and policy form;
4. The Contractor shall require its contractors or sub-contractors, not protected under the Contractor's insurance policies, to procure and maintain insurance with coverages, limits, provisions, and/or clauses equal to those required in this Contract;
5. Certificates of insurance must be provided no less than ten (10) Business Days prior to the County's execution of the Contract and must bear evidence of all required terms, conditions and endorsements; and
6. All insurance carriers must be licensed and approved to do business in the State of Michigan and shall have and maintain a minimum A.M. Best's rating of A- unless otherwise approved by the County Risk Management Department.



## EXHIBIT II

### BUSINESS ASSOCIATE AGREEMENT

(Health Insurance Portability and Accountability Act Requirements)

Exhibit II is a Business Associate Agreement between Contractor (“Business Associate”) and the County (“Covered Entity”). This Exhibit is incorporated into the Contract and shall be hereinafter referred to as “Agreement.” The purpose of this Agreement is to facilitate compliance with the Privacy and Security Rules and to facilitate compliance with HIPAA and the HITECH Amendment to HIPAA.

- §1. DEFINITIONS.** The following terms have the meanings set forth below for purposes of the Agreement, unless the context clearly indicates another meaning. Terms used but not otherwise defined in this Agreement have the same meaning as those terms in the Privacy Rule.
- 1.1 Business Associate.** “Business Associate” means the Contractor.
- 1.2 CFR.** “CFR” means the Code of Federal Regulations.
- 1.3 Contract.** “Contract” means the document with the Purchasing Contract Number:
- 1.4 Contractor.** “Contractor” means the entity or individual defined in the Contract and listed on the first page of this Contract.
- 1.5 Covered Entity.** “Covered Entity” means the County of Oakland as defined in the Contract.
- 1.6 Designated Record Set.** “Designated Record Set” is defined in 45 CFR 164.501.
- 1.7 Electronic Health Record.** “Electronic Health Record” means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.
- 1.8 HIPAA.** “HIPAA” means the Health Insurance Portability and Accountability Act of 1996.
- 1.9 HITECH Amendment.** “HITECH Amendment” means the changes to HIPAA made by the Health Information Technology for Economic and Clinical Health Act.
- 1.10 Individual.** “Individual” is defined in 45 CFR 160.103 and includes a person who qualifies as a personal representative in 45 CFR 164.502(g).
- 1.11 Privacy Rule.** “Privacy Rule” means the privacy rule of HIPAA as set forth in the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
- 1.12 Protected Health Information.** “Protected Health Information” or “PHI” is defined in 45 CFR 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

- 1.13** **Required By Law.** “Required By Law” is defined in 45 CFR 164.103.
- 1.14** **Secretary.** “Secretary” means the Secretary of the Department of Health and Human Services or his or her designee.
- 1.15** **Security Incident.** “Security Incident” is defined in 45 CFR 164.304.
- 1.16** **Security Rule.** “Security Rule” means the security standards and implementation specifications at 45 CFR part 160 and part 164, subpart C.
- §2.** **OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.** Business Associate agrees to perform the obligations and activities described in this Section.
- 2.1** Business Associate understands that pursuant to the HITECH Amendment, it is subject to the HIPAA Privacy and Security Rules in a similar manner as the rules apply to Covered Entity. As a result, Business Associate shall take all actions necessary to comply with the HIPAA Privacy and Security Rules for business associates as revised by the HITECH Amendment, including, but not limited to, the following: (a) Business Associate shall appoint a HIPAA privacy officer and a HIPAA security officer; (b) Business Associate shall establish policies and procedures to ensure compliance with the Privacy and Security Rules; (c) Business Associate shall train its workforce regarding the Privacy and Security Rules; (d) Business Associate shall enter into a privacy/security agreement with Covered Entity; (e) Business Associate shall enter into privacy/security agreements with its subcontractors that perform functions relating to Covered Entity involving PHI; and (f) Business Associate shall conduct a security risk analysis.
- 2.2** Business Associate shall not to use or disclose PHI other than as permitted or required by this Agreement or as required by law.
- 2.3** Business Associate shall use appropriate safeguards to prevent use or disclosure of the PHI. Business Associate shall implement administrative, physical, and technical safeguards (including written policies and procedures) that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity as required by the Security Rule.
- 2.4** Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of law or this Agreement.
- 2.5** Business Associate shall report to Covered Entity any known Security Incident or any known use or disclosure of PHI not permitted by this Agreement.
- 2.6** Effective September 23, 2009 or the date this Agreement is signed, if later, Business Associate shall do the following in connection with the breach notification requirements of the HITECH Amendment:
- 2.6.1** If Business Associate discovers a breach of unsecured PHI, as those terms are defined by 45 CFR 164.402, Business Associate shall notify Covered Entity without unreasonable delay but no later than ten (10) calendar days after discovery. For this purpose, “discovery” means the first day on which the

breach is known to Business Associate or should have been known by exercising reasonable diligence. Business Associate shall be deemed to have knowledge of a breach if the breach is known or should have been known by exercising reasonable diligence, to any person, other than the person committing the breach, who is an employee, officer, subcontractor, or other agent of Business Associate. The notification to Covered Entity shall include the following: (a) identification of each individual whose unsecured PHI has been breached or has reasonably believed to have been breached and (b) any other available information in Business Associate's possession that the Covered Entity is required to include in the individual notice contemplated by 45 CFR 164.404.

- 2.6.2** Notwithstanding the immediate preceding subsection, Business Associate shall assume the individual notice obligation specified in 45 CFR 164.404 on behalf of Covered Entity where a breach of unsecured PHI was committed by Business Associate or its employee, officer, subcontractor, or other agent of Business Associate or is within the unique knowledge of Business Associate as opposed to Covered Entity. In such case, Business Associate shall prepare the notice and shall provide it to Covered Entity for review and approval at least five (5) calendar days before it is required to be sent to the affected individual(s). Covered Entity shall promptly review the notice and shall not unreasonably withhold its approval.
- 2.6.3** Where a breach of unsecured PHI involves more than five hundred (500) individuals and was committed by the Business Associate or its employee, officer, subcontractor, or other agent or is within the unique knowledge of Business Associate as opposed to Covered Entity, Business Associate shall provide notice to the media pursuant to 45 CFR 164.406. Business Associate shall prepare the notice and shall provide it to Covered Entity for review and approval at least five (5) calendar days before it is required to be sent to the media. Covered Entity shall promptly review the notice and shall not unreasonably withhold its approval.
- 2.6.4** Business Associate shall maintain a log of breaches of unsecured PHI with respect to Covered Entity and shall submit the log to Covered Entity within thirty (30) calendar days following the end of each calendar year, so that the Covered Entity may report breaches to the Secretary in accordance with 45 CFR 164.408. This requirement shall take effect with respect to breaches occurring on or after September 23, 2009.
- 2.7** Business Associate shall ensure that any agent or subcontractor to whom it provides PHI, received from Covered Entity or created or received by Business Associate on behalf of Covered Entity, agrees in writing to the same restrictions and conditions that apply to Business Associate with respect to such information. Business Associate shall ensure that any such agent or subcontractor implements reasonable and appropriate safeguards to protect Covered Entity's PHI.
- 2.8** Business Associate shall provide reasonable access, at the written request of Covered Entity, to PHI in a Designated Record Set to Covered Entity or, as directed in writing by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.
- 2.9** Business Associate shall make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs in writing or agrees to pursuant to 45 CFR 164.526.
- 2.10** Following receipt of a written request by Covered Entity, Business Associate shall make internal practices, books, and records reasonably available to the Secretary in order to determine Covered Entity's compliance with the Privacy Rule. The aforementioned materials include policies and

procedures and information relating to the use and disclosure of PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity.

- 2.11** Business Associate shall document disclosures of PHI and information related to such disclosures, to permit Covered Entity to respond to a request by an Individual for: (a) an accounting of disclosures of PHI in accordance with 45 CFR 164.528 or (b) effective January 1, 2011 or such later effective date prescribed by regulations issued by the U.S. Department of Health and Human Services, an accounting of disclosures of PHI from an Electronic Health Record in accordance with the HITECH Amendment.
- 2.12** Following receipt of a written request by Covered Entity, Business Associate shall provide to Covered Entity or an Individual information collected in accordance with Section 2 to permit Covered Entity to respond to a request by an Individual for: (a) an accounting of disclosures of PHI in accordance with 45 CFR 164.528 or (b) effective as of January 1, 2011 or such later effective date prescribed by regulations issued by the U.S. Department of Health and Human Services, an accounting of disclosures of Protected Health Information from an Electronic Health Record in accordance with the HITECH Amendment.
- §3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.** Business Associate may use and disclose PHI as set forth in this Section.
- 3.1** Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for or on behalf of Covered Entity as specified in the underlying service agreement between Covered Entity and Business Associate, provided that such use or disclosure shall not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity. If no underlying service agreement exists between Covered Entity and Business Associate, Business Associate may use or disclose PHI to perform functions, activities, or services for or on behalf of Covered Entity for the purposes of payment, treatment, or health care operations as those terms are defined in the Privacy Rule, provided that such use or disclosure shall not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
- 3.2** Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- 3.3** Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required by Law or Business Associate obtains reasonable assurances in writing from the person to whom the information is disclosed that: (a) the disclosed PHI will remain confidential and will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person and (b) the person notifies the Business Associate of any known instances in which the confidentiality of the information has been breached.
- 3.4** Except as otherwise limited in this Agreement, Business Associate may use PHI to provide data aggregation services to Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).

- 3.5 Business Associate may use PHI to report violations of law to appropriate federal and state authorities, consistent with 45 CFR 164.502(j)(1).

**§4. OBLIGATIONS OF COVERED ENTITY.**

- 4.1 Covered Entity shall notify Business Associate of any limitation(s) of Covered Entity in its notice of privacy practices in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- 4.2 Covered Entity shall notify Business Associate of any changes in or revocation of permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- 4.3 Covered Entity shall use appropriate safeguards to maintain and ensure the confidentiality, privacy and security of PHI transmitted to Business Associate pursuant to this Agreement, the Contract, and the Privacy Rule, until such PHI is received by Business Associate, pursuant to any specifications set forth in any attachment to the Contract.
- 4.4 Covered Entity shall manage all users of the services including its qualified access, password restrictions, inactivity timeouts, downloads, and its ability to download and otherwise process PHI.
- 4.5 The Parties acknowledge that Covered Entity owns and controls its data.
- 4.6 Covered Entity shall provide Business Associate with a copy of its notice of privacy practices produced in accordance with 45 CFR Section 164.520, as well as any subsequent changes or limitation(s) to such notice, to the extent such changes or limitations may effect Business Associate's use or disclosure of PHI. Covered Entity shall provide Business Associate with any changes in or revocation of permission to use or disclose PHI, to the extent the changes or revocation may affect Business Associate's permitted or required uses or disclosures. To the extent that the changes or revocations may affect Business Associate's permitted use or disclosure of PHI, Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR Section 164.522. Covered Entity may effectuate any and all such notices of non-private information via posting on Covered Entity's web site.

**§5. EFFECT OF TERMINATION.**

- 5.1 Except as provided in Section 5, upon termination of this Agreement or the Contract, for any reason, Business Associate shall return or destroy (at Covered Entity's request) all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of PHI.
- 5.2 If Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity written notification of the conditions that make return or destruction infeasible. Upon receipt of written notification that return or destruction of PHI is infeasible, Business

Associate shall extend the protections of this Agreement to such PHI and shall limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI, which shall be for a period of at least six (6) years.

**§6 MISCELLANEOUS.**

- 6.1** This Agreement is effective when the Contract is executed or when Business Associate becomes a Business Associate of Covered Entity and both Parties sign this Agreement, if later. However, certain provisions have special effective dates, as set forth herein or as set forth in HIPAA or the HITECH Amendment.
- 6.2** **Regulatory References.** A reference in this Agreement to a section in the Privacy Rule or Security Rule means the section as in effect or as amended.
- 6.3** **Amendment.** The Parties agree to take action to amend this Agreement as necessary for Covered Entity to comply with the Privacy and Security requirements of HIPAA. If the Business Associate refuses to sign such an amendment, this Agreement shall automatically terminate.
- 6.4** **Survival.** The respective rights and obligations of Business Associate and Covered Entity under this Agreement shall survive the termination of this Agreement and/or the Contract.

**EXHIBIT III**

**LICENSE FOR USE OF COUNTY SERVICEMARK**

County grants to Contractor the non-exclusive right to use its Servicemark, described and listed in the Servicemark Guidelines, ("Mark") to publicize the relationship between the County and Contractor in providing services to County.

The Mark may be used on: (Applicable if Checked):

- ☒ Printed materials
- ☒ Electronic materials
- ☒ Contractor's website: [www.laserfiche.com](http://www.laserfiche.com)

Contractor shall not use the Mark for any other purpose.

The Mark must be used by Contractor as shown in the Servicemark Guidelines, with no variations of color, font or proportion. Contractor acknowledges that the County has intellectual property rights in the Mark. Nothing in this Contract gives Contractor any right, title, or interest in the Mark. Contractor may not take any action that will interfere with County's rights in the Mark.

The County may terminate Contractor's rights under this Exhibit if County notifies Contractor that it has breached the terms of this Exhibit and Contractor fails to cure the breach within ten (10) business days of notice of breach. Following termination of this Exhibit, Contractor shall have ten (10) business days to remove the Mark from the materials and/or website authorized for use above. Contractor shall provide County with written confirmation that such actions have been taken. Upon termination of the Contract, Contractor shall cease all use of the Mark.



## Servicemark Guidelines

The Guidelines for proper use of the Mark provided to the Contractor are as follows:

# OAKLAND COUNTY, MICHIGAN

## LOGO BRAND STANDARDS

### PRIMARY LOGO

Oakland County has two logos that can be used interchangeably. Use the Horizontal Two Trees logo as your default choice. This is our primary logo. The Stacked Logo can be used whenever space or size is a consideration in your publication. Either logo is acceptable for all Oakland County publications.

However, **only one style of logo may be used per publication**. For instance, if you have the horizontal logo on the front of a publication, you can't use the stacked logo elsewhere in the document.

Pick one logo style for each publication and use it throughout, do not mixed styles.

#### HORIZONTAL "TWO TREES" LOGO



#### STACKED LOGO



### LOGO VARIATIONS

Logos should appear in full color when used in a full color design, whenever possible. However, if the publication requires a single color version of the logo, choose either all-black or all-white. No other color is acceptable.



