

Amendment No. 6  
to  
Contract No. 5600 NS140000037  
for  
Maintenance and Support of Online Data Manager Software  
between  
Social Solutions Global, Inc. (dba Social Solutions)  
and the  
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be September 15, 2018, through September 14, 2019. One (1) option will remain.
- 2.0 The total contract amount is increased by \$16,039.34 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 09/15/2014 – 09/14/2015	\$13,623.00	\$13,623.00
Amendment No. 1: Option 1 – Extension 09/15/2015 – 09/14/2016	\$13,623.00	\$27,246.00
Amendment No. 2: Merger June 19, 2015	\$0.00	\$27,246.00
Amendment No. 3: Option 2 – Extension 09/15/2016 – 09/14/2017	\$14,647.80	\$41,893.80
Amendment No. 4: Option 3 – Extension 09/15/2017 – 09/14/2018	\$14,647.80	\$56,541.60
Amendment No. 5: Adding 2 additional options. Option 4 & 5	\$0.00	\$56,541.60
Amendment No. 6: Option 4 – Extension 09/15/2018 – 09/14/2019	\$16,039.34	\$72,580.94

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

Amendment No. 6  
to  
Contract No. 5600 NS140000037  
for  
Maintenance and Support of Online Data Manager Software  
between  
Social Solutions Global, Inc. (dba Social Solutions)  
and the  
City of Austin

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

DocuSigned by:  
Sign/Date: Kenneth Saunders  
736FA5B2F2E5403  
Printed Name: Kenneth Saunders  
Authorized Representative

Social Solutions Global, Inc.  
~~425 W. Main Street, Suite 100~~  
~~Baltimore, MD 21220~~

New Address:  
10801-2 N. MoPac Expy, Suite 400  
Austin, TX 78759

Sign/Date: Bartley Tyler 8/13/18  
Printed Name: Bartley Tyler  
Authorized Representative

Sign/Date: [Signature]  
Printed Name: JAMES T. HOWARD

City of Austin  
Purchasing Office  
124 W. 8<sup>th</sup> Street, Ste. 310  
Austin, Texas 78701



Amendment No. 5  
of  
Contract Number 5600 <sup>NS</sup> 140000037  
for  
Maintenance and Support of Online Data Manager Software  
between  
Social Solutions Global, Inc. (dba Social Solutions)  
and the  
City of Austin

1.0 The City hereby amends this Contract by adding two additional extension options. There are two options remaining.

Option 4: 09/15/2018 – 09/14/2019 at \$16,039.34

Option 5: 09/15/2019 – 09/14/2020 at \$17,563.08

2.0 The City hereby amends this Contract by the terms and conditions, attached hereto as Addendum 1.

3.0 The total Contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 09/15/2014 – 09/14/2015	\$13,623.00	\$13,623.00
Amendment No. 1: Option 1 09/15/2015 – 09/14/2016	\$13,623.00	\$27,246.00
Amendment No. 2: Merger June 19, 2015	\$0.00	\$27,246.00
Amendment No. 3: Option 2 09/15/2016 – 09/14/2017	\$14,647.80	\$41,893.80
Amendment No. 4: Option 3 09/15/2017 – 09/14/2018	\$14,647.80	\$56,541.60
Amendment No. 5: Adding 2 additional options. Option 4 & Option 5	\$0.00	\$56,541.60

4.0 MBE/WBE goals were not established for this contract.

5.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

6.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

DocuSigned by:

Signature: Kenneth Saunders

73AFA5B2F2EF403...

Date: 2/20/2018

Printed Name: Kenneth Saunders

Authorized Representative  
Social Solutions Global, Inc.  
425 Williams Court, Suite 100  
Baltimore, MD 21220

Signature: Elisa Folco

Date: 2/21/2018

Elisa Folco  
Contract Management Specialist IV  
City of Austin  
Purchasing Office  
124 W. 8<sup>th</sup> Street, Suite 310, Austin, TX 78701

## **Addendum 1**

### **Section 1.4, Designation of Key Personnel:**

The Contractor's Contract Manager for this engagement shall be Heath Tull, Phone: 512-565-8943, Email: htull@socialsolutions.com. The City's Contract Manager for this engagement shall be Leslie Boyd; Phone: 512-345-9090, Email: [Leslie.boyd@austintexas.gov](mailto:Leslie.boyd@austintexas.gov). The City and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor will promptly notify the City Contract Manager and obtain approval for the replacement. Such approval shall not be unreasonably withheld.

### **Section 5.5, Rights to Proposal and Contractual Material:**

All material submitted by the Contractor to the City shall become property of the City upon receipt. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.

Notwithstanding the foregoing, all software (including all updates and customizations) and all equipment, infrastructure, websites and other materials provided by Contractor in the performance of the Contract will at all times remain the exclusive, sole and absolute property of Contractor or its licensors. City does not acquire any right, title, or interest in or to such software and equipment and materials. City's right to use the software and services is personal, and non-transferable, non-exclusive and limited to the Term and use under this Contract. All rights, title and interest in or to any copyright, trademark, service mark, trade secret, and other proprietary right relating to the software and services and the related logos, product names, etc. and all rights not expressly granted are reserved by Contractor and its licensors. City may not obscure, alter or remove any copyright, patent, trademark, service mark or proprietary rights notices on any products or other materials.