### BRAND COLORS

The primary Oakland County logos use the following brand colors.

PMS	347
CMYK	84.15.78.2
RGB	0.154.102
HEX	#009A66

PMS	Black C
CMYK	0.0.0.100
RGB	0.0.0
HEX	#000000

Accent colors for the brand are pulled from two other major servicemarks for Oakland County. These colors may be used as secondary colors in publications.

Destination Oakland Blue
PMS 2825   CMYK 85.21.0.0   RGB 0.156.222



Prosper Orange
PMS 715   CMYK 0.54.87.0   RGB 245.141.45



### WHITE SPACE

A prescribed amount of space around the logo must be maintained at all times.



### QUESTIONS

For questions or clarification on these brand standards, please contact:

Pam Tremble  
Graphic Designer  
County Executive Administration  
(248) 858-8964 | tremblep@oakgov.com



Adobe Swatch Exchange  
The official .ase file is available upon request

Do not provide copies to a third party of any artwork provided to you by County and referenced in this Exhibit without the express consent of County.

## G2G Market Place Servicemark Guidelines

The Guidelines for proper use of the Mark provided to the Contractor are as follows:

### G2G MARKET PLACE

#### Standard Logo

The G2G Market Place logo appears to the right. It is the primary element of the G2G Market Place visual identity and must appear on all official documentation or sign involving G2G Market Place.



### LOGO USAGE

A prescribed amount of space around the logo should be maintained at all times. The space should be equal to or greater than the width of 1/4".



### MINIMUM LOGO SIZE



Minimum logo width 3 inches  
and height is 1 inch.

### COLORS

CMYK 82.5.97.0

RGB 0.169.80

HEX #00a950

CMYK 0.0.0.100

RGB 0.0.0

HEX #000000

### COLOR VARIATIONS

For 1-color print jobs, or when design dictates the logo may be used in all black or all white.



### LOGO VARIATIONS

Below are alternate "stacked" logo options. They are shown in full color, all black, and all white versions.



Do not provide copies to a third party of any artwork provided to you by County and referenced in this Exhibit without the express consent of County.

**EXHIBIT IV**  
**SOFTWARE LICENSE**

This Laserfiche End User Software License Agreement ("License Agreement") is made between Compulink Management Center, Inc., a California corporation doing business as Laserfiche, whose principal place of business is in Long Beach, California ("Laserfiche"), and the party (referred to as the "Licensee") on whose server or systems the Software (as described in Section 1.A below) will be made available for use.

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**RECITALS**

- A. Laserfiche has developed and markets document imaging, enterprise content management, and related software programs, solutions and products under the brand name Laserfiche®.
- B. Laserfiche Software includes confidential proprietary information and trade secrets of Laserfiche, which embody substantial creative efforts and confidential information, ideas, and expressions. Laserfiche has invested large amounts of capital and time to develop and promote the Software. Laserfiche claims copyrights in the Software.
- C. Licensee understands that the Software is compatible only with certain types of computers and operating systems and that Licensee is responsible for assuring the compatibility between its computer systems, its software solutions, if any, and the Software.

THEREFORE, in consideration of the premises and covenants contained in this License Agreement, Laserfiche and Licensee agree as follows:

**Terms of License Agreement**

**1. Grant of License.**

- A. Description of the Software. The Software may include, without limitation express or implied, some or all of the following types of software: (a) "**Server Software**" that provides document management services to other programs; (b) "**Client Software**" that allows a computer or workstation to access or utilize the services functionality provided by the Server Software; (c) "**Stand-alone Software**" that operates on a single computer; (d) "**Demonstration Software**" that is provided only for demonstration, testing and feedback purposes; (e) "**Distributed Computing Cluster Software**" that allows distribution of processing work for certain Laserfiche application tasks onto other machines; and/or (f) "**Plug-in Software Modules**" that can be added to the previously mentioned types of software. If a separate license applies to particular Laserfiche software, such as terms that

accompany a software development kit or Laserfiche software designated for "application service provider" purposes, those terms will also apply. Otherwise, this License Agreement applies to the Software installed on Licensee's systems. Laserfiche grants Licensee a limited, non-exclusive, non-transferable license to install and use the Software subject to the terms and conditions of this License Agreement and the Acquisition Agreement (described in Section 1.B.i below).

**B. Definitions.** The following definitions will apply to this Agreement:

- i. **"Acquisition Agreement"** means the applicable Laserfiche invoice, Licensee Order (defined in Section 1.B.v below), or other written agreement by which Licensee acquires the License (described in Section 1.B.iv below) to the Software and which lists the specific Software products and components, including the types and numbers of Licenses, that Licensee acquires. The Acquisition Agreement may also grant additional rights to Licensee or limit the scope of the License being granted to Licensee. If a conflict or inconsistency arises between the terms of several acquisition documents, the following order of precedence will control: (1) the Contract; (2) the Laserfiche invoice; (3) Licensee's Order; and (4) any other writings that satisfy the definition of "Acquisition Agreement."
- ii. **"Documentation"** means getting started guides, user guides, quick reference guides, and other technical and operations manuals and specifications.
- iii. **"Laserfiche Confidential Information"** means all nonpublic information regarding the Software, whether disclosed by Laserfiche or others, that is designated as confidential or that, given the nature of the information or circumstances surrounding its disclosure, reasonably should be understood to be confidential. Laserfiche Confidential Information also includes: (a) nonpublic information relating to Laserfiche or its affiliates, technology, Software, source code, trade secrets; (b) third-party information that Laserfiche is obligated to keep confidential by agreement or by law; and (c) the nature, content and existence of any agreements, discussions or negotiations between Licensee and Laserfiche, software resellers or affiliates. Laserfiche Confidential Information does not include any information that: (i) is or becomes publicly available without either a breach of this Agreement or a breach of an obligation of confidentiality by someone else; (ii) can be shown by documentation to have been known by Licensee when it received it from Laserfiche; (iii) is received from a third party that lawfully acquired and disclosed it; or (iv) can be shown by documentation to have been independently developed by Licensee without reference to the Laserfiche Confidential Information.
- iv. **"The License"** defines Licensee's right to use the Software and may have a set expiration date for test, evaluation, beta, demonstration, or subscription Software, which is subject to the limitations based on the Acquisition Agreement, Product Sheet (described in Section 1.B.vi below), and any other limitations agreed upon by Laserfiche and Licensee. The balance of this License Agreement sets forth the specific rights granted to Licensee and the limitations of Licensee's use of the Software and scope of this License.
- v. **"Licensee Order"** means an order, purchase order, or similar document that is submitted to Laserfiche by Licensee or a Laserfiche authorized reseller or distributor on Licensee's behalf, which specifies the particular Software products and components that Licensee intends to acquire, and which must be accepted by Laserfiche.
- vi. **"Product Sheet"** means the Laserfiche document that specifies the limitations and

restrictions of each release of the Software.

**C. Limitations and Requirements.**

- i. If the Software is furnished to Licensee with materials indicating that it is "Demonstration," "Evaluation," "Beta" or "Test" software, Licensee acknowledges that: (A) Laserfiche is furnishing the Software to Licensee solely for demonstration, evaluation, testing and/or feedback purposes; (B) Licensee is strictly prohibited from using the Software for any purposes other than (i) demonstration of its capabilities to prospective licensees of the Software, (ii) evaluation and testing of the Software for suitability for the period allowed with the License, or (iii) providing feedback to Laserfiche; (C) testing does not include staging content in a production environment, such as loading content before or in conjunction with production use; (D) Laserfiche makes no warranties, representations or any other claims with regard to the Software's usability, reliability, performance, or overall quality; (E) Licensee will be responsible for its actions and the actions of its employees acting in the course and scope of their employment; and (F) Licensee's receipt of the Software does not constitute a license to use, sell, distribute, or commercialize the Software or copies of it. No compensation will be paid to Licensee for any use of the Software or for performing any service or giving any advice, analysis or feedback to, or for the benefit of, Laserfiche. Licensee assigns and agrees to assign to Laserfiche without charge any suggestions, ideas, improvements and resulting intellectual property relating to any feedback it provides, for any purpose. Laserfiche's rights to the feedback survive the termination of this License Agreement.
- ii. Licensee may use the Software only for the number and types of users, until the expiration date(s), if any, described in the Acquisition Agreement, and subject to the other limitations of the License.
- iii. Licensee waives all liability, claims, damages and suits against Laserfiche, and all of its employees, officers, directors and contractors in any way related to the unauthorized disclosure of, or access to, information, data or documentation in the databases, account, or in any repository, whether or not due to a defect in or malfunction of the Software. Licensee acknowledges that this License Agreement contains other limitations and waivers of damages and claims, and that Licensee's waiver of liability in this section is in addition to, and not in lieu of, Licensee's other waivers set forth elsewhere in this License Agreement.
- iv. Add-ons and additional features that the Software can support, may be used only when listed in the Acquisition Agreement.
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- vi. If the Software requires a product key or keys to install or access it, Licensee is responsible for the use of the keys assigned to Licensee. Licensee is not authorized to share the keys with third parties.
- vii. If Licensee receives a License Manager or Laserfiche Directory Services (LFDS) program (the "License Manager") that enables installation of the Software for access by multiple users,



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- viii. If Server Software is part of the License, Licensee may install one copy of the Server Software on a single physical or a single virtual operating system environment (the instance of the running Server Software will be referred to as the "Server"), unless the Licensee is acquiring a license to a Laserfiche Rio product. If a Laserfiche Rio product is being licensed, Licensee may install up to the maximum number copies of the Server Software included with the License (referred to as "instances") to multiple physical or virtual operating system environments so long as those installations have continuous network access to a running instance of the included License Manager program. Licensee may install only one copy of any License Manager program on a single physical or a single virtual operating system environment.
  - ix. If Licensee is acquiring a license to a Laserfiche Rio or a Laserfiche Avante software product, the License may include Distributed Computing Cluster Software. Licensee may operate one cluster, unless a greater number of clusters is included with the License, and then may operate up to the specified maximum number of clusters. If the License specifies a maximum number of instances of the Distributed Computing Cluster Software, Licensee may include no more than the specified number of machines running the Distributed Computer Cluster Software (referred to as "nodes") across their clusters. A scheduler node will count as one instance. Licensee may only run those Plug-in Software Modules to the Laserfiche Distributed Computer Cluster Software included with the License. If the License includes a maximum number of instances of the Plug-in Software Module, Licensee may run the module on no more than the specified number of nodes across their clusters.
  - x. The Server Software may only be operated with the database system(s) (Microsoft SQL Server or Oracle) listed in the Acquisition Agreement. If no database system is listed in the Acquisition Agreement, then such Server Software may only be operated with Microsoft SQL Server Express.
  - xi. If the Acquisition Agreement includes an item labeled as "databases" (also known as repositories), the Server Software may only host the number of databases included with the License, unless Licensee is acquiring a license to a Laserfiche Rio product. If Laserfiche Rio is being licensed, each running copy of the Server Software may host up to the number of databases included with the License.
  - xii. If the License includes Software with "named user connections," Licensee may allocate the named user connections to specific individuals or devices in its discretion. When a named user connection is allocated to a specific individual person's Laserfiche or external directory account, that individual may not share the use of that named user connection by sharing the use of the account with others. When a named user connection is allocated to a device, the connection may only be used from that device, and various individuals may share the use of that device so long as only one individual is accessing the Server Software from that device at a time. There are two principal types of named user connections: first, a named user connection capable of modifying a database governed by the Server and, second, a named user connection capable of only read-only access (referred to as a "Named Retrieval User"). A third type of named user connection is available on a limited basis, which has all of the capabilities of a Named Retrieval User connection, plus a limited set of additional read-write capabilities, which are included with the License. This third type of connection is referred to as "Restricted Named User" connection,

and it has the additional capabilities included with the License. Only the maximum number of each type of named user connection included with the License may be allocated to individuals or devices. Named user connections may not be routinely reallocated for the purpose of reducing the number of named user connections required.

- xiii. If the License includes Software with "concurrent user connections," the concurrent user connections may be shared among individuals. There are two types of concurrent user connections: concurrent user connections capable of modifying a database governed by the Server (referred to as "Full User" connections) and concurrent user connections capable of only read-only access (referred to as "Retrieval" connections). Once the maximum number of read-write or read-only concurrent user connections included with the License is reached, no additional user connections of that type may be made, until some user connections of that type are closed. Individuals who require write access in the course of their work must use a Full User connection at all times; thus, individuals assigned to use a Full User connection may not use a Retrieval connection to perform read-only tasks which do not require a Full User connection. "Multiplexing" occurs when Licensee utilizes hardware, software, an automated process, or other technical means (1) to pool connections, reroute information, or reduce the number of devices or users that directly access or use a Laserfiche software product; or (2) to permit access to more user connections than are authorized by the License Agreement; or (3) to automatically, routinely, or systematically reallocate named user connections for the purpose of either reducing the number of named user licenses required by Licensee, or avoiding the purchase of additional named user licenses. Hardware or software may not be used to multiplex.
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  - xxii. If Licensee is acquiring a license to a Laserfiche Rio or a Laserfiche Avante Software product, the License may include Laserfiche Discussions Software if it is listed in the Acquisition Agreement. Licensee may operate the number of instances of the Laserfiche Discussions web application included with the License on the same number of physical or virtual operating system environments. If the software product is Laserfiche Rio, those Laserfiche Discussions installations must have continuous network access to a running instance of the included License Manager program. Named Full Users and Retrieval Named Users may log in and contribute content to the Laserfiche Discussions web site. Other site visitors, including Public Users, may read content on the Laserfiche Discussions web site, but they may not log in and contribute new content unless authorized under the License. If the License permits, the employees and contractors of Licensee, who are contractually obligated to use the Software solely in the course of Licensee's business and strictly in accordance with this License Agreement, may log in and contribute content, but only if they are listed in the section of the LDAP directory configured within Laserfiche Discussions or listed in the LFDS directory configured within Laserfiche Discussions.
  - xxiii. The Business Process Library includes templates for using Laserfiche Software to run business processes within an organization. Accessing the Business Process Library feature requires an Internet connection. During retrieval of components of the Business Process Library, certain information is sent to Laserfiche, which may include customer ID, anonymous user ID, and Internet protocol address of the workstation making the request. By using the Business Process Library feature, Licensee consents to the transmission of this information to Laserfiche.

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3. Protection of Software. During the term of this License Agreement and for seven years following termination of this License Agreement, and for such additional period that the Software contains, embodies or consists of Laserfiche Confidential Information or trade secrets, Licensee agrees that it will not directly or indirectly, alone or in conjunction with any other person or company, (a) attempt to write or develop software in an effort to discover, copy or recreate the source code or any trade secrets contained or embodied in the source code; or (b) utilize the Software, Documentation, or Laserfiche Confidential Information, trade secrets, know how, ideas, plans, designs, specifications, coding, programming, processes, production techniques, technology, and methodology incorporated in the Software or Documentation, either directly or indirectly, to sell, market, develop or distribute any software product that competes with the Software; or (c) utilize the Software, Documentation, or Laserfiche Confidential Information, directly or indirectly, to assist, advise or consult with any other person or company in selling, marketing, developing or distributing any software product that competes with the Software; or (d) publish the Software for others to copy or use; or (e) utilize the Software, Documentation, or Laserfiche Confidential Information, directly or indirectly, to convert, or to assist, advise or consult with any other person or company to convert, any end user of the Software to a software product that competes with the Software; or (f) seek to discover or use Laserfiche's trade secrets or Laserfiche Confidential Information by reverse engineering, decompiling, disassembling, copying or any other technique. Licensee must not remove any product identification, copyright legend or other notices from the Software or Documentation, or directly or indirectly attempt to challenge the validity of the copyrights, trademarks, and trade secrets in the Software claimed by Laserfiche or third parties identified in the Software or Documentation. The Software source code and the trade secrets therein are not licensed to Licensee, and all modifications of, additions to, or deletions from the source code are strictly prohibited. Licensee must obtain Laserfiche's prior written approval to disclose to a third party the results of any benchmark test of the Software.

4. Other Restrictions on Use. Unless a separate license expressly authorizes a particular application or use of the Software, such as for "application service provider" or for "Forms Portal users and Forms Authenticated Participants," all users of the Software must be employees, officers, directors, shareholders, owners or independent contractors of Licensee, who are only permitted to use the Software exclusively in the course of Licensee's business and strictly in accordance with this License Agreement. All other uses of the Software are strictly prohibited, including, without limitation, (a) use in the business of an application service provider, commercial software hosting business or a scanning bureau, and (b) transferring, copying or other dissemination of the Software outside of the legal person that constitutes Licensee. Licensee must not rent, lease, lend, sublicense, distribute, transfer, copy, reproduce, display, or timeshare with any other person the Software or Documentation or any right granted by this License. The restrictions in this paragraph do not apply to read-only access by public users who utilize an authorized read-only Public Portal connection.

5. Term and Termination. This License Agreement will commence and terminate as follows:

- A. The term of this License Agreement will commence upon Licensee's acceptance of this License Agreement and continue until terminated as provided in this License Agreement, provided that test, beta, evaluation, demonstration or similar temporary Software will have their own expiration dates. In addition, if the Acquisition Agreement contains an express expiration date applicable to particular Software, Licensee will have no further right or license to use such Software after the expiration date. Laserfiche may terminate this License Agreement for cause immediately following a breach of this License Agreement. Laserfiche may also terminate this License Agreement if Licensee violates, infringes or compromises any trademark, copyright, patent or trade secret of Laserfiche or any third

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- B. Upon termination of this License Agreement, Licensee must immediately cease all use of the Software and the Documentation and return to Laserfiche or destroy all versions and copies of the Software and the Documentation. Licensee must remove and uninstall all such programs and materials from all hard drives and other devices on which the Software or the Documentation may be found.
- C. The termination of this License Agreement will not terminate Licensee's obligations under this License Agreement, nor will it release Licensee from the obligation to pay any monies that it may owe Laserfiche or operate to discharge any liability that Licensee incurs before termination or waive any obligation which is intended to survive termination.

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8. No Waiver. No failure by Laserfiche to exercise or delay in exercising any right, power, or privilege under this License Agreement will operate as a waiver of any right, power, or privilege under this License Agreement. No single or partial exercise by Laserfiche of any right, power, or privilege under this License Agreement will preclude further exercise of any such right, power or privilege.

9. Severability. If any provision of this License Agreement is adjudicated or held to be invalid or unenforceable by a court or arbitration panel, it will be interpreted to affect the intent of the original portion. If such construction is not possible, the invalid or unenforceable provision will be severed from this License Agreement and will be deemed to have never been a part of this License Agreement. Severance of any invalid or unenforceable provision will not affect the validity or enforceability of the remainder of this License Agreement.

10. Entire Agreement. This License Agreement is the complete and exclusive statement of the mutual understanding of the parties concerning its subject matter, and it supersedes all previous written and oral agreements, representations, warranties, statements, advertising and marketing materials, and other communications relating to the subject matter of this License Agreement. No course of performance, course of dealing, or usage of trade will override the written terms of this License Agreement.

11. Modifications to the License Agreement. If Licensee installs a new version of the Software, or any update, modification, or upgrade of the Software, the Laserfiche License Agreement applicable to the new updated, modified or upgraded version of the Software will modify this License Agreement upon such installation, if or to the extent that the new Laserfiche License Agreement is different than this License Agreement. A revised version of the License Agreement will be available at [www.laserfiche.com/eula/home](http://www.laserfiche.com/eula/home). By continuing to use the Software after the effective date of any modifications to this License Agreement, Licensee agrees to be bound by the modified terms.

12. Limitation on Actions. Any suit, claim, action or proceeding based on or related to this License Agreement, its terms, provisions or warranties, or arising out of its performance or breach, whether in contract or tort, must be instituted by Licensee against Laserfiche or its Representatives within one year after the occurrence of any one or more of the acts, omissions, facts, conduct, events, claims or allegations upon which the action, proceeding or claim is based. Licensee waives the benefit of any statute of limitations which specifies a period longer than one year for filing an action or proceeding.

13. U.S. Government Restricted Rights Notice. This Software is provided with restricted rights. Use, duplication or disclosure for or by the government of the United States, including without limitation any of its agencies or instrumentalities, is subject to the restrictions set forth, as applicable: (i) in subparagraphs (a) through (d) of the *Commercial Computer Software Restricted Rights* clause at FAR 52.227-19; (ii) in subparagraph (c)(1)(ii) of the *Rights in Technical Data and Computer Software* clause at DFARS 252.227-7013; or (iii) in similar clauses in other federal regulations, including the NASA FAR supplement. Licensee and any end user must not remove or deface any restricted rights notice or other legal notice appearing in the Software or on any packaging or other media associated with the Software. The contractor/ manufacturer is Compulink Management Center, Inc., 3545 Long Beach Blvd., Long Beach, California 90807, a California corporation dba Laserfiche.

14. Export Restrictions. Licensee acknowledges that the Software and all related technical information, documents, and materials are subject to United States export jurisdiction and controls under the U.S. Export Administration Regulation. Licensee must comply with all applicable federal, state, county, and local laws, ordinances, regulations, and codes including, but not limited to, the procurement of required permits, certificates, approvals, and inspections in Licensee's performance of this Agreement. In addition, Licensee must comply with applicable international export laws and regulations. Licensee represents, warrants and certifies that Licensee will (i) comply strictly with all legal requirements, (ii) cooperate fully with Laserfiche in any official or unofficial audit or inspection that relates to these controls, and (iii) not export, re-export, divert, transfer, or disclose, directly or indirectly, any Software or related technical information, document, or material or direct products to any country restricted by applicable export laws or regulations, as modified from time to time, or to any national or resident of such country, unless Licensee has obtained the prior written authorization of Laserfiche, the U.S. Commerce Department and any other required governmental authority.

15. Captions. The captions used on this License Agreement are for convenience only and are not a part of this License Agreement.

Should Licensee have any questions concerning this Agreement, or if you desire to contact Laserfiche for any reason, please write to: **Laserfiche, 3443 Long Beach Blvd., Long Beach, CA 90807, U.S.A.**

**EXHIBIT VI**  
**SCOPE OF CONTRACTOR'S DELIVERABLES/FINANCIAL OBLIGATIONS**  
**STATEMENT OF WORK**

**1. Introduction**

**1.1.** Contractor shall provide County with support for the existing Laserfiche system ("System").

**2. SYSTEM FEATURES**

The System provided by Contractor shall:

**2.1.** System provided by the contractor includes these products

PRODUCT	DESCRIPTION
<b>Rio Named Full User</b>	<p>Rio named user licenses are bundled with the following functionality.</p> <p>Unlimited Laserfiche Servers and Repositories</p> <p>Laserfiche Workflow</p> <p>Laserfiche Forms Essentials</p> <p>Laserfiche App</p> <p>Laserfiche Web Client</p> <p>Laserfiche Advanced Audit Trail</p> <p>Laserfiche Snapshot</p> <p>Laserfiche Integration with Microsoft Office and Microsoft SharePoint</p> <p>Web Administration Console</p> <p>Laserfiche Digital Signatures</p>
<b>Forms Professional (Add on to Full Users)</b>	Forms Professional builds on Forms Essential and provides the complete Laserfiche Forms feature package, including full-featured reporting, analytics, and payment collection capabilities.
<b>Records Management (Add on to Full Users)</b>	Provides integrated, DoD 5015.2 certified records management functionality to keep track of documents through their complete records lifecycle, including cutoff and disposition actions.

PRODUCT	DESCRIPTION
<b>Laserfiche Connector (Add on to Full Users)</b>	Provides a non-programmatic means for integrating Laserfiche with a line of business applications to perform actions such as searching based on identified fields on a page, indexing content being scanned into the repository, kicking off Workflows, etc.
<b>Laserfiche Import Agent</b>	Monitors network folders, imports files into the Laserfiche repository, generates associated text for full-text searching, as well as automatically index and route documents based on the Window's file path or name.
<b>Laserfiche SDK</b>	Includes access to the same Web Services, APIs, and libraries used to develop the Laserfiche applications.
<b>Laserfiche Forms Portal</b>	Allows form submissions from unauthenticated (public) users.
<b>Laserfiche Weblink Public Portal aka Pilot Public Portal</b>	Allows concurrent, read-only connections to allocated areas of the Laserfiche repository to be accessed by unauthenticated (public) users.

### 3. PRICING

#### 3.1. Ongoing System Support and Maintenance Costs

PRODUCT	DESCRIPTION	QTY	UNIT COST	TOTAL COST
<b><i>Laserfiche Software Support Plan (LSSP)</i></b>				
ENF20P	Laserfiche Rio Named Full User with Records Management, Forms & Connector Enabled LSSP	1,260	\$135.00	\$170,100.00
IAP	Laserfiche Import Agent LSSP	2	\$405.00	\$810.00
TKP	Laserfiche SDK LSSP	1	\$1,000.00	\$1,000.00
EPXFRMP	Laserfiche Enterprise Forms Portal LSSP	1	\$6,480.00	\$6,480.00
PPM25P	Laserfiche Pilot Public Portal LSSP	1	\$6,750.00	\$6,750.00
VIP001	Laserfiche VIP Support (Up to 160 Hours)	1	\$28,800.00	\$28,800.00
			<b>Total Annual Cost</b>	<b>\$213,940.00</b>
			<b>Total 5 Year Cost</b>	<b>\$1,069,700.00</b>

#### 3.2. Optional Components

LASERFICHE COMPONENTS TO CONSIDER (OPTIONAL). FOR THE AVOIDANCE OF DOUBT, THE FOLLOWING ITEMS MAY BE PURCHASED BY COUNTY FOR THE PRICES PROVIDED BELOW, AT COUNTY'S SOLE DISCRETION, BUT COUNTY IS NOT OBLIGATED TO PURCHASE SAID ITEMS.



### 3.2.1. Cost Description Software

PRODUCT	DESCRIPTION
<b>Laserfiche Quick Fields Complete</b>	Provides automated capture and processing capabilities to content from a scanner, network drives, or content already in the repository. Processing capabilities include Real-Time Lookups, Barcode Reading, Pattern Matching, Zone OCR, Scripting, Document Classification, Auto-Annotations, and Optical Mark Recognition.
<b>Laserfiche Quick Fields Agent</b>	Enables the scheduling of Quick Fields sessions to run unattended.
<b>Laserfiche Direct Share</b>	Enables users to share content from the Laserfiche Repository with external users through the Web Client or Mobile app.
<b>Laserfiche DocuSign Integration</b>	Enables users to initiate a signing process with DocuSign from Laserfiche Web Client by choosing a document, DocuSign template, and who needs to sign it, then ultimately saving the executed document back into Laserfiche as a new version.

#### LASERFICHE COMPONENT PRICING

PRODUCT	ONETIME SOFTWARE PURCHASE COST	ANNUAL SUPPORT COST
Laserfiche Quick Fields Complete	\$15,000.00	\$4,050.00
Laserfiche Quick Fields Agent	\$10,000.00	\$2,500.00
Laserfiche Direct Share	-	\$8,625.00
Laserfiche DocuSign Integration	-	\$405.00

### 3.2.2. Travel and Expense

#### LASERFICHE TRAVEL PRICING

DESCRIPTION	HOURLY COST
Travel	\$113.00

Travel costs are defined as the time spent travelling to perform onsite work. This does not include reimbursements for other travel-related expenses such as transportation, lodging, etc. Hourly rates are calculated based on the employee's time spent in transit. In transit begins when Vendor leaves office or house and ends when Vendor arrives in Oakland County. County shall have the final decision on whether vendor travel is required.

County shall reimburse Laserfiche for all expenses included in the estimated Travel Budget which includes:

- Direct travel expenses including, but not limited to hotel, airfare, car rental, tolls, parking and airline and travel agent fees.
- A per diem rate of \$70.00/day which includes all meal food and telecommunications expenses (no receipts will be provided).

- Mileage charge based on the current Internal Revenue Service recommended rate per mile.
- All other reasonable expenses incurred in the performance of Contractor's duties.

County will be billed for any non-recoverable/non-transferable direct travel costs incurred by Contractor that result from a cancellation by County with fourteen (14) Calendar Days or less of scheduled on-site Services. Additionally, County hereby acknowledges that cancellation of on-site Services means that such on-site Services will be rescheduled as Contractor's then current schedule permits. Contractor is not responsible for any delay in County's Project resulting from County's cancellation of Services.

Contractor shall confirm County acceptance and readiness prior to purchasing any non-recoverable/non-transferable direct travel costs incurred by Contractor.