### **Section 6.1.1, Warranty - Price**

Removal of Section 6.1.1

### **Section 6.1.3, Warranty – Price**

Removal of 6.1.3

### **Section 6.2.1, Warranty – Services**

SSG, ITS LICENSORS AND SUPPLIERS EXPRESSLY DISCLAIM TO THE MAXIMUM EXTENT PERMITTED BY LAW, ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED. SSG MAKES NO WARRANTY OR REPRESENTATION WITH RESPECT TO THE SERVICES, PRODUCTS AND ANY RELATED INSTALLATION, CONFIGURATION, MAINTENANCE OR OTHER SUPPORT SERVICES, EXPRESS OR IMPLIED, AT LAW OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, ALL OF WHICH ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. WITHOUT LIMITING THE FOREGOING SSG MAKES NO PROMISE: (A) AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY, OR COMPLETENESS OF THE SERVICES OR ANY CONTENT, ALL OF WHICH ARE PROVIDED STRICTLY ON AN "AS IS" AND "AS AVAILABLE" BASIS; (B) AS TO ANY THIRD-PARTY PROVIDER OR ANY OF ITS PRODUCTS OR SERVICES, WHETHER OR NOT SSG MAY HAVE DESIGNATED IT OR ITS PRODUCTS OR SERVICES AS "CERTIFIED," "VALIDATED," OR OTHERWISE; (C) THAT THE USE OF THE PRODUCTS AND SERVICES SHALL BE SECURE, UNINTERRUPTED, OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA; (D) THAT THE PRODUCTS AND SERVICES SHALL MEET CLIENT'S REQUIREMENTS OR EXPECTATIONS; (E) THAT ANY CUSTOMER DATA SHALL BE ACCURATELY OR RELIABLY STORED, (F) THAT ALL ERRORS OR DEFECTS SHALL BE CORRECTED, OR (G) THAT THE SERVICE SHALL BE FREE OF ANY VIRUS OR OTHER HARMFUL COMPONENT, ALTHOUGH SSG SHALL NOT KNOWINGLY INSERT ANY SUCH HARMFUL CODE.

### **Section 6.2.4, Warranty – Services**

Contractor is not responsible for any claimed breach of any warranty set forth in this Section caused by: (i) modifications made to the services or the products by anyone other than Contractor; (ii) the combination, operation or use of the hosted Contractor software with any items not certified by Contractor; (iii) Contractor's adherence to Customer's specifications or instructions; (iv) Errors caused by or related to internet unavailability, customizations or independent customer activity; or (v) City deviating from the service operating procedures described in the documentation. Correction for defects or issues traceable to the above warranty exclusions shall be billed at SSG's standard time and material charges



#### Section 7.7.1 and Section 7.7.2, **Indemnity**

Contractor shall defend, indemnify and hold City, and its affiliates, officers, directors, employees, and agents harmless against any damages payable to any third party in any such suit or cause of action, alleging that a service as used in accordance with this Contract infringes the U.S. patent or copyright of any third party. If a service is held or believed to infringe on a U.S. patent or copyright of a third party, Contractor may, in its sole discretion, (a) modify it to be non-infringing, (b) obtain for City a license to continue using the affected service, or (c) if neither (a) nor (b) are practical in Contractor's sole judgment, terminate the affected Service and return to City the unused portion of any fees paid for the affected service. The foregoing obligations of Contractor do not apply (i) to the extent that the allegedly infringing service or portions or components thereof or modifications thereto result from any change made by City or any third party for the City, (ii) if the infringement claim could have been avoided by using an unaltered current version of Apricot which was provided by Contractor, (iii) to the extent that an infringement claim is based upon any information, design, specification, instruction, software, data, or material not furnished by Contractor, or any material from a third party portal or other external source that is accessible to City within or from the service (e.g., a third party Web page accessed via a hyperlink), (iv) to the extent that an infringement claim is based upon the combination of any material with any products or services not provided by Contractor, or (v) to the extent that an infringement claim is caused by the provision by City to Contractor of materials, designs, know-how, software or other intellectual property with instructions to Contractor to use the same in connection with the service.

#### Section 7.9, **Notices**

Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:  
City of Austin, Purchasing Office  
ATT: Elisa Folco, Procurement Specialist IV  
PO Box 1088  
Austin, TX 78767

To the Contractor:  
Social Solutions Global, Inc. dba Social Solutions  
ATTN: Christopher Murphy, General Counsel  
10801-2 N. MoPac Expressway, Suite 400  
Austin, TX 78759

#### Section 7.16, **Assignment-Delegation**

The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract. Notwithstanding the foregoing, Contractor may assign the Contract without consent to an affiliate, a successor in connection with a merger, acquisition or consolidation, or to the purchaser in connection with the sale of all or substantially all of its assets.

#### **Limitation of Liability**

**LIMITATION OF LIABILITY.** Notwithstanding anything to the contrary contained in this Contract, Contractor's total liability for any and all damages shall not exceed: (i) with respect to the services, the fee (excluding implementation or other professional services fees) paid by City for the prior twelve (12) month period of this Contract, or (ii) with respect to the professional services, the total fees received by Contractor from City for the Professional Services pursuant to a particular SOW. The foregoing limitation shall not apply to Contractor's indemnity obligation set forth in section 7.7 of the Contract. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, CONTRACTOR AND ITS LICENSORS AND SUPPLIERS WILL NOT BE RESPONSIBLE FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR OTHER SIMILAR DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY LOST PROFITS OR DAMAGES FOR BUSINESS INTERRUPTION, INACCURATE INFORMATION OR LOSS OF INFORMATION OR COST OF COVER) THAT THE CITY MAY INCUR OR EXPERIENCE IN CONNECTION WITH THE AGREEMENT OR THE SERVICES, HOWEVER CAUSED AND UNDER WHATEVER THEORY OF LIABILITY, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.



Amendment No. 4  
to  
Contract No. 5600 NS140000037  
for  
Maintenance and Support of Online Data Manager Software  
between  
Social Solutions Global, Inc. (dba Social Solutions)  
and the  
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be September 15, 2017 through September 14, 2018. There are no options remaining.
- 2.0 The total contract amount is increased by \$14,647.80 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 09/15/2014 – 09/14/2015	\$13,623.00	\$13,623.00
Amendment No. 1: Option 1 – Extension 09/15/2015 – 09/14/2016	\$13,623.00	\$27,246.00
Amendment No. 2: Merger June 19, 2015	\$0.00	\$27,246.00
Amendment No. 3: Option 2 – Extension 09/15/2016 – 09/14/2017	\$14,647.80	\$41,893.80
Amendment No. 4: Option 3 – Extension 09/15/2017 – 09/14/2018	\$14,647.80	\$56,541.60

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: P. Benedix 06/16/2017

Printed Name: Patricia Benedix  
Authorized Representative

Social solutions Global, Inc.  
425 Williams Court, Suite 100  
Baltimore, MD 21220

Sign/Date: Bartley Tyler 6/27/17  
Printed Name: Bartley Tyler  
Authorized Representative

Contract Compliance Supervisor  
City of Austin  
Purchasing Office  
124 W. 8<sup>th</sup> Street, Ste. 310  
Austin, Texas 78701



Amendment No. 3  
of  
Contract No. NS140000037  
for  
Maintenance and Support of Online Data Manager Software  
between  
Social Solutions Global, Inc. (dba Social Solutions)  
and the  
City of Austin

- 1.0 The City hereby agrees to the Master Services Agreement attached hereto as Addendum 1. The City agrees that the Master Services Agreement supersedes all other terms and conditions included for the above-referenced contract.
- 2.0 The City hereby exercises the extension option for the above-referenced contract. Effective September 15, 2016 the term for the extension option will be September 15, 2016 to September 14, 2017 and there is one remaining option.
- 3.0 The total contract amount is increased by \$14,647.80 for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 09/15/14 – 09/14/15	\$13,623.00	\$13,623.00
Amendment No. 1: Option 1 09/15/15 – 09/14/16	\$13,623.00	\$27,246.00
Amendment No. 2: Merger June 19, 2015	\$0.00	\$27,246.00
Amendment No. 3: Option 2 09/15/16 – 09/14/17	\$14,647.80	\$41,893.80

- 4.0 MBE/WBE goals were not established for this contract.
- 5.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 6.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

Signature and Date:

Handwritten signature of Patricia Benedix in black ink.

Printed Name: Patricia Benedix, CFO  
Authorized Representative

Signature and Date:

Handwritten signature of Elisa Folco in black ink, dated 9/28/16.

Elisa Folco, Corporate Contract Administrator  
City of Austin  
Purchasing Office

Community Technology Inc.  
9442 Capital of Texas Hwy N Bldg. I Ste. 200  
Austin, TX 78759

## MASTER SERVICES AGREEMENT

This Master Services Agreement ("Master Agreement") is entered into between Social Solutions Global, Inc. ("SSG") and the Client identified in the signature block below, effective as of September 1, 2016 ("Effective Date").

### 1 DEFINITIONS

"Agreement" means this Master Agreement, Order Forms, statements of work, and other attachments and exhibits attached thereto.

"Authorized Users", "Authorized Purpose" and defined in the applicable Order Form. "Confidential Information" is defined in section 9.

"Content" means information, data, text, software, music, sound, photographs, graphics, video messages or other material to which Client is provided access by SSG through the Products.

"Customer Data" means any data, information, or material Client or any authorized user provides or submits through the SaaS Service.

"Customizations" means modifications to the Products or custom work or content developed by or on behalf of SSG pursuant to a Professional Services engagement hereunder.

"Documentation" means the user instructions, release notes, manuals and on-line help files as updated by SSG from time to time, in the form generally made available by SSG, regarding the use of the SaaS Service.

"Error" means a material failure of the SaaS Service to conform to its functional specifications described in the Documentation, which is reported by Client and reproducible by SSG.

"Independent Customer Activity" means: (i) use of equipment by Client not provided or previously approved by SSG; or (ii) negligent acts or omissions or willful misconduct by Client or its Authorized Users.

"Internet Unavailability" means Client's inability to access, or SSG inability to provide, the SaaS Service through the Internet due to causes outside of SSG direct control, including, but not limited to: (i) failure or unavailability of Internet access, (ii) unauthorized use, theft or operator errors relating to telephone, cable or Internet service provider; (iii) bugs, errors, configuration problems or incompatibility of equipment or services relating to Client's computer or network; or (iv) failure of communications networks or data transmission facilities, including without limitation wireless network interruptions.

"License Metrics" means the limitation on the usage of SaaS Services as designated and/or defined in the applicable Order Form or the financial metric used to calculate applicable fees, and designated by a term such as the number of "users", "agencies", "revenues" and the like.

"Order Form" is defined in section 2.2.

"Products" means collectively software programs (including updates and Documentation), Content, Customizations and all toolkits and any other programs provided by SSG hereunder, training materials, tutorials and related documentation provided by SSG in connection with the performance of Services.

"Professional Services" means data conversion, data mapping, implementation, site planning, configuration, integration and deployment of the SaaS Services, custom development, customizations, training, project management and other consulting services.

"SaaS Services" means the software as a service and other services identified in the Order Form and associated Support.

"Services" means collectively SaaS Services and Professional Services.

"Service Level Agreement" means service level agreement(s) that we offer with respect to the SaaS Services as they may be updated by SSG from time to time. The service level agreement for ETO is located at:

<https://www.ssgbx.com/sd/cgyz74n37qzm/SSG%20SLA.pdf?d=0>

The service level agreement for Apriol is located at:

<https://www.ssgbx.com/sd/7q97naa6kozm513/SSG%20Apriol%20SLA.pdf?d=0>

"Support" is defined in section 3.7.

"Term" is defined in section 11.2.

### 2 PURPOSE AND SCOPE

2.1 Purpose. This Master Agreement establishes the general terms and conditions to which the parties have agreed with respect to the provision of Services by SSG to Client. Additional terms for the purchase of a specific Service are set forth in the Order Form. The parties acknowledge receipt of and agree to be bound by the terms and conditions of the Agreement. All pre-printed or standard terms of any Client purchase order or other business processing document shall have no effect.