If upon Contractor's arrival, the County is not adequately prepared or has not completed the assigned tasks for such visit by Contractor and the Contractor has previously provided all the requisite information, instructions, and training, then the County will be billed 100% of the on-site fee. If additional Services are required because the County was not adequately prepared, Contractor shall provide a Contract Amendment to the County for the additional Services.

### 3.2.3.Implementation

#### LASERFICHE SERVICES/IMPLEMENTATION PRICING

DESCRIPTION	HOURLY COST
Services - Implementation and Consulting	\$225.00

If consulting assistance is requested and there are defined deliverables Services - Implementation and Consulting charge would be used. County shall have the final decision on support, implementation and consulting services to be provided.

#### 4. PAYMENT

- 4.1. County shall provide payment to Contractor upon receipt of invoice for Annual Support and Maintenance.

#### 5. ROLES AND RESPONSIBILITIES

##### 5.1. Contractor Responsibilities

5.1.1. Contractor will be responsible for providing the services and deliverables outlined in this document.

5.1.2. Contractor shall have appropriate staff available during conference calls.

##### 5.2. County Responsibilities – County shall:

- 5.2.1. Have County personnel available during regular business hours to assist in the System implementation.
- 5.2.2. Ensure that the computers and tablets meet the minimum hardware specifications and have the necessary software installed.
- 5.2.3. Ensure that the computers and tablets are properly licensed, and the browsers are properly configured.
- 5.2.4. Ensure that any ancillary access devices such as signature pads, printers and Wi-Fi cameras are configured.

## **6. SERVICE LEVEL COMMITMENT & SUPPORT DELIVERABLES**

### **6.1. Contractor shall provide County with:**

- 6.1.1. A live person to telephone support;
- 6.1.2. Monitored email support;
- 6.1.3. Remote assistance using Remote Desktop and a Virtual Private Network where available.
- 6.1.4. Ongoing security patches to be installed by the County.
- 6.1.5. Meet response times associated with service related incidents.

### **6.2. County shall:**

- 6.2.1. Have a representative available to communicate with Contractor when Contractor is working to resolve a service-related incident or request.
- 6.2.2. Isolate and rectify technical faults within their own Network infrastructure, equipment and software.

## **7. Service Management**

### **7.1 Service Availability**

- 7.1.1 County shall have access to a dedicated technical support team by either phone or email from 9am to 9pm Eastern Time Monday through Friday. The support engineers will diagnose software related technical issues and can escalate support cases to solutions engineers and Contractor Development.
- 7.1.2 Support can be contacted at [LFCsupport@laserfiche.com](mailto:LFCsupport@laserfiche.com), 562-988-1688 ext. 780, and online chat through the [www.support.laserfiche.com](http://www.support.laserfiche.com).
- 7.1.3 Access to Laserfiche's Support Site is available 24/7.

## 7.2 Service Requests

Contractor will respond to service related incidents and/or requests submitted by the County within the following time frames:

Incident Severity	Definition	Require Time To Respond	Status Reports	Target Resolution Time
<b>Catastrophic</b>	Defects that could (or did) cause disastrous consequences for the system.  E.g. critical loss of data, critical loss of system availability, critical loss of security, critical loss of safety, etc.	4 Hours	Every Hour	8 Hours or less
<b>Major</b>	Incident that could (or did) cause very serious consequences for the system.  E.g. Long load times forcing or intermittent errors where the system is still available but difficult to use.	4 Hours	Every Hour	8 hours or less
<b>Minor</b>	Incidents that could (or did) cause small or negligible consequences for the system. Easy to recover or workaround.	1 Week	Upon request	
<b>No Effect</b>	Trivial incident that can cause no negative consequences for the system and the system is usable.	1 Week	Upon request	

**EXHIBIT VII**

**PPB MODEL AGREEMENT**

**PROFESSIONAL SERVICE CONTRACT NUMBER:**

**Contract Expiration Date:**

**Contract - NOT TO EXCEED AMOUNT: \$**

This "Contract" is made between the PARTICIPATING PUBLIC BODY, hereinafter called "PPB" and the "Contractor" as further described in the following Table. This Contract is modeled after Professional Services Contract Number \_\_\_\_\_, dated \_\_\_\_\_, between PPB and Contractor, as more fully described herein. In this Contract, either Contractor or the PPB may also be referred to individually as a "Party" or jointly as the "Parties".

PARTICIPATING PUBLIC BODY	CONTRACTOR NAME
Contact Person:	Contact Person:
Address:	Address:
(herein, the "PPB")	Vendor I. D. No:
	(herein the "Contractor")

This Contract is organized and divided into the following Sections for the convenience of the Parties.

- Section 1. Contract Purpose
- Section 2. Contract Definitions
- Section 3. Contract Term and Renewal
- Section 4. Contract Administration and Amendments
- Section 5. Contract Termination
- Section 6. Scope of Deliverables and Financial/Payment Obligations
- Section 7. Contractor's Warranties and Assurances
- Section 8. Liability
- Section 9. Contractor Provided Insurance
- Section 10. Intellectual Property and Confidentiality
- Section 11. General Terms and Conditions

In consideration of the mutual promises, obligations, representations, and assurances in this Contract, the Parties agree to the following:

§3. **CONTRACT PURPOSE**

- 3.1. After a competitive bidding and selection process by Oakland County, Contractor was chosen to provide to Oakland County the software and services described more fully in a contract, a Statement of Work ("SOW"), and the other Exhibits, between Oakland County and Contractor. Contractor desires to extend the terms and conditions in this Contract to PPB to enable it to make purchases from Contractor according to the terms herein.
- 3.2. Oakland County is not a party to this Contract between Contractor and a PPB and will not have any liability, of any sort, for any harm or action that may arise from purchases made by any PPB pursuant to the terms of this Contract.
- 3.3. PPB must deal directly with Contractor for any transactions such as purchases, invoices, price questions, disputes, etc. that relate to their individual agreement with Contractor. Contractor must respond timely to PPB inquiries.

**CONTRACT DEFINITIONS**

The following words when printed with the first letter capitalized shall be defined and interpreted as follows, whether used in the singular or plural, nominative or possessive case, and with or without quotation marks:

- 3.4. **"Amendment"** means any change, clarification, or modification to this Contract.
- 3.5. **"Business Day"** means Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding PPB designated holidays.
- 3.6. **"Claims"** means any loss; complaint; demand for relief or damages; lawsuit; cause of action; proceeding; judgment; penalty; costs or other liability of any kind which is imposed on, incurred by, or asserted against the PPB or for which the PPB may become legally or contractually obligated to pay or defend against, whether commenced or threatened, including, but not limited to, reimbursement for reasonable attorney fees, mediation, facilitation, arbitration fees, witness fees, court costs, investigation expenses, litigation expenses, or amounts paid in settlement.
- 3.7. **"Confidential Information"** means all information and data that the PPB is required or permitted by law to keep confidential and "Proprietary Information" as defined herein.
- 3.8. **"Contract"** means this document and any other documents expressly incorporated herein.
- 3.9. **"Contractor"** means the entity or person listed under "Contractor" on the first page of this Contract.
- 3.10. **"Contractor Employee"** means any employee; officer; director or manager. Contractor Employee shall also include any person who was a Contractor Employee at any time during the term of this Contract but, for any reason, is no longer employed, appointed, or elected in that capacity.
- 3.11. **"Contract Documents"** mean the following documents, which this Contract includes and incorporates:

**Exhibits (Applicable if Checked)**

- 3.11.1. ☒ Exhibit I: Contractor Insurance Requirements
- 3.11.2. ☒ Exhibit II: Business Associate Agreement (Health Insurance Portability and Accountability Act Requirements)
- 3.11.3. ☒ Exhibit III: Software License
- 3.11.4. ☒ Exhibit IV: Laserfiche Software Assurance Plan (LSAP) and Support Details
- 3.11.5. ☒ Exhibit V: Scope of Contractor Deliverables/Financial Obligations ("Statement of Work")
- 3.12. **"Oakland County"** means the County of Oakland, a Municipal and Constitutional Corporation, its departments, divisions, authorities, boards, committees.
- 3.13. **"PPB Agent"** means any elected and appointed officials; directors; board members; council members; commissioners; employees; and volunteers of the PPB; whether acting in their personal, representative, or official capacities. "PPB Agent" shall also include any person who was a "PPB Agent" anytime during the term of this Contract but, for any reason, is no longer employed, appointed, or elected and in that capacity.
- 3.14. **"PPB Data"** means information or data provided by PPB to Contractor in the performance of this Contract, including, but not limited to any personally identifiable information such as names, e-mail addresses, passwords, phone numbers, and home or business addresses. PPB Data includes Confidential Information as defined in this Contract.
- 3.15. **"Day"** means any calendar day, which shall begin at 12:00:00 a.m. and end at 11:59:59 p.m.
- 3.16. **"Deliverables"** means goods and/or services provided under this Contract, whether tangible or intangible, and may be more specifically described in the Exhibits.
- 3.17. **"Effective Date"** means midnight on the date listed on the first page of this Contract.
- 3.18. **"Expiration Date"** means 11:59.59 p.m. on the date listed on the first page of this Contract.
- 3.19. **"E-Verify"** means an Internet based system operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA) that allows participating employers to electronically verify the employment eligibility of their newly hired employees. Information and the registration process are found at the E-Verify website: <https://e-verify.uscis.gov/enroll>.
- 3.20. **"G2G MarketPlace Website"** means an Internet site used by Oakland County to provide information to PPBs about businesses providing services to Oakland County and agreements used by PPB and available to PPBs to procure services.
- 3.21. **"Intellectual Property"** means any developments, improvements, designs, innovation, and materials that may be the subject of a trademark/servicemark, copyright, patent, trade secret, or Proprietary Information.
- 3.22. **"Iran-Linked Business"** is defined in the Michigan Compiled Laws (MCL), specifically MCL 129.312, being Section 2 of Public Act 517 of 2012. This applies only to Michigan PPBs.



- 3.23. **"Not to Exceed Amount"** means the dollar amount listed on the first page of this Contract, unless amended. The "Not to Exceed Amount" is not the PPB's financial obligation under this Contract, but the maximum amount that can be paid to Contractor during the term of this Contract.
- 3.24. **"PPB"** which stands for Participating Public Body, means an entity created by state or Federal law which is primarily funded by or through a governmental authority and which registers to access Oakland County's G2G MarketPlace Website.
- 3.25. **"Proposal"** means Contractor's response or bid to the PPB's Request for Proposal, Request for Qualifications, or Request for Quotes.
- 3.26. **"Proprietary Information"** means ideas, concepts, inventions, and processes related to the development and operation of computer software and systems such as source code, object code, security procedures, and passwords.
- 3.27. **"Purchase Order"** means the PPB's written request to Contractor for Deliverables pursuant to this Contract. The Purchase Order may include terms regarding delivery schedule, payment, and transportation.

#### **CONTRACT TERM AND RENEWAL**

- 3.28. **Contract Term.** This Contract shall begin on the Effective Date and shall end on the Expiration Date.
- 3.29. **Contract Renewal.** Unless otherwise provided herein, the Parties are under no obligation to renew or extend this Contract after the Expiration Date. This Contract may only be extended by an Amendment.
- 3.30. **Legal Effect.** This Contract shall be effective and binding when all of the following occur: (a) this Contract is signed by a Contractor Employee, legally authorized to bind Contractor; (b) this Contract is signed by an authorized PPB Agent; (c) all Contractor certificates of insurance, required by this Contract, are submitted and accepted by Purchasing; and (d) any other conditions precedent to this Contract have been met.

#### **CONTRACT ADMINISTRATION AND AMENDMENTS**

- 3.31. **Contract and Purchase Order Issuance.** PPB shall issue this Contract and any Purchase Orders that may be required.
- 3.32. **Purchase Orders.** Purchase Orders issued under this Contract are governed by the terms and conditions of this Contract and are included and incorporated herein.
- 3.33. **Project Managers.** Each Party may designate an employee or agent to act as a Project Manager. If Project Managers are selected, they shall be listed in the Scope of Contractor Deliverables/Financial Obligations ("Statement of Work") as well as their duties.
- 3.34. **Contract Administrators.** The PPB may designate an employee or agent to act as Contract Administrator(s). Contractor may designate its employee or agent to act as Contract Administrator(s). The Contract Administrators shall be listed on the signature page of this Contract. The PPB's Contract Administrator(s) shall be responsible for monitoring and coordinating day-to-day activities under this Contract, reviewing Deliverables and invoices, and submitting requests for Amendments to Purchasing. The PPB's Contract Administrator(s) have no authority to amend this Contract.

- 3.35. **Contract Amendments.** All Amendments to this Contract must be in writing. This Contract shall not be amended by any packing slip, Purchase Order, invoice, click through license agreement, or Contractor policies or agreements published on Contractor's website or otherwise. Amendments, change orders, SOWs, and other modifications to this Contract must be signed by an agent or representative of each respective party with the authority to bind their respective principals and will be effective when signed by such authorized persons.
- 3.36. **Unauthorized Changes.** Contract changes shall not be effective until an Amendment, SOW, or change order containing the change is executed according to the procedures described in this Contract. Contractor will not be responsible for any delay that results from the negotiations of, and time to approve, any Amendment, SOW or change order. If Contractor is directed to perform work that Contractor believes is a change in the Contract/Deliverables or out of scope, then Contractor must notify PPB that it believes the requested work is a change to the Contract before performing the requested work. If Contractor begins the requested work without authorization or knowledge of PPB, then PPB may deny or reduce payment to Contractor for any claims for additional compensation for performing the requested work, but only if and to the extent that PPB in good faith concludes that the amount claimed by Contractor exceeded the reasonable value of the work performed. If Contractor begins work that is outside the scope of this Contract or begins work before an Amendment is executed and then stops performing that work, Contractor will, if requested by PPB, undo any out-of-scope unauthorized work that is unwanted by PPB.
- 3.37. **Precedence of Contract Documents.** In the event of a conflict between the terms and conditions in this Contract and those in any of its Exhibits, attachments, or other signed writings between the parties, the following order of precedence will prevail over conflicting provisions in all Contract Documents, Exhibits, Purchase Orders, Amendments, and other documents expressly incorporated herein: (1) The body of this Contract that precedes the Exhibits, Schedules and any other attachments; (2) Contractor's End-user Software License Agreement ("EULA"), attached as an exhibit; (3) the terms of the SOW, except that, if the SOW is modified by a change order or supplemental SOW, the inconsistent terms in the subsequent document will prevail over the original terms; (4) the terms of any purchase order that has been accepted by the recipient, except that boilerplate terms in eight-point or smaller type on the reverse sides of orders or receipts will not vary the terms of the Contract, the EULA or any SOW; (5) other writings between the parties that are accepted either by written acknowledgement or performance; and (6) any course of dealing or other act or omission that may be acceptable as evidence of a binding oral agreement. .