2.2 Incorporation of Order Forms. "Order Form" means the document(s), regardless of actual name, executed by the parties which incorporates by reference

the terms of this Master Agreement, and describes order-specific information, such as description of Services ordered, License Metrics, fees, and milestones. At any time after execution of the initial Order Form, Client may purchase additional Services or otherwise expand the scope of Services granted under an Order Form, upon SSG's receipt and acceptance of a new Order Form specifying the foregoing.

2.3 Order of Precedence. To the extent any terms and conditions of this Master Agreement conflict with the terms and conditions of an Order Form, the terms and conditions of the Master Agreement shall control, except where the Order Form expressly states the intent to supersede a specific portion of the Master Agreement.

### 3 SERVICES

3.1 Generally. Subject to Client's and its Authorized Users' compliance with the Agreement and timely payment of the applicable fees, SSG shall make the SaaS Service available to Client and its Authorized Users in accordance with the applicable Service Level Agreement, the terms of this Master Agreement and the applicable Order Form during the Term.

3.2 Environment. SSG will provide Client online access to and use of the SaaS Service(s) via the Internet by use of a SSG-approved Client-provided browser. The SaaS Service will be hosted on a server that is maintained by SSG or its designated third party supplier or data center. Client is solely responsible for obtaining and maintaining at its own expense, all equipment needed to access the SaaS Services, including but not limited to Internet access, adequate bandwidth and encryption technology.

3.3 Changes. Access is limited to the version of the Products in SSG's production environment. SSG regularly updates the SaaS Services and reserves the right to discontinue, add and/or substitute functionally equivalent features in the event of product unavailability, end-of-life, or changes to software requirements. SSG will notify Client of any material change to or discontinuance of the SaaS Services.

3.4 Security; Back-Ups. Without limiting Client's obligations under Section 4.4, SSG will implement reasonable and appropriate measures designed to secure Customer Data against accidental or unlawful loss, access or disclosure. SSG will perform back-ups in accordance with the Service Level Agreement.

3.5 Storage Space. SSG shall provide storage space for Client's use of the SaaS Service up to the amount set forth on the applicable Order Form. Additional storage space, if required, is subject to additional charges at SSG's then prevailing rates.

3.6 Service Availability. SSG shall use commercially reasonable efforts to make the Service generally available in accordance with the Service Level Agreement applicable each Service ("Service Availability"). Service Availability does not include interruption of Service as a result of (i) planned downtime for maintenance, (ii) Internet Unavailability, (iii) Independent Customer Activity or (iv) force majeure events or other events that are not under SSG's control.

3.7 Support Services. We shall provide the level of Support specified in the Order Form for the Service. Support services provided by SSG as part of SaaS Services include (i) technical support and workarounds so that the SaaS Services operate in material conformance with the Documentation, and (ii) the provision of updates thereto, if and when available, all of which are provided under SSG Support policies (as may be amended by SSG from time to time) in effect at the time the Support services are provided ("Support"). For the avoidance of doubt, Support excludes Professional Services. Updates include bug fixes, patches, Error corrections, minor and major releases, non-new platform changes, or modifications or revisions that enhance existing performance. Updates exclude new products, modules or functionality for which SSG generally charges a separate fee. Support is provided solely to the number of named Administrators set forth on the Order Form.

SSG is under no obligation to provide Support with respect to: (i) Services that have been altered or modified by anyone other than SSG or its licensors; (ii) Services used other than in accordance with the Documentation; (iii) discrepancies that do not significantly impair or affect the operation of the Service; (iv) errors or malfunction

caused by Client or its Authorized Users' failure to comply with the minimum system requirement documentation as provided by SSG or by use of non-conforming data, or by Independent Customer Activity; or (vi) errors and malfunction caused by any systems or programs not supplied by SSG.

**3.8 Support Exclusions.** For the avoidance of doubt, updates to the SaaS Services are subsequent releases to the standard SSG products, excluding Customizations. SSG reserves the right to charge Client for any reintegration work required to make Customizations compatible with future versions/releases. THE DELIVERABLES AND CUSTOMIZATIONS ARE NOT SUBJECT TO THE SUPPORT PLAN FOR THE SAAS SERVICES. Support for the Customizations, if available, may be obtained from SSG subject to payment of applicable fees.

**3.9 Professional Services.** SSG will perform the mutually agreed upon Professional Services for Client described in one or more work orders, work authorizations or statements of work or Order Forms (collectively "SOW") as the parties may agree to in writing from time to time. Each SOW, once executed by the authorized representatives of the parties, shall become a part of the Agreement. Either party may propose a change order to add to, reduce or change the work ordered in the SOW. Each change order shall specify the change(s) to the Professional Services or deliverables, and the effect on the time of performance and on the fees owed to SSG, due to the change. Once executed by both parties, a change order shall become a part of the SOW.

**3.10 Cooperation.** Client shall provide SSG with good faith cooperation and access to such information, facilities, personnel and equipment as may be reasonably required by SSG in order to provide the Services, including, but not limited to, providing security access, information, and software interfaces to Client's applications, and Client personnel, as may be reasonably requested by SSG from time to time. Client acknowledges and agrees that SSG's performance is dependent upon the timely and effective satisfaction of Client's responsibilities hereunder and timely decisions and approvals of Client in connection with the Services. SSG shall be entitled to rely on all decisions and approvals of Client. Client will follow the instructions and reasonable policies established by SSG from time to time and communicated to Client.

#### **4 USING THE SAAS SERVICES**

**4.1 Authorized Users.** Client shall limit access to the SaaS Services to Authorized Users and use the SaaS Services solely for the Authorized Purpose, as defined in the Order Form. Authorized Users are required to accept the terms and conditions of SSG's on-line, "click through" end-user license agreement, as may be amended or restated from time to time by SSG.