#### **CONTRACT TERMINATION**

- 3.38. **PPB Termination.** In addition to any other legal rights the PPB may have to terminate or cancel this Contract, the PPB may terminate the Contract as follows:
- 3.38.1. **Immediate Termination.** PPB may terminate or cancel this Contract, in whole or in part, immediately, upon notice to Contractor, if any of the following occur: (a) Contractor, officer of Contractor, or an owner of a 25% or greater share of Contractor is convicted of a criminal offense; or (b) if any third-party funding for this Contract is reduced or terminated. If item (b) is the basis of termination and PPB does not give Contractor at least 10 business days' prior written notice, PPB must pay Contractor its reasonable costs and expenses resulting from the early termination of the Contract.

- 3.38.2. **Termination for Convenience.** The PPB may terminate or cancel this Contract, in whole or part, at any time, upon ninety (90) Days' notice to Contractor, for any reason, including convenience without incurring obligation or penalty of any kind. The effective date for termination or cancellation shall be clearly stated in the notice.
- 3.39. **Contractor Termination.** Contractor may terminate this Contract, in whole or part, if PPB breaches any duty or obligation in this Contract and fails to cure the breach within 60 days of written notice to PPB of the breach. The effective date of termination and the specific alleged default will be stated in the notice to PPB. Contractor may terminate this Contract, in whole or part, upon 30 days' notice to PPB, if PPB breaches any obligation to pay money owed to Contractor within 10 days following the date due and PPB has failed to cure the non-payment before expiration of the 30-day notice period. The effective date of termination and the specific alleged default will be clearly stated in the notice to the PPB.
- 3.40. **PPB's Obligations Upon Termination.** In the event of termination or cancellation of this Contract, PPB must pay Contractor for the Deliverables provided to the PPB and any work in progress before the effective date of termination, as well as breach of contract damages that may be awarded by a court. Except for the foregoing, PPB will not be liable for any future loss of income, profits, any consequential damages, any loss of business opportunities, revenues, or any other economic benefit Contractor may have realized but for the termination or cancellation of this Contract. If PPB chooses to terminate the Contract in part, the charges payable under this Contract must be equitably adjusted to reflect those Deliverables that are terminated.
- 3.41. **Contractor's Obligations Upon Termination.** If the PPB terminates this Contract, for any reason, then Contractor must do the following: (a) cease providing all Deliverables as specified at the time stated in the notice of termination; (b) take reasonable steps necessary, or as the PPB may direct, to preserve and protect Deliverables in Contractor's possession, but which PPB has already paid for; (c) return all materials, property, and PPB Data provided to Contractor by the PPB; and (d) take reasonable action to mitigate potential damages as required by applicable law.
- 3.42. **Assumption of Subcontracts.** If Contractor is in breach of this Contract and the PPB terminates this Contract, then the PPB may assume, at its option, any subcontracts and agreements for Deliverables provided under the Contract and may pursue completion of the Deliverables by replacement Contract or otherwise as the PPB, in its sole judgment, deems expedient.

#### **SCOPE OF DELIVERABLES AND FINANCIAL/PAYMENT OBLIGATIONS**

- 3.43. **Performance of Deliverables.** Contractor shall provide all Deliverables identified in and as set forth in the Exhibits, SOWs, any Purchase Orders, or any Amendments to this Contract. If additional work is needed, an amendment to the Contract will be required.
- 3.44. **Software License(s).** If this Contract includes a Software License(s) as described in Exhibit III, then the Parties shall follow the terms and conditions therein. Any applicable third party Software License(s) are also provided in Exhibit III. Unless specifically agreed to by PPB, if PPB Agents are required to accept click through license terms to access any of the Deliverables in this Contract, the terms and conditions of those click through licenses will not vary the written EULA attached to the Contract.
- 3.45. **Financial Obligations.** Except as otherwise set forth in this Contract, the PPB's sole financial obligation under this Contract shall be set forth in the Exhibits. The amount and manner of payment of the

financial obligation shall be set forth in the Scope of Services Exhibit(s) and may be in the Software License Exhibit III, if applicable, or a Purchase Order.

- 3.46. **Payment Obligations.** Except as otherwise set forth in the Exhibits, Contractor shall submit an invoice to the PPB's Contract Administrator itemizing amounts due and owing under this Contract, as of the date of the invoice. Invoices shall contain the following information: (a) PPB Contract Number; (b) itemized list of Deliverables; (c) Contractor Tax ID Number (federal and State); and (d) any other information reasonably requested by PPB. PPB will have no obligation to make a payment under this Contract without a proper invoice.
- 3.47. **Payment Details.** Payment for the software will be due within ten (10) business days of execution of this Contract.
- 3.48. **Not to Exceed Amount.** The amount due and owing to Contractor, under this Contract, will not exceed the "Not to Exceed Amount" unless the parties modify the Contract with an Amendment, SOW, or change order. If Contractor can reasonably foresee that the total financial obligation for the Contract will exceed the "Not to Exceed Amount," then Contractor will so notify PPB within 10 business days after learning such information.
- 3.49. **No Obligation for Penalties/Costs/Fines.** The PPB shall not be responsible for any cost; fee; fine; penalty; or direct, indirect, special, incidental, or consequential damages incurred or suffered by Contractor in connection with or resulting from the performance of this Contract.
- 3.50. **Set-Off of PPB Costs.** The PPB has the right to offset the amount of any PPB-provided equipment, supplies, or identification badges that are not returned by Contractor upon completion of the Services provided under this Contract; provided upon the subsequent return of such property by Contractor, the amounts previously withheld to offset the value of such property shall become immediate due and payable.
- 3.51. **In-Kind Services.** Unless expressly provided herein, this Contract does not authorize any in-kind services by either Party.

#### **CONTRACTOR'S WARRANTIES AND ASSURANCES**

- 3.52. **Full Knowledge of Contract Expectations.** Contractor warrants that before submitting its Proposal and/or entering into this Contract, it had a reasonable opportunity to review PPB's requirements for this Contract. To the best of its knowledge, Contractor will be able to perform the Contract.
- 3.53. **Complete and Accurate Representations.** Contractor certifies that, to the best of its knowledge, its written statements and materials submitted to the PPB in connection with this Contract are true and accurate.
- 3.54. **Access to Contractor Policies.** If the Parties agree in this Contract to follow any Contractor policies, such as acceptable use or privacy policies, Contractor will retain each version of such policies and the effective dates and provide such to PPB, if requested.
- 3.55. **Grant Compliance.** If any part of this Contract is supported or paid for with any State, federal, or other third-party funds granted to the PPB, Contractor will comply with all applicable grant requirements that PPB makes known to Contractor in writing before execution of this Contract. PPB must provide Contractor with a copy of the applicable grant requirements at least 10 business days before execution of this Contract.

- 3.56. **Contractor Incidental Expenses.** Except as otherwise expressly provided in this Contract, Contractor shall be solely responsible and liable for all costs and expenses associated or needed to perform this Contract, including, but not limited to, any professional dues, association fees, license fees, fines, taxes, and penalties.
- 3.57. **Equipment and Supplies.** Contractor is responsible for providing all equipment and supplies to perform this Contract, which are not expressly required to be provided by the PPB.
- 3.58. **Contractor Employees.**
- 3.58.1. **Number and Qualifications of Contractor Employees.** Contractor shall employ and assign qualified Contractor Employees as necessary and appropriate to perform this Contract. Contractor shall ensure all Contractor Employees have the knowledge, skill, and qualifications to perform this Contract and possess any necessary licenses, permits, certificates, and governmental authorizations as may be required by law.
- 3.58.2. **Control and Supervision of Contractor Employees.** Contractor shall solely control, direct, and supervise all Contractor Employees with respect to all Contractor obligations under this Contract. Contractor will be solely responsible for and fully liable for the conduct and supervision of any Contractor Employees.
- 3.58.3. **Removal or Reassignment of Personnel at the PPB's Request.** Contractor shall remove a Contractor Employee performing work under this Contract at the PPB's request provided that the PPB's request is based on legitimate, good-faith reasons. Replacement personnel for the removed person must be fully qualified for the position. If the removal of a Contractor Employee results in an unanticipated delay, which is attributable to the PPB, then this delay shall not be considered a breach of the Contract and the terms and conditions of this Contract affected by the removal will be adjusted accordingly.
- 3.58.4. **Contractor Employee Identification.** If requested by the PPB, Contractor Employees shall wear and display appropriate PPB-provided identification at all times while working on PPB premises. Contractor shall return all PPB-provided identification upon completion of Contractor's obligations under this Contract.
- 3.58.5. **Background Checks.** At the PPB's request, Contractor Employees performing work under this Contract shall be subject to a background check by the PPB. The scope of the background check is at the discretion of the PPB and the results will be used to determine Contractor Employee's eligibility to perform work under this Contract. Any request for background checks will be initiated by the PPB and will be reasonably related to the type of work requested. Contractor and Contractor Employees shall provide all information or documents necessary to perform the background check.
- 3.58.6. **Compliance with PPB Security Policies and Use Policies.** Contractor shall require all Contractor Employees to comply with the PPB's security and acceptable use policies for PPB property (tangible and intangible), equipment, resources, facilities, and systems. Upon request, the PPB shall provide such policies to Contractor.
- 3.58.7. **Contractor Employee Expenses.** All Contractor Employees shall be employed at the Contractor's sole expense (including employment-related taxes and insurance). Contractor warrants that all Contractor Employees shall fully comply with and adhere to the terms of this Contract. Contractor shall be solely liable for all applicable Contractor Employees' federal, state, or local payment withholdings or contributions and/or all Contractor Employee related pension or welfare benefits plan contributions

under federal or state law. Contractor shall indemnify and hold the PPB harmless for all Claims against the PPB by any Contractor Employee, arising out of any contract for hire or employer-employee relationship between Contractor and any Contractor Employee including, but not limited to, Worker's Compensation, disability pay, or other insurance of any kind.

- 3.58.8. **Contractor's Compliance with the Patient Protection and Affordable Care Act.** If Contractor is subject to the Patient Protection and Affordable Care Act ("ACA"), PL 111-148, 124 Stat 119, then Contractor shall ensure that all Contractor Employees, under assignment to the PPB, and their dependents, as defined by the ACA, are provided with or have access to insurance as required by the ACA. If Contractor is subject to the ACA, Contractor warrants it offers group health coverage to Contractor Employees and their dependents that is affordable, that provides minimum essential coverage and value, and that each offer of coverage meets the timing requirements of the ACA. Contractor warrants, whether or not it is subject to the ACA, that it will pay all applicable fees, taxes, or fines, as set forth in the employer mandates of the ACA under Tax Code §4980H and related regulations for any Contractor Employee, whether the fee, tax, or fine is assessed against the Contractor or the PPB.
- 3.59. **Acknowledgment of Independent Contractor Status.**
- 3.59.1. **Independent Contractor.** Nothing in this Contract is intended to establish an employer-employee relationship between the PPB and Contractor or any Contractor Employee. In no event, shall Contractor Employees be deemed employees, agents, volunteers, or subcontractors of the PPB. Contractor shall ensure that Contractor Employees are apprised of their status as independent contractors and the limitations of this status.
- 3.59.2. **Contractor/Contractor Employee Representations.** Contractor and/or Contractor Employees shall not represent themselves as PPB employees. Contractor shall ensure that Contractor Employees do not represent themselves as PPB employees.
- 3.59.3. **PPB Benefits and Plans.** Contractor and Contractor Employees shall not be entitled to participate in any PPB employee benefit plans and programs, including but not limited to, retirement, deferred compensation, insurance (including without limitation, health, disability, dental, and life), and vacation pay. This limitation includes access to benefit plans and programs that are not described by a written plan.
- 3.59.4. **PPB Reliance.** The PPB entered into this Contract in reliance of the representations made by Contractor regarding its understanding of the role of independent contractors, its stated relationship to Contractor Employees, and other representations Contractor has made regarding the management and performance oversights of Contractor Employees.
- 3.60. **Permits and Licenses.** Contractor shall be responsible for obtaining and maintaining, throughout the term of this Contract, all licenses, permits, certificates, governmental authorizations, and business/professional licenses necessary to perform this Contract. Upon request by the PPB, Contractor shall furnish copies of any permit, license, certificate, or governmental authorization necessary to perform this Contract.
- 3.61. **E-Verify.** Contractors who wish to contract with the PPB to provide services must first certify they have registered with, will participate in, and continue to utilize, once registered, the E-Verify Program (or any successor program implemented by the federal government or its departments or agencies) to verify the work authorization status of all newly hired employees employed by the Contractor. Breach of this term or condition is considered a material breach of this Contract. Contractor's execution of



this Contract constitutes a certification that they are authorized to certify on behalf of Contractor and do hereby certify on behalf of Contractor that the Contractor has registered with, has and will participate in, and does and will continue to utilize once registered and throughout the term of this Contract and any permissible extension hereof, the E-Verify Program (or any successor program implemented by the federal government or its departments or agencies) to verify the work authorization status of all newly hired employees employed by the Contractor.