**4.2 License Metrics.** Use of the SaaS Service is subject to License Metrics, as set forth in the Order Form. Additional License Metrics must be purchased in the event actual use exceeds the licensed quantity, at SSG's then prevailing prices. Additional License Metrics, if any, are prorated for the remainder of the then-current Term of the applicable Order Form. Client may not decrease the number of License Metrics during the Initial Term or any Renewal Term.

**4.3 Acceptable Use Policy.** Client acknowledges and agrees that SSG does not monitor or police the content of communications or data of Client or its users transmitted through the Services, and that SSG shall not be responsible for the content of any such communications or transmissions. Client shall use the Services exclusively for authorized and legal purposes, consistent with all applicable laws and regulations and SSG's policies. Client agrees not to post or upload any content or data which (a) is libelous, defamatory, obscene, pornographic, abusive, harassing or threatening; (b) violates the rights of others, such as data which infringes on any intellectual property rights or violates any right of privacy or publicity; or (c) otherwise violates any applicable law. SSG may remove any violating content posted or transmitted through the SaaS Services, without notice to Client. SSG may suspend or terminate any user's access to the SaaS Services upon notice in the event that SSG reasonably determines that such user has violated the terms and conditions of this Agreement.

**4.4 Security.** Client will not: (a) breach or attempt to breach the security of the SaaS Services or any network, servers, data, computers or other hardware relating to or used in connection with the SaaS Services; or any third party that is hosting or interfacing with any part of the SaaS Services; or (b) use or distribute through the SaaS Services any software, files or other tools or devices designed to interfere with or compromise the privacy, security or use of the SaaS Services or the operations or assets of any other customer of SSG or any third party. Client will comply with the user authentication requirements for use of the SaaS Services. Client is solely

responsible for monitoring its authorized users' access to and use of the SaaS Services. SSG has no obligation to verify the identity of any person who gains access to the SaaS Services by means of an access ID. Any failure by any authorized user to comply with the Agreement shall be deemed to be a material breach by Client, and SSG shall not be liable for any damages incurred by Client or any third party resulting from such breach. Client must immediately take all necessary steps, including providing notice to SSG, to effect the termination of an access ID for any authorized user if there is any compromise in the security of that access ID or if unauthorized use is suspected or has occurred.

**4.5 Customer Data.** Client has sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.

**4.6 Third-Party Providers.** Certain third-party providers, some of which may be listed on SSG website, offer products and services related to the Service, including implementation, customization, and other consulting services and applications (both offline and online) that work in conjunction with the SaaS Services, such as by exchanging data with the Service or by offering additional functionality. SSG is not responsible for any exchange of data or other interaction or transaction between Client and a third-party provider, including purchase of any product or service, all of which is solely between Client and the third-party provider.

**4.7 Links.** The SaaS Service may contain links to other websites or resources. Client acknowledges and agrees that SSG is not responsible or liable for (a) the availability or accuracy of such sites or resources; or (b) the content, advertising, or products on or available from such website or resources. The inclusion of any link on the Service does not imply that SSG endorses the linked website. Client uses the links at its own risk.

**4.8 End-User Violations.** Client shall ensure that all Authorized Users use the Services in accordance with the Agreement and be responsible for any breach of the Agreement by such Users and all activities that occur under Client's and its users' accounts. If Client becomes aware of any violation by a user, it will immediately terminate such User access to the Customer Data and/or the Services.

**4.9 Training.** It is Client's responsibility to ensure that all appropriate users receive initial training services sufficient to enable Client to effectively use the SaaS Services, as applicable. Failure to do so could result in additional fees if service requests are deemed excessive as a result of insufficient training, at SSG's discretion. Support Services may not be used as a substitute for training.

#### **5 FEES, TAXES & PAYMENTS**

**5.1 General.** Fees and payment terms are specified in the applicable Order Form. All fees are in United States Dollars and exclude taxes. Client shall be responsible for payment of all taxes (excluding those on SSG's net income) relating to the provision of the Services. Except as otherwise expressly specified in the Order Form, all recurring fees payment obligations start from the execution of the Order Form. SSG may increase recurring fees at any time upon 60 days prior written notice. Unless otherwise specified in the Order Form, payment of all fees is due 30 days after the invoice date. Interest accrues on past due balances at the lesser of 1 1/2% per month or the highest rate allowed by law. Failure to make timely payments shall be a material breach of the Agreement and SSG will be entitled to suspend any or all of its performance obligations hereunder in accordance with the provisions of section 11.4 and/or to modify the payment terms, and to request full payment before any additional performance is rendered by SSG. Client shall reimburse SSG for expenses incurred, including interest and reasonable attorney fees, in collecting amounts due SSG hereunder that are not under good faith dispute by Client. Amounts paid or payable for SaaS Services are not contingent upon the performance of any Professional Services. Client agrees that its purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written comments made by SSG regarding future functionality or features.

**5.2 Professional Services.** On a "Time and Materials" engagement, if an estimated total amount is stated in the Order Form or SOW, that amount is solely a good-faith estimate for Client's budgeting and SSG's resource scheduling purposes and not a guarantee that the work will be completed for that amount. Professional Services purchased must be used within, and prices quoted are valid for a period of one year following the effective date of the Order Form. Hours that are not used or have expired are non-refundable.

**5.3 Travel and Lodging Expenses.** SSG's reasonable travel and lodging expenses incurred by SSG in the performance of Services on Client's site will be billed separately at actual cost.