- 3.62. **Iran-Linked Business Certification.** For Michigan PPB's only: Contractor certifies that it is not an Iran-Linked Business. Contractor further certifies that it was not an Iran-Linked Business at the time it submitted its Proposal for this Contract. Contractor must promptly notify the PPB, if Contractor becomes an Iran-Linked Business at any time during this Contract.
- 3.63. **Taxes.**
- 3.63.1. **Contractor Taxes.** Contractor shall collect and pay its local, state, and federal taxes, including but not limited to, all employment taxes, sales taxes, personal property taxes, and real property taxes. The PPB shall not be liable to or required to reimburse Contractor for any local, state, or federal tax of any kind.
- 3.63.2. **PPB Tax-Exempt.** The PPB is exempt from state and local sales tax, personal property tax, and real property tax. Prices under this Contract shall not include taxes, unless the PPB is not tax-exempt for a specific Deliverable. Exemption certificates for sales tax will be furnished upon request.
- 3.64. **Warranty for Services.** Contractor warrants that all Deliverables that are services shall be performed in compliance with all applicable laws, statutes, regulations, ordinances, and professional standards.
- 3.65. **Warranty for Goods.** All Deliverables that are goods shall be subject to the following warranties:
- 3.66. **Section 508 Compliance.** If Contractor is providing a Deliverable that requires PPB Agents or the general public to access a website and the Statement of Work provides for Section 508 compliance, Contractor warrants that end users will have the ability to access the website to register and provide information updates to receive Deliverables in accordance with the accessibility requirements of Section 508 Amendment to the Rehabilitation Act of 1973 (29 U.S.C. § 794(d)).
- 3.67. **Price Warranty.** Contractor warrants that it will provide PPBs with the lowest published prices available for the same level of services and products offered to other similarly situated public bodies. PPB acknowledges that Contractor commonly provides unique and individualized services and software products to its customers, and that individual facts, circumstances, configurations, integrations, and other issues, which inevitably occur in each particular purchase and sale, can and will affect price.
- 3.68. **NO CONSEQUENTIAL DAMAGES.** UNDER NO CIRCUMSTANCES WILL CONTRACTOR OR ITS SUBSIDIARIES, AFFILIATES, RESELLERS, DISTRIBUTORS, AGENTS, EMPLOYEES, OFFICERS, DIRECTORS, CONSULTANTS, OR SUPPLIERS (COLLECTIVELY, "REPRESENTATIVES") BE LIABLE TO PPB OR ANYONE ELSE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS; LOSSES FROM BUSINESS INTERRUPTION; LOSS OF BUSINESS REVENUES, INFORMATION OR DATA; COSTS OF RECREATING LOST INFORMATION OR DATA; OR COSTS OF SUBSTITUTE SOFTWARE, SERVICES, OR SUPPORT; OR ANY OTHER PECUNIARY LOSS WHATSOEVER), REGARDLESS OF WHETHER CONTRACTOR OR ITS REPRESENTATIVES HAVE BEEN NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES.



- 3.69. **ADDITIONAL LIMITATIONS ON DAMAGES.** ANY AND ALL DAMAGES SUFFERED BY PPB OR ANYONE ELSE FOR WHICH CONTRACTOR OR ITS REPRESENTATIVES ARE LIABLE, WHETHER RELATING TO THE DELIVERABLES, WHETHER BASED ON A BREACH OF CONTRACT OR WARRANTY, OR NEGLIGENCE, MISREPRESENTATION OR OTHER TORT, OR ON ANY OTHER LEGAL OR EQUITABLE THEORY, WILL BE STRICTLY LIMITED TO THE ACTUAL DOLLAR AMOUNT THAT PPB ACTUALLY PAID FOR THE DEFECTIVE DELIVERABLE WITHIN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THAT CONTRACTOR RECEIVES NOTICE OF AN EXISTING OR POTENTIAL CLAIM OR SUIT AGAINST IT. NO CLAIM OR SUIT MAY BE BROUGHT AGAINST CONTRACTOR OR ITS REPRESENTATIVES BASED ON A BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, MISREPRESENTATION OR OTHER TORT, OR ON ANY OTHER LEGAL OR EQUITABLE THEORY, MORE THAN ONE YEAR AFTER PPB FIRST DISCOVERED OR SHOULD HAVE DISCOVERED ANY OF THE FACTS THAT GAVE RISE TO THE CLAIM OR SUIT. THIS LIMITATION APPLIES EVEN IF THE DAMAGES AVAILABLE TO PPB OR ANY OTHER CLAIMANT DO NOT FULLY COMPENSATE THEM FOR ANY OR ALL OF THEIR LOSSES OR CONTRACTOR WAS ADVISED, KNEW OR SHOULD HAVE KNOWN, ABOUT THE POSSIBILITY OF DAMAGES OR A CLAIM.

**LIABILITY FOR INDEMNIFICATION**

- 3.70. **Contractor Indemnification.** Contractor shall indemnify, defend, and hold PPB harmless from all Claims, incurred by or asserted against PPB by any person or entity, which have been caused by the acts or omissions of Contractor or Contractor's Employees in breach of this Contract or by negligence. PPB's right to indemnification is in excess and above any insurance rights/policies required by this Contract.
- 3.71. **No Indemnification from the PPB.** Contractor will have no right against PPB where contrary to applicable law.
- 3.72. **Limitations.** Contractor's indemnification obligations set forth in this Contract will not apply if, and to the extent that, a Claim arises from: (a) PPB's data or applications; (b) Contractor's compliance with any designs, specifications or instructions of the County; (c) PPB's use of the Deliverables or Software in a way not specified or intended by Contractor; (d) the combination of the Deliverables or Software with other products, services, equipment, devices, software, systems or data not supplied by Contractor to the extent such Claim is caused by such combination; (e) the modification, alteration, integration, or reconfiguration of the Deliverables or Software, except when performed, approved or recommended by Contractor; (f) modification of the Deliverables or Software by PPB or a third party without the prior knowledge and written approval of Contractor; (g) use by PPB after notice by Contractor to discontinue use of all or a portion of the Deliverables or Software, provided that Contractor offers PPB a reasonable alternative, temporary fix, or workaround; (h) any use by PPB of any third-party services or software unless the Claim arose against Contractor's Deliverables or Software independently of any of these specified actions. The Parties recognize that a court may find that both Parties are partially responsible for, or the cause of, a Claim; and the court may apply the principles of comparative negligence to apportion the amount of the Claim between each Party.
- 3.73. **Prompt Notice of Claim Required.** Contractor's indemnification obligations apply only if PPB promptly notifies Contractor in writing of the Claim, but PPB's failure to provide timely notice shall only relieve Contractor from its indemnification obligations (i) if and to the extent such late notice prejudiced the defense or resulted in increased expense or loss to Contractor, or (ii) the PPB delays by more than 30 days giving written notice to Contractor of the Claim after first learning of the Claim.

- §4. **CONTRACTOR PROVIDED INSURANCE.** At all times during this Contract, Contractor shall obtain and maintain insurance according to the specifications listed in Exhibit I.

**INTELLECTUAL PROPERTY AND CONFIDENTIALITY**

- 4.1. **Contractor Use of Confidential Information/PPB Data.** Contractor and/or Contractor Employees shall not reproduce, provide, disclose, or give access to Confidential Information or PPB Data to any Contractor Employee not having a legitimate need to know the Confidential Information or PPB Data or to any third-party. Contractor and Contractor Employees shall only use the Confidential Information and PPB Data for performance of this Contract. Notwithstanding the foregoing, Contractor may disclose the Confidential Information or PPB Data if required by law, statute, or other legal process; provided that Contractor: (a) gives the PPB prompt written notice of the impending disclosure, (b) provides reasonable assistance to the PPB in opposing or limiting the disclosure, and (c) makes only such disclosure as is compelled or required. This Contract imposes no obligation upon Contractor with respect to any Confidential Information or PPB Data which Contractor can establish by legally sufficient evidence: (a) was in possession of or was known by Contractor, prior to its receipt from the PPB, without any obligation to maintain its confidentiality; or (b) is obtained by Contractor from a third party having the right to disclose it, without an obligation to keep such information confidential; or (c) is a matter of public record.
- 4.2. **Contractor Use of PPB Licensed Software.** In order for Contractor to perform this Contract, the PPB may permit Contractor or Contractor Employees to access certain Software licensed to the PPB. Contractor or Contractor Employees shall not transfer, remove, use, copy, or otherwise provide or make available any such Software or documentation to any other person or entity, for any purpose, without the prior written consent of the PPB and/or the licensor. Furthermore, neither Contractor nor Contractor Employee shall produce a source listing, decompile, disassemble, or otherwise reverse engineer any copyrighted Software. Neither Contractor nor Contractor Employee shall use any Software contrary to the provisions of any applicable Software license agreement or state or federal law.

**GENERAL TERMS AND CONDITIONS**

- 4.3. **Access to PPB Property or Facilities.** As set forth in this Contract, Contractor has access to and the right to use PPB property and facilities necessary to perform this Contract. Unless otherwise provided in this Contract or Contractor receives prior written permission from the PPB, Contractor may only access and use PPB property and facilities for performance of this Contract on Business Days.
- 4.4. **Signs on PPB Property or Facilities.** Contractor shall not place any signs or advertisements on PPB property or facilities without the prior written permission of the PPB.
- 4.5. **Use of PPB Property or Facilities.** While performing this Contract, Contractor shall keep PPB property or facilities and anything stored thereon in a clean, safe, and healthful condition and shall keep the property and facilities in a manner that will not prevent or interfere with the PPB's performance of its functions.
- 4.6. **Removal of Contractor Personal Property.** At the expiration or termination of this Contract, Contractor shall leave PPB property or facilities in the same condition that Contractor found them and clean of all rubbish. Contractor shall remove all of its personal property within thirty (30) Days of expiration or termination of this Contract. If Contractor does not remove its personal property within

the thirty (30) Day period, then the PPB shall dispose of it and bill Contractor for any costs associated with the removal and disposal.

- 4.7. **Damage to PPB Property or Facilities.** Contractor shall be responsible for any damage to any PPB property or a facility that is caused by Contractor or Contractor Employees. If damage occurs, the PPB shall make the necessary repairs and/or replacements or cause a third party to make the necessary repairs or replacements, provided, however, that Contractor shall reimburse the PPB for all costs associated with repairing and/or replacing the damaged property or facilities.
- 4.8. **Damage to Contractor's Property.** Contractor shall be solely liable and responsible for any property loss or damage resulting from fire, theft, or other means to Contractor's personal property located, kept, or stored on or at PPB property or facilities during performance of this Contract.
- 4.9. **PPB's Right to Suspend Contract Performance.** Upon written notice, the PPB may require Contractor to suspend performance of this Contract if Contractor has failed to comply with federal, state, or local laws or any requirements contained in this Contract. The right to suspend performance of this Contract is in addition to the PPB's right to terminate and/or cancel this Contract. The PPB shall incur no penalty, expense, or liability to Contractor if the PPB suspends performance of this Contract under this Section.
- 4.10. **Discrimination.** Contractor shall not discriminate against any employee or applicant for employment in violation of state or federal law. Contractor shall promptly notify the PPB of any complaint or charge filed and/or of any determination by any court or administrative agency of illegal discrimination by Contractor.
- 4.11. **Conflict of Interest.** No contracts shall be entered into between the PPB and any PPB Agent. To avoid any real or perceived conflict of interest, Contractor shall identify any Contractor Employee or relative of Contractor's Employees who are presently employed by the PPB. Contractor shall give the PPB notice if there are any PPB Agents or relatives of PPB Agents who are presently employed by Contractor.
- 4.12. **Access and Records.** Contractor will maintain accurate books and records in connection with performance of this Contract for thirty-six (36) months after the end of this Contract and Contractor shall provide the PPB with reasonable access to such books and records, upon reasonable notice of the request.
- 4.13. **Audit.** The PPB or an independent auditor hired by the PPB may perform contract audits (in its sole discretion) and shall have the authority to access all pertinent records and data and to interview any Contractor Employee during the term of this Contract and for a period of twelve (12) months after final payment. Contractor shall explain any audit findings, questioned costs, or other Contract compliance deficiencies to the PPB within thirty (30) Business Days of receiving the draft audit report. Contractor's written response shall include all necessary documents and information that refute the draft audit report and an action plan to resolve the audit findings. A copy of Contractor's response will be included in the final report. Failure by Contractor to respond in writing within thirty (30) Business Days shall be deemed acceptance of the draft audit report and will be noted in the final report.
- 4.14. **Assignments/Delegations/Subcontracts.**
- 4.14.1. **Prior Written Consent Required.** Except by operation of law, neither Party may assign, delegate, or subcontract any of its duties, obligations, or rights under this Contract without the prior written consent of the other Party; provided, however, Contractor may assign, delegate, or subcontract this

Contract to an affiliate or subsidiary as long as the affiliate or subsidiary is adequately capitalized and can provide adequate written assurances to the PPB that the affiliate or subsidiary can perform this Contract. The PPB may withhold consent, if the PPB determines that the assignment, delegation, or subcontract would impair performance of this Contract or the PPB's ability to recover damages under this Contract. Contractor shall also provide the PPB with adequate information to allow the PPB to make a determination regarding the assignment, delegation, or subcontract.

- 4.14.2. **Flow Down Clause Required.** Any assignment, delegation, or subcontract by Contractor must include a requirement that the assignee, delegee, or subcontractor will comply with the terms and conditions of this Contract. The assignment, delegation, or subcontract shall in no way diminish or impair performance of any term or condition of this Contract.
- 4.14.3. **Contractor Responsibility for Assigns/Delegates/Subcontractors.** If Contractor assigns, delegates, or subcontracts this Contract, in whole or in part, Contractor shall remain the sole point of contact regarding all matters under this Contract and shall remain liable for performance of this Contract. Contractor is solely responsible for the management of assignees, delegees, and subcontractors.
- 4.14.4. **Performance Required.** If an assignee, delegee, or subcontractor fails to perform as required under this Contract, Contractor shall contract with another entity for such performance. Any additional costs associated with securing another assignee, delegee, or subcontractor shall be the sole responsibility of Contractor.
- 4.15. **Non-Exclusive Contract.** This Contract is a non-exclusive agreement. No provision in this Contract limits or is intended to limit, in any way, Contractor's right to offer and provide its services to the general public, other business entities, municipalities, or governmental agencies during or after the term of this Contract. Similarly, the PPB may freely engage other persons to perform the same work that Contractor performs. Except as provided in this Contract, this Contract shall not be construed to guarantee Contractor or any Contractor Employee any fixed or certain number of Deliverables.
- 4.16. **No Third-Party Beneficiaries.** Except as provided for the benefit of the Parties, this Contract does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to be indemnified, right to be subrogated to the Parties' right in this Contract, or any other right in favor of any other person or entity.
- 4.16.1. **Survival of Terms and Conditions.** The following terms and conditions shall survive and continue in full force beyond the termination or cancellation of this Contract (or any part thereof) until the terms and conditions are fully satisfied or expire by their nature: **Section 1.** Contract Purpose, **Section 2.** Contract Definitions, **Section 6.** Scope of Deliverables and Financial/Payment Obligations, **Section 7.** Contractor's Warranties and Assurances, **Section 8.** Liability for Indemnification, **Section 9.** Contractor Provided Insurance, **Section 10.** Intellectual Property and Confidentiality, and **Section 11.** General Terms and Conditions.
- 4.17. **Reservation of Rights.** This Contract does not, and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, or other legal right, privilege, power, obligation, duty, or immunity of the PPB.
- 4.18. **Compliance with Laws.** Contractor shall comply with all federal, state, and local laws, statutes, ordinances, regulations, insurance policy requirements, and requirements applicable to its activities under this Contract.