**6.1 Ownership and Limited License.** The Products and all equipment, infrastructure, websites and other materials provided by SSG in the performance of Services will at all times remain the exclusive, sole and absolute property of SSG or its licensors. Client does not acquire any right, title, or interest in or to such Products and equipment and materials. Client's right to use the Products and Services is personal, and non-transferable, non-exclusive and limited to the Term and the Authorized Purpose. All rights, title and interest in or to any copyright, trademark, service mark, trade secret, and other proprietary right relating to the Products and Services and the related logos, product names, etc. and all rights not expressly granted are reserved by SSG and its licensors. Client may not obscure, alter or remove any copyright, patent, trademark, service mark or proprietary rights notices on any Products or other materials.

**6.2 Restrictions.** Client shall use the Services only for the Authorized Purpose. Client shall not itself, or through any affiliate, employee, consultant, contractor, agent or other third party: (i) sell, resell, distribute, host, lease, rent, license or sublicense, in whole or in part, the Products or Services; (ii) decipher, decompile, disassemble, reverse assemble, modify, translate, reverse engineer or otherwise attempt to derive source code, algorithms, tags, specifications, architecture, structure or other elements of the Products or Services, in whole or in part, for competitive purposes or otherwise; (iii) allow access to, provide, divulge or make available the Services to any user other than Authorized Users; (iv) write or develop any derivative works based upon the Products or Services; (v) modify, adapt, tamper with or otherwise make any changes to the Products or Services or any part thereof; (vi) alter, or remove any proprietary or intellectual property notices from the Products or Services; (vii) create internet "links" to or from the Service, or "frame" or "mirror" any Content; (viii) use the Services to provide processing services to third parties, or otherwise use the same on a "service bureau" basis; (ix) disclose or publish, without SSG's prior written consent, performance or capacity statistics or the results of any benchmark test performed on the Products or Services; or (x) otherwise use or copy the same except as expressly permitted herein.

**6.3 Customer Data.** Client owns all Customer Data. However, Client agrees that SSG may access user accounts, including Customer Data, to respond to service or technical problems or at Client's request and SSG may compile, use and disclose without restrictions user statistics and Customer Data in aggregate and anonymous form only. Client, not SSG, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data.

## **7 WARRANTIES AND DISCLAIMERS.**

**7.1** Client represents and warrants that it has the right to use the Customer Data.

**7.2** SSG warrants that the SaaS Service, as updated by SSG and used in accordance with the Documentation, shall perform substantially in accordance with the Documentation under normal use and circumstances and that the other Services shall be performed in a manner consistent with general industry standards reasonably applicable to the provision thereof. SSG is not responsible for any claimed breach of any warranty set forth in this Section caused by: (i) modifications made to the SaaS Services or the Products by anyone other than SSG; (ii) the combination, operation or use of the hosted SSG Software with any items not certified by SSG; (iii) SSG's adherence to Client's specifications or instructions; (iv) Errors caused by or related to Internet Unavailability, Customizations or Independent Customer Activity; or (v) Client deviating from the Service operating procedures described in the Documentation. Correction for defects or issues traceable to the above warranty exclusions shall be billed at SSG's standard time and material charges.

**7.3** **Disclaimers.** SSG, ITS LICENSORS AND SUPPLIERS EXPRESSLY DISCLAIM TO THE MAXIMUM EXTENT PERMITTED BY LAW, ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED. SSG MAKES NO WARRANTY OR REPRESENTATION WITH RESPECT TO THE SERVICES, PRODUCTS AND ANY RELATED INSTALLATION, CONFIGURATION, MAINTENANCE OR OTHER SUPPORT SERVICES, EXPRESS OR IMPLIED, AT LAW OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, ALL OF WHICH ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. WITHOUT LIMITING THE FOREGOING SSG MAKES NO PROMISE: (A) AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY, OR COMPLETENESS OF THE SERVICES OR ANY CONTENT, ALL OF WHICH ARE PROVIDED STRICTLY ON AN "AS IS" AND "AS AVAILABLE" BASIS; (B) AS TO ANY THIRD-PARTY PROVIDER OR ANY OF ITS PRODUCTS OR

SERVICES, WHETHER OR NOT SSG MAY HAVE DESIGNATED IT OR ITS PRODUCTS OR SERVICES AS "CERTIFIED," "VALIDATED," OR OTHERWISE; (C) THAT THE USE OF THE PRODUCTS AND SERVICES SHALL BE SECURE, UNINTERRUPTED, OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA; (D) THAT THE PRODUCTS AND SERVICES SHALL MEET CLIENTS REQUIREMENTS OR EXPECTATIONS; (E) THAT ANY CUSTOMER DATA SHALL BE ACCURATELY OR RELIABLY STORED; (F) THAT ALL ERRORS OR DEFECTS SHALL BE CORRECTED; OR (G) THAT THE SERVICE SHALL BE FREE OF ANY VIRUS OR OTHER HARMFUL COMPONENT, ALTHOUGH SSG SHALL NOT KNOWINGLY INSERT ANY SUCH HARMFUL CODE.

## **8 INDEMNITY**

**8.1 SSG Indemnity.** SSG shall defend, indemnify and hold Client, and its affiliates, officers, directors, employees, and agents harmless against any damages payable to any third party in any such suit or cause of action, alleging that a SaaS Service as used in accordance with this Agreement infringes the U.S. patent or copyright of any third party. If a SaaS Service is held or believed to infringe on a U.S. patent or copyright of a third party, SSG may, in its sole discretion, (a) modify it to be non-infringing; (b) obtain for Client a license to continue using the affected Service; or (c) if neither (a) nor (b) are practical in SSG's sole judgment, terminate the affected Service and return to Client the unused portion of any fees paid for the affected Service. The foregoing obligations of SSG do not apply (i) to the extent that the allegedly infringing SaaS Service or portions or components thereof or modifications thereto result from any change made by Client or any third party for the Client; (ii) if the infringement claim could have been avoided by using an unaltered current version of a Product which was provided by SSG; (iii) to the extent that an infringement claim is based upon any information, design, specification, instruction, software, data, or material not furnished by SSG, or any material from a third party portal or other external source that is accessible to Client within or from the SaaS Service (e.g., a third party Web page accessed via a hyperlink); (iv) to the extent that an infringement claim is based upon the combination of any material with any products or services not provided by SSG; or (v) to the extent that an infringement claim is caused by the provision by Client to SSG of materials, designs, know-how, software or other intellectual property with instructions to SSG to use the same in connection with the SaaS Service.

**8.2 Client Indemnity.** Client shall defend, indemnify and hold SSG, its licensors, and its and their respective parents, subsidiaries, affiliates, officers, directors, employees, and agents harmless from and against any and all losses arising out of or in connection with a third party claim concerning (a) the Customer Data or the combination of the Customer Data with other applications, content or processes, including any claim involving alleged infringement or misappropriation of third-party rights by the Customer Data or by the use, development, design, production, advertising or marketing of the Customer Data; (b) any and all losses, including without limitation, data loss or damage to hardware, software and other property arising from Client's acts and omissions in using of the Service, including without limitation Independent Customer Activity; (c) Client's or its Authorized Users of the Services in violation of the terms of this Agreement or applicable law; or (d) a dispute between Client and any of its Authorized Users.

**8.3 Mutual Obligations.** The indemnification obligations set forth in sections 8.1 and 8.2 are subject to the following requirements: the indemnified party shall (i) take all reasonable steps to mitigate any potential damages which may result; (ii) promptly notify the other party of any and all such suits and causes of action; (iii) the indemnifying party controls any negotiations or defense of such suits and causes of action; and (iv) the indemnified party assists as reasonably required by the indemnifying party.

**9 NONDISCLOSURE.** All Confidential Information (as defined below) disclosed hereunder will remain the exclusive and confidential property of the disclosing party. The receiving party will not disclose the Confidential Information of the disclosing party and will use at least the same degree of care, discretion and diligence in protecting the Confidential Information of the disclosing party as it uses with respect to its own confidential information, but in no case less than reasonable care. The receiving party will limit access to Confidential Information to its affiliates, employees and authorized representatives with a need to know and will instruct them to keep such information confidential. SSG may disclose Client's Confidential Information on a need to know basis to its subcontractors who are providing all or part of the Services. SSG may use Client's Confidential Information solely for purposes of SSG's performance of its obligations hereunder, except that SSG may use Client's Confidential Information for purposes other than the provision of Services only in an

aggregated, anonymized form, such that Client is not identified. Notwithstanding the foregoing, the receiving party may disclose Confidential Information of the disclosing party (a) to the extent necessary to comply with any law, rule, regulation or ruling applicable to it, and (b) as required to respond to any summons or subpoena or in connection with any litigation, provided the receiving party gives the disclosing party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the disclosing party's cost, if the disclosing party wishes to contest the disclosure. Upon the request of the disclosing party, the receiving party will return or destroy all Confidential Information of the disclosing party that is in its possession. Notwithstanding the foregoing, SSG may retain information for regulatory purposes or in back-up files, provided that SSG's confidentiality obligations hereunder continue to apply. For purposes of this section, "Confidential Information" shall mean information designated as confidential in writing or information which ought to be in good faith considered confidential and proprietary to the disclosing party. Confidential Information of SSG and/or its licensors includes but is not limited to the terms and conditions (but not the existence) of the Agreement, all trade secrets, software, source code, object code, specifications, documentation, business plans, customer lists and customer-related information, financial information, auditors reports of any nature, proposals, as well as results of testing and benchmarking of the Services, product roadmap, data and other information of SSG and its licensors relating to or embodied in the Services. Information shall not be considered Confidential Information to the extent, but only to the extent, that the receiving party can establish that such information (i) is or becomes generally known or available to the public through no fault of the receiving party; (ii) was in the receiving party's possession before receipt from the disclosing party; (iii) is lawfully obtained from a third party who has the right to make such disclosure on a non-confidential basis; or (iv) has been independently developed by one party without reference to any Confidential Information of the other. The obligations of SSG set forth in this section 9 shall not apply to any suggestions and feedback for product or service improvement, correction, or modification provided by Client in connection with any present or future SSG product or service, and, accordingly, neither SSG nor any of its clients or business partners shall have any obligation or liability to Client with respect to any use or disclosure of such information.

**10 LIMITATION OF LIABILITY.** Notwithstanding anything to the contrary contained in this Agreement, SSG's total liability for any and all damages shall not exceed: (i) with respect to the SaaS Services, the fee (excluding implementation or other Professional Services fees) paid by Client for the initial twelve (12) month period of this Agreement, or (ii) with respect to the Professional Services, the total fees received by SSG from Client for the Professional Services pursuant to a particular SOW. The foregoing limitation shall not apply to SSG's indemnity obligation set forth in section 8.1 of the Agreement. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, SSG AND ITS LICENSORS AND SUPPLIERS WILL NOT BE RESPONSIBLE FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR OTHER SIMILAR DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY LOST PROFITS OR DAMAGES FOR BUSINESS INTERRUPTION, INACCURATE INFORMATION OR LOSS OF INFORMATION OR COST OF COVER) THAT THE CLIENT MAY INCUR OR EXPERIENCE IN CONNECTION WITH THE AGREEMENT OR THE SERVICES, HOWEVER CAUSED AND UNDER WHATEVER THEORY OF LIABILITY, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **11 TERM AND TERMINATION**

**11.1 Master Agreement Term.** The term of this Master Agreement shall commence on the Effective Date and shall continue in full force and effect until the expiration or termination of all Order Forms, unless otherwise terminated earlier as provided hereunder.

**11.2 SaaS Services Term.** The initial term of each of the SaaS Services is specified in the Order Form ("Initial Term") and shall automatically renew for the same length as the Initial Term unless either party gives written notice 45 days prior to the end of the Initial Term or any renewal Term of its intention to terminate the Services described in the applicable Order Form. The Initial Term and renewal terms are referred to as the "Term".

**11.3 Termination.** Either party may terminate the Agreement immediately upon written notice at any time if: (i) the other party commits a non-remediable material breach of the Agreement, or if the other party fails to cure any remediable material breach or provide a written plan of cure acceptable to the non-breaching party within 30 days of being notified in writing of such breach, except for breach of section 5 which shall have a ten (10) day cure period; or (ii) the other party ceases business operations; or (iii) the other party becomes insolvent, generally stops paying its debts

as they become due or seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against the other (and not dismissed within 90 days after commencement of one of the foregoing events). If SSG terminates this Agreement for Client's non-payment, Client agrees to pay to SSG the remaining value of the then-current initial or renewal term (that Client acknowledges as liquidated damages reflecting a reasonable measure of actual damages and not a penalty) equal to the aggregate recurring fees (as set forth in the Order Form) that will become due during the canceled portion of such initial or renewal term. Where a party has rights to terminate, the non-breaching party may at its discretion either terminate the entire Agreement or the applicable Order Form or SOW. Order Forms and SOWs that are not terminated shall continue in full force and effect under the terms of this Agreement.

**11.4 Suspension.** SSG will be entitled to suspend any or all Services upon 10 days written notice to Client in the event Client is in breach of this Agreement. Further, SSG may suspend Client's access and use of the SaaS Services if, and so long as, in SSG's sole judgment, there is a security risk created by Client that may interfere with the proper continued provision of the SaaS Services or the operation of SSG's network or systems. SSG may impose an additional charge to reinstate service following such suspension.

**11.5** SSG has no obligation to retain Customer data after three months of the expiration or termination of SaaS Services.

**11.6 Survival.** Sections 1, 2, 5, 6, 7.3, 8, 9, 10, 11, and 12 shall survive termination of this Agreement.

## **12 MISCELLANEOUS**

**12.1 Compliance.** During the term of the Agreement and for a period of one year following its termination, SSG shall have the right to verify Client's full compliance with the terms and requirements of the Agreement. If such verification process reveals any noncompliance, Client shall reimburse SSG for the reasonable costs and expenses of such verification process incurred by SSG (including but not limited to reasonable attorneys' fees), and Client shall promptly cure any such noncompliance; provided, however, that the obligations under this section do not constitute a waiver of SSG's termination rights and do not affect SSG's right to payment for Services and interest fees related to usage in excess of the License Metrics.

**12.2 Force Majeure.** Any party hereto will be excused from performance under this Agreement for any period of time that the party is prevented from performing its obligations hereunder as a result of an act of God, war, utility or communication failures, or other cause beyond the party's reasonable control. Both parties will use reasonable efforts to mitigate the effect of a force majeure event.

**12.3 Non-Hire.** During the term of this Master Agreement and for the twelve (12) months thereafter, neither Client nor SSG shall knowingly solicit or hire for employment or as a consultant, any employee or former employee of the other party who has been actively involved in the subject matter of this Agreement.

**12.4 Waiver.** The failure of either party at any time to enforce any right or remedy available to it under this Agreement with respect to any breach or failure by the other party shall not be construed to be a waiver of such right or remedy with respect to any other breach or failure by the other party.

**12.5 Headings.** The headings used in this Agreement are for reference only and do not define, limit, or otherwise affect the meaning of any provisions hereof.

**12.6 Severability.** If any of the provisions of this Agreement shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of Client and SSG shall be construed and enforced accordingly.

**12.7 Assignment.** SSG may assign the Agreement to an affiliate, a successor in connection with a merger, acquisition or consolidation, or to the purchaser in connection with the sale of all or substantially all of its assets. Client may not assign the Agreement or any of the rights or obligations under the Agreement, without the prior written consent of SSG.

**12.8 Relationship of the Parties.** The parties hereto expressly understand and agree that each party is an independent contractor in the performance of each and every part of the Agreement, is solely responsible for all of its employees and agents and its labor costs and expenses arising in connection therewith.

12.9 **Governing Law.** This Agreement is governed by the laws of the State of Delaware without giving effect to its conflict of law provisions. Any dispute shall be litigated in the state or federal courts located in the State of Delaware to whose exclusive jurisdiction the parties hereby consent. For purposes of establishing jurisdiction in Delaware under this Agreement, each party hereby waives, to the fullest extent permitted by applicable law, any claim that: (i) it is not personally subject to the jurisdiction of such court, (ii) it is immune from any legal process with respect to it or its property, and (iii) any such suit, action or proceeding is brought in an inconvenient forum. The Uniform Computer Information Transactions Act does not apply to this Agreement or orders placed under it.

12.10 **Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to its subject matter and supersedes and overrides all prior agreements on the same subject matter, and shall govern all disclosures and exchanges of Confidential Information made by the parties previously hereto. This Agreement shall not be modified except by a writing signed by SSG and Client.

12.11 **Use of Agents.** SSG may designate any agent or subcontractor to

perform such tasks and functions to complete any services covered under this Agreement. However, nothing in the preceding sentence shall relieve SSG from responsibility for performance of its duties under the terms of this Agreement.

12.12 **Publicity.** Client agrees that SSG may identify Client as a recipient of Services and use its logo in sales presentations, marketing materials and press releases.

12.13 **Notices.** Any notice required or permitted under this Agreement or required by law must be in writing and must be (i) delivered in person, (ii) sent by first class registered mail, or airmail, as appropriate, or (iii) sent by an internationally recognized overnight air courier, in each case properly posted and fully prepaid to the contact person set forth in the Order Form. Notices shall be considered to have been given at the time of actual delivery in person, two (2) business days after deposit in the mail as set forth above, or one (1) day after delivery to an overnight air courier service, provided in each case that delivery in fact is effected. Either party may change its contact person for notices and/or address for notice by means of notice to the other party given in accordance