- 4.19. **Force Majeure.** Notwithstanding any other term or condition of this Contract, neither Party shall be liable for failure to perform contractual duties or obligations caused by events beyond their reasonable control, including but not limited to: (a) acts of public enemies; (b) natural disasters; (c) terrorism; (d) war; (e) insurrection or riot; (f) natural disasters; (g) strikes, lockouts, work stoppages, or other labor difficulties; or (h) compliance with law. Reasonable notice shall be given to the affected Party of such event. Contractor is expected, through insurance or alternative temporary or emergency service arrangements, to continue its contractual duties or obligations if a reasonably anticipated, insurable business risk, such as business interruption or any insurable casualty or loss occurs.
- 4.20. **Notices.**
- 4.20.1. **Written Notice.** All notices required under this Contract shall be in writing. Notices shall be effective: (a) the next Business Day, if personally delivered; (b) the third Business Day, if sent by U.S. mail, postage prepaid, return receipt requested; (c) the next Business Day, if sent by a nationally recognized overnight express courier with a reliable tracking system; or (d) the next Business Day with a receipt of confirmation, if sent by e-mail or fax.
- 4.20.2. **Notice to Contractor.** Unless otherwise specified, notice to Contractor shall be addressed to the Contract Administrator listed on the signature page of this Contract.
- 4.20.3. **Notice to PPB.** Unless otherwise specified herein, notice to the PPB shall be addressed to Purchasing, the PPB Project Manager (if applicable), and the PPB Contract Administrator(s) listed on the signature page of this Contract.
- 4.21. **Captions.** Section and subsection numbers, captions, and any index to sections or subsections contained in this Contract are intended for the convenience of the reader and are not intended to have any substantive meaning and shall not be interpreted to limit or modify any substantive provisions of this Contract. In this Contract, for any noun or pronoun, use of the singular or plural form, use of the nominative, possessive, or objective case, and any reference to gender (masculine, feminine, and neuter) shall mean the appropriate form, case, or gender as the context requires.
- 4.22. **Waiver.** Waiver of any term or condition under this Contract must be in writing and notice given pursuant to this Contract. No written waiver, in one or more instances, shall be deemed or construed as a continuing waiver of any term or condition of this Contract. No waiver by either Party shall subsequently affect its right to require strict performance of this Contract.
- 4.23. **Cumulative Remedies.** A Party's exercise of any remedy shall not preclude the exercise of any other remedies, all of which shall be cumulative. A Party shall have the right, in its sole discretion, to determine which remedies are to be exercised and in which order.
- 4.24. **Severability.** If a court of competent jurisdiction finds a term or condition of this Contract to be illegal or invalid, then the term or condition shall be deemed severed from this Contract. All other terms or conditions shall remain in full force and effect. Notwithstanding the above, if Contractor's promise to indemnify or hold the PPB harmless is found illegal or invalid, Contractor shall contribute the maximum it is permitted to pay by law toward the payment and satisfaction of any Claims against the PPB.
- 4.25. **Dispute Resolution.** All disputes arising under or relating to the execution, interpretation, performance, or nonperformance of this Contract involving or affecting the Parties may first be submitted to the respective Project Manager (if applicable) and Contract Administrators for possible resolution.

- 4.26. **Governing Laws/Consent to Jurisdiction and Venue.** This Contract shall be governed, interpreted, and enforced by the laws of the state of the PPB. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any Claim arising under or related to this Contract shall be brought in the state Court or the United States District Court located in the state of the PPB, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the court set forth above. The choice of forum set forth above shall not be deemed to preclude the enforcement of any judgment obtained in such forum or taking action under this Contract to enforce such judgment in any appropriate jurisdiction.
- 4.27. **Entire Contract.** This Contract represents the entire agreement and understanding between the Parties. This Contract supersedes all other prior oral or written understandings, communications, agreements, or contracts between the Parties. The language of this Contract shall be construed as a whole according to its fair meaning and not construed strictly for or against any Party.



**EXHIBIT I**

**PPB INSURANCE REQUIREMENTS**

During this Contract, the Contractor shall provide and maintain, at their own expense, all insurance as set forth and marked below, protecting the PPB against any Claims, as defined in this Contract. The insurance shall be written for not less than any minimum coverage herein specified.

**Primary Coverages**

**Commercial General Liability Occurrence Form** including: (a) Premises and Operations; (b) Products and Completed Operations (including On and Off Premises Coverage); (c) Personal and Advertising Injury; (d) Broad Form Property Damage; (e) Independent Contractors; (f) Broad Form Contractual including coverage for obligations assumed in this Contract;

\$1,000,000 – Each Occurrence Limit

\$1,000,000 – Personal & Advertising Injury

\$2,000,000 – Products & Completed Operations Aggregate Limit

\$2,000,000 – General Aggregate Limit

\$ 100,000 – Damage to Premises Rented to You (formally known as Fire Legal Liability)

**Workers' Compensation Insurance** with limits statutorily required by any applicable Federal or State Law and Employers Liability insurance with limits of no less than \$500,000 each accident, \$500,000 disease each employee, and \$500,000 disease policy limit.

1. ☐ Fully Insured or State approved self-insurer.
2. ☐ Sole Proprietors must submit a signed Sole Proprietor form.
3. ☐ Exempt entities, Partnerships, LLC, etc., must submit a Certificate of Exemption.

**Commercial Automobile Liability Insurance** covering bodily injury or property damage arising out of the use of any owned, hired, or non-owned automobile with a combined single limit of \$1,000,000 each accident. This requirement is waived if there are no company owned, hired or non-owned automobiles utilized in the performance of this Contract.

**Commercial Umbrella/Excess Liability Insurance** with minimum limits of \$2,000,000 each occurrence. Umbrella or Excess Liability coverage shall be no less than following form of primary coverages or broader. This Umbrella/Excess requirement may be met by increasing the primary Commercial General Liability limits to meet the combined limit requirement.



**Supplemental Coverages (Required as Checked)**

- ☐ **Professional Liability/Errors & Omissions Insurance** (Consultants, Technology Vendors, Architects, Engineers, Real Estate Agents, Insurance Agents, Attorneys, etc.) with minimum limits of \$1,000,000 per claim and \$1,000,000 aggregate.
- ☐ **Commercial Property Insurance.** The Contractor shall be responsible for obtaining and maintaining insurance covering their equipment and personal property against all physical damage.
- ☐ **Cyber Liability Insurance** with minimum limits of \$1,000,000 per claim and \$1,000,000 aggregate.
- ☐ **Other Insurance Coverages** as may be dictated by the provided product/service and deemed appropriate by the PPB.

**General Insurance Conditions**

The aforementioned insurance shall be endorsed, as applicable, and shall contain the following terms, conditions, and/or endorsements. All certificates of insurance shall provide evidence of compliance with all required terms, conditions and/or endorsements.

1. All policies of insurance shall be on a primary, non-contributory basis with any other insurance or self-insurance carried by the PPB;
2. The insurance company(s) issuing the policy(s) shall have no recourse against the PPB for subrogation (policy endorsed written waiver), premiums, deductibles, or assessments under any form. All policies shall be endorsed to provide a written waiver of subrogation in favor of the PPB;
3. Any and all deductibles or self-insured retentions shall be assumed by and be at the sole risk of the Contractor;
4. Contractors shall be responsible for their own property insurance for all equipment and personal property used and/or stored on PPB property;
5. The Commercial General Liability and Commercial Automobile Liability policies along with any required supplemental coverages shall be endorsed to name the PPB of Oakland and its officers, directors, employees, appointees and commissioners as additional insured where permitted by law and policy form;
6. The Contractor shall require its contractors or sub-contractors, not protected under the Contractor's insurance policies, to procure and maintain insurance with coverages, limits, provisions, and/or clauses equal to those required in this Contract;
7. Certificates of insurance must be provided no less than ten (10) Business Days prior to the PPB's execution of the Contract and must bear evidence of all required terms, conditions and endorsements; and
8. All insurance carriers must be licensed and approved to do business in the State of the PPB and shall have and maintain a minimum A.M. Best's rating of A- unless otherwise approved by the PPB.

## EXHIBIT II

### PPB BUSINESS ASSOCIATE AGREEMENT

(Health Insurance Portability and Accountability Act Requirements)

Exhibit II is a Business Associate Agreement between Contractor (“Business Associate”) and the PPB (“Covered Entity”). This Exhibit is incorporated into the Contract and shall be hereinafter referred to as “Agreement.” The purpose of this Agreement is to facilitate compliance with the Privacy and Security Rules and to facilitate compliance with HIPAA and the HITECH Amendment to HIPAA.

- §1. DEFINITIONS.** The following terms have the meanings set forth below for purposes of the Agreement, unless the context clearly indicates another meaning. Terms used but not otherwise defined in this Agreement have the same meaning as those terms in the Privacy Rule.
- 1.1 Business Associate.** “Business Associate” means the Contractor.
- 1.2 CFR.** “CFR” means the Code of Federal Regulations.
- 1.3 Contract.** “Contract” means the document with the Purchasing Contract Number:
- 1.4 Contractor.** “Contractor” means the entity or individual defined in the Contract and listed on the first page of this Contract.
- 1.5 Covered Entity.** “Covered Entity” means the PPB as defined in the Contract.
- 1.6 Designated Record Set.** “Designated Record Set” is defined in 45 CFR 164.501.
- 1.7 Electronic Health Record.** “Electronic Health Record” means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.
- 1.8 HIPAA.** “HIPAA” means the Health Insurance Portability and Accountability Act of 1996.
- 1.9 HITECH Amendment.** “HITECH Amendment” means the changes to HIPAA made by the Health Information Technology for Economic and Clinical Health Act.
- 1.10 Individual.** “Individual” is defined in 45 CFR 160.103 and includes a person who qualifies as a personal representative in 45 CFR 164.502(g).
- 1.11 Privacy Rule.** “Privacy Rule” means the privacy rule of HIPAA as set forth in the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.
- 1.12 Protected Health Information.** “Protected Health Information” or “PHI” is defined in 45 CFR 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- 1.13 Required By Law.** “Required By Law” is defined in 45 CFR 164.103.

- 1.14 Secretary.** “Secretary” means the Secretary of the Department of Health and Human Services or his or her designee.
- 1.15 Security Incident.** “Security Incident” is defined in 45 CFR 164.304.
- 1.16 Security Rule.** “Security Rule” means the security standards and implementation specifications at 45 CFR part 160 and part 164, subpart C.
- §2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.** Business Associate agrees to perform the obligations and activities described in this Section.
- 2.1** Business Associate understands that pursuant to the HITECH Amendment, it is subject to the HIPAA Privacy and Security Rules in a similar manner as the rules apply to Covered Entity. As a result, Business Associate shall take all actions necessary to comply with the HIPAA Privacy and Security Rules for business associates as revised by the HITECH Amendment, including, but not limited to, the following: (a) Business Associate shall appoint a HIPAA privacy officer and a HIPAA security officer; (b) Business Associate shall establish policies and procedures to ensure compliance with the Privacy and Security Rules; (c) Business Associate shall train its workforce regarding the Privacy and Security Rules; (d) Business Associate shall enter into a privacy/security agreement with Covered Entity; (e) Business Associate shall enter into privacy/security agreements with its subcontractors that perform functions relating to Covered Entity involving PHI; and (f) Business Associate shall conduct a security risk analysis.
- 2.2** Business Associate shall not to use or disclose PHI other than as permitted or required by this Agreement or as required by law.
- 2.3** Business Associate shall use appropriate safeguards to prevent use or disclosure of the PHI. Business Associate shall implement administrative, physical, and technical safeguards (including written policies and procedures) that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity as required by the Security Rule.
- 2.4** Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of law or this Agreement.
- 2.5** Business Associate shall report to Covered Entity any known Security Incident or any known use or disclosure of PHI not permitted by this Agreement.
- 2.6** Effective September 23, 2009 or the date this Agreement is signed, if later, Business Associate shall do the following in connection with the breach notification requirements of the HITECH Amendment:
- 2.6.1** If Business Associate discovers a breach of unsecured PHI, as those terms are defined by 45 CFR 164.402, Business Associate shall notify Covered Entity without unreasonable delay but no later than ten (10) calendar days after discovery. For this purpose, “discovery” means the first day on which the breach is known to Business Associate or should have been known by exercising reasonable diligence. Business Associate shall be deemed to have knowledge of a breach if the breach is known or should

have been known by exercising reasonable diligence, to any person, other than the person committing the breach, who is an employee, officer, subcontractor, or other agent of Business Associate. The notification to Covered Entity shall include the following: (a) identification of each individual whose unsecured PHI has been breached or has reasonably believed to have been breached and (b) any other available information in Business Associate's possession that the Covered Entity is required to include in the individual notice contemplated by 45 CFR 164.404.

- 2.6.2** Notwithstanding the immediate preceding subsection, Business Associate shall assume the individual notice obligation specified in 45 CFR 164.404 on behalf of Covered Entity where a breach of unsecured PHI was committed by Business Associate or its employee, officer, subcontractor, or other agent of Business Associate or is within the unique knowledge of Business Associate as opposed to Covered Entity. In such case, Business Associate shall prepare the notice and shall provide it to Covered Entity for review and approval at least five (5) calendar days before it is required to be sent to the affected individual(s). Covered Entity shall promptly review the notice and shall not unreasonably withhold its approval.
- 2.6.3** Where a breach of unsecured PHI involves more than five hundred (500) individuals and was committed by the Business Associate or its employee, officer, subcontractor, or other agent or is within the unique knowledge of Business Associate as opposed to Covered Entity, Business Associate shall provide notice to the media pursuant to 45 CFR 164.406. Business Associate shall prepare the notice and shall provide it to Covered Entity for review and approval at least five (5) calendar days before it is required to be sent to the media. Covered Entity shall promptly review the notice and shall not unreasonably withhold its approval.
- 2.6.4** Business Associate shall maintain a log of breaches of unsecured PHI with respect to Covered Entity and shall submit the log to Covered Entity within thirty (30) calendar days following the end of each calendar year, so that the Covered Entity may report breaches to the Secretary in accordance with 45 CFR 164.408. This requirement shall take effect with respect to breaches occurring on or after September 23, 2009.
- 2.7** Business Associate shall ensure that any agent or subcontractor to whom it provides PHI, received from Covered Entity or created or received by Business Associate on behalf of Covered Entity, agrees in writing to the same restrictions and conditions that apply to Business Associate with respect to such information. Business Associate shall ensure that any such agent or subcontractor implements reasonable and appropriate safeguards to protect Covered Entity's PHI.
- 2.8** Business Associate shall provide reasonable access, at the written request of Covered Entity, to PHI in a Designated Record Set to Covered Entity or, as directed in writing by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.
- 2.9** Business Associate shall make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs in writing or agrees to pursuant to 45 CFR 164.526.
- 2.10** Following receipt of a written request by Covered Entity, Business Associate shall make internal practices, books, and records reasonably available to the Secretary in order to determine Covered Entity's compliance with the Privacy Rule. The afore mentioned materials include policies and procedures and PHI information relating to the use and disclosure of PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity.

- 2.11** Business Associate shall document disclosures of PHI and information related to such disclosures, to permit Covered Entity to respond to a request by an Individual for: (a) an accounting of disclosures of PHI in accordance with 45 CFR 164.528 or (b) effective January 1, 2011 or such later effective date prescribed by regulations issued by the U.S. Department of Health and Human Services, an accounting of disclosures of PHI from an Electronic Health Record in accordance with the HITECH Amendment.
- 2.12** Following receipt of a written request by Covered Entity, Business Associate shall provide to Covered Entity or an Individual information collected in accordance with Section 2 to permit Covered Entity to respond to a request by an Individual for: (a) an accounting of disclosures of PHI in accordance with 45 CFR 164.528 or (b) effective as of January 1, 2011 or such later effective date prescribed by regulations issued by the U.S. Department of Health and Human Services, an accounting of disclosures of Protected Health Information from an Electronic Health Record in accordance with the HITECH Amendment.
- §3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.** Business Associate may use and disclose PHI as set forth in this Section.
- 3.1** Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for or on behalf of Covered Entity as specified in the underlying service agreement between Covered Entity and Business Associate, provided that such use or disclosure shall not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity. If no underlying service agreement exists between Covered Entity and Business Associate, Business Associate may use or disclose PHI to perform functions, activities, or services for or on behalf of Covered Entity for the purposes of payment, treatment, or health care operations as those terms are defined in the Privacy Rule, provided that such use or disclosure shall not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
- 3.2** Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- 3.3** Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided that disclosures are Required by Law or Business Associate obtains reasonable assurances in writing from the person to whom the information is disclosed that: (a) the disclosed PHI will remain confidential and will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person and (b) the person notifies the Business Associate of any known instances in which the confidentiality of the information has been breached.
- 3.4** Except as otherwise limited in this Agreement, Business Associate may use PHI to provide data aggregation services to Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).
- 3.5** Business Associate may use PHI to report violations of law to appropriate federal and state authorities, consistent with 45 CFR 164.502(j)(1).

**§4. OBLIGATIONS OF COVERED ENTITY.**

- 4.1** Covered Entity shall notify Business Associate of any limitation(s) of Covered Entity in its notice of privacy practices in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- 4.2** Covered Entity shall notify Business Associate of any changes in or revocation of permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- 4.3** Covered Entity shall use appropriate safeguards to maintain and ensure the confidentiality, privacy and security of PHI transmitted to Business Associate pursuant to this Agreement, the Contract, and the Privacy Rule, until such PHI is received by Business Associate, pursuant to any specifications set forth in any attachment to the Contract.
- 4.4** Covered Entity shall manage all users of the services including its qualified access, password restrictions, inactivity timeouts, downloads, and its ability to download and otherwise process PHI.
- 4.5** The Parties acknowledge that Covered Entity owns and controls its data.
- 4.6** Covered Entity shall provide Business Associate with a copy of its notice of privacy practices produced in accordance with 45 CFR Section 164.520, as well as any subsequent changes or limitation(s) to such notice, to the extent such changes or limitations may effect Business Associate's use or disclosure of PHI. Covered Entity shall provide Business Associate with any changes in or revocation of permission to use or disclose PHI, to the extent the changes or revocation may affect Business Associate's permitted or required uses or disclosures. To the extent that the changes or revocations may affect Business Associate's permitted use or disclosure of PHI, Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR Section 164.522. Covered Entity may effectuate any and all such notices of non-private information via posting on Covered Entity's web site.

**§5. EFFECT OF TERMINATION.**

- 5.1** Except as provided in Section 5, upon termination of this Agreement or the Contract, for any reason, Business Associate shall return or destroy (at Covered Entity's request) all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of PHI.
- 5.2** If Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity written notification of the conditions that make return or destruction infeasible. Upon receipt of written notification that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and shall limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI, which shall be for a period of at least six (6) years.



**§6      MISCELLANEOUS.**

- 6.1**      This Agreement is effective when the Contract is executed or when Business Associate becomes a Business Associate of Covered Entity and both Parties sign this Agreement, if later. However, certain provisions have special effective dates, as set forth herein or as set forth in HIPAA or the HITECH Amendment.
- 6.2**      **Regulatory References.** A reference in this Agreement to a section in the Privacy Rule or Security Rule means the section as in effect or as amended.
- 6.3**      **Amendment.** The Parties agree to take action to amend this Agreement as necessary for Covered Entity to comply with the Privacy and Security requirements of HIPAA. If the Business Associate refuses to sign such an amendment, this Agreement shall automatically terminate.
- 6.4**      **Survival.** The respective rights and obligations of Business Associate and Covered Entity under this Agreement shall survive the termination of this Agreement and/or the Contract.

**EXHIBIT III**

**PPB SOFTWARE LICENSE**

This Laserfiche End User Software License Agreement ("License Agreement") is made between Compulink Management Center, Inc., a California corporation doing business as Laserfiche, whose principal place of business is in Long Beach, California ("Laserfiche"), and the party (referred to as the "Licensee") on whose server or systems the Software (as described in Section 1.A below) will be made available for use.

PLEASE READ THIS LICENSE AGREEMENT CAREFULLY. BY INSTALLING, COPYING OR USING THE SOFTWARE OR THE DOCUMENTATION THAT ACCOMPANIES THIS LICENSE AGREEMENT (THE "DOCUMENTATION"), LICENSEE AGREES TO THE TERMS OF THIS LICENSE AGREEMENT ON BEHALF OF THE PARTY ON WHOSE SERVER OR SYSTEMS THE SOFTWARE WILL BE AVAILABLE FOR USE. IF LICENSEE DOES NOT AGREE OR IS NOT AN INDIVIDUAL AUTHORIZED TO ENTER INTO LICENSE AGREEMENTS ON BEHALF OF SUCH PARTY, DO NOT DOWNLOAD, INSTALL, COPY OR USE THE SOFTWARE OR THE DOCUMENTATION WITHOUT OBTAINING THE AGREEMENT OF AN AUTHORIZED INDIVIDUAL AND, IF APPLICABLE, RETURN THE SOFTWARE AND DOCUMENTATION TO YOUR SUPPLIER FOR A FULL REFUND.

**RECITALS**

- A. Laserfiche has developed and markets document imaging, enterprise content management, and related software programs, solutions and products under the brand name Laserfiche®.
- B. Laserfiche Software includes confidential proprietary information and trade secrets of Laserfiche, which embody substantial creative efforts and confidential information, ideas, and expressions. Laserfiche has invested large amounts of capital and time to develop and promote the Software. Laserfiche claims copyrights in the Software.
- C. Licensee understands that the Software is compatible only with certain types of computers and operating systems and that Licensee is responsible for assuring the compatibility between its computer systems, its software solutions, if any, and the Software.

THEREFORE, in consideration of the premises and covenants contained in this License Agreement, Laserfiche and Licensee agree as follows:

**Terms of License Agreement**

**1. Grant of License.**

- A. **Description of the Software.** The Software may include, without limitation express or implied, some or all of the following types of software: (a) "**Server Software**" that provides document management services to other programs; (b) "**Client Software**" that allows a computer or workstation to access or utilize the services functionality provided by the Server Software; (c) "**Stand-alone Software**" that operates on a single computer; (d) "**Demonstration Software**" that is provided only for demonstration, testing and feedback purposes; (e) "**Distributed Computing Cluster Software**" that allows distribution of processing work for certain Laserfiche application tasks onto other machines; and/or (f) "**Plug-in Software Modules**" that can be added to the previously mentioned types of software. If a separate license applies to particular Laserfiche software, such as terms that accompany a software development kit or Laserfiche software designated for "application service

provider" purposes, those terms will also apply. Otherwise, this License Agreement applies to the Software installed on Licensee's systems. Laserfiche grants Licensee a limited, non-exclusive, non-transferable license to install and use the Software subject to the terms and conditions of this License Agreement and the Acquisition Agreement (described in Section 1.B.i below).

**B. Definitions.** The following definitions will apply to this Agreement:

- vii. **"Acquisition Agreement"** means the applicable Laserfiche invoice, Licensee Order (defined in Section 1.B.v below), or other written agreement by which Licensee acquires the License (described in Section 1.B.iv below) to the Software and which lists the specific Software products and components, including the types and numbers of Licenses, that Licensee acquires. The Acquisition Agreement may also grant additional rights to Licensee or limit the scope of the License being granted to Licensee. If a conflict or inconsistency arises between the terms of several acquisition documents, the following order of precedence will control: (1) the Contract; (2) the Laserfiche invoice; (3) Licensee's Order; and (4) any other writings that satisfy the definition of "Acquisition Agreement."
- viii. **"Documentation"** means getting started guides, user guides, quick reference guides, and other technical and operations manuals and specifications.
- ix. **"Laserfiche Confidential Information"** means all nonpublic information regarding the Software, whether disclosed by Laserfiche or others, that is designated as confidential or that, given the nature of the information or circumstances surrounding its disclosure, reasonably should be understood to be confidential. Laserfiche Confidential Information also includes: (a) nonpublic information relating to Laserfiche or its affiliates, technology, Software, source code, trade secrets; (b) third-party information that Laserfiche is obligated to keep confidential by agreement or by law; and (c) the nature, content and existence of any agreements, discussions or negotiations between Licensee and Laserfiche, software resellers or affiliates. Laserfiche Confidential Information does not include any information that: (i) is or becomes publicly available without either a breach of this Agreement or a breach of an obligation of confidentiality by someone else; (ii) can be shown by documentation to have been known by Licensee when it received it from Laserfiche; (iii) is received from a third party that lawfully acquired and disclosed it; or (iv) can be shown by documentation to have been independently developed by Licensee without reference to the Laserfiche Confidential Information.
- x. **"The License"** defines Licensee's right to use the Software and may have a set expiration date for test, evaluation, beta, demonstration, or subscription Software, which is subject to the limitations based on the Acquisition Agreement, Product Sheet (described in Section 1.B.vi below), and any other limitations agreed upon by Laserfiche and Licensee. The balance of this License Agreement sets forth the specific rights granted to Licensee and the limitations of Licensee's use of the Software and scope of this License.
- xi. **"Licensee Order"** means an order, purchase order, or similar document that is submitted to Laserfiche by Licensee or a Laserfiche authorized reseller or distributor on Licensee's behalf, which specifies the particular Software products and components that Licensee intends to acquire, and which must be accepted by Laserfiche.
- xii. **"Product Sheet"** means the Laserfiche document that specifies the limitations and restrictions of each release of the Software.

C. Limitations and Requirements.

- xxiv. If the Software is furnished to Licensee with materials indicating that it is "Demonstration," "Evaluation," "Beta" or "Test" software, Licensee acknowledges that: (A) Laserfiche is furnishing the Software to Licensee solely for demonstration, evaluation, testing and/or feedback purposes; (B) Licensee is strictly prohibited from using the Software for any purposes other than (i) demonstration of its capabilities to prospective licensees of the Software, (ii) evaluation and testing of the Software for suitability for the period allowed with the License, or (iii) providing feedback to Laserfiche; (C) testing does not include staging content in a production environment, such as loading content before or in conjunction with production use; (D) Laserfiche makes no warranties, representations or any other claims with regard to the Software's usability, reliability, performance, or overall quality; (E) Licensee will be responsible for its actions and the actions of its employees acting in the course and scope of their employment; and (F) Licensee's receipt of the Software does not constitute a license to use, sell, distribute, or commercialize the Software or copies of it. No compensation will be paid to Licensee for any use of the Software or for performing any service or giving any advice, analysis or feedback to, or for the benefit of, Laserfiche. Licensee assigns and agrees to assign to Laserfiche without charge any suggestions, ideas, improvements and resulting intellectual property relating to any feedback it provides, for any purpose. Laserfiche's rights to the feedback survive the termination of this License Agreement.
- xxv. Licensee may use the Software only for the number and types of users, until the expiration date(s), if any, described in the Acquisition Agreement, and subject to the other limitations of the License.
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**EXHIBIT IV**

**PPB**

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- **100% Credit for Software Upgrades**

PPB shall receive periodic new releases and updates when they become available. PPB shall receive a 100% credit for software upgrades purchases.

PPB shall receive 24-hour secure FTP access to new Laserfiche releases as well as updated drivers. Contractor routinely issues two to four new releases and updates per year

- **Information Direct from the Manufacturer**

PPB shall receive regular newsletters and technical about how others get the most out of your system.

PPB shall have access to User and Support sites, which contain advanced technical information, training videos and a user community forum where users share ideas with thousands of other Contractor's other customers around the world.

**For Additional Support or Information:**

John Chick Solutions  
Consultant Laserfiche

562-988-1688 ext. 121

[John.chick@laserfiche.com](mailto:John.chick@laserfiche.com)

**EXHIBIT V**

**PPB SCOPE OF CONTRACTOR'S DELIVERABLES / FINANCIAL OBLIGATIONS**

**LASERFICHE STATEMENT OF WORK**

This Statement of Work ("SOW") defines the professional services that Contractor will perform to replace PPB's current imaging system, with the Laserfiche Platform (hereinafter "Platform".)

The Contractor and the PPB are to negotiate between each other on the specific imaging system to be replaced with the Laserfiche Platform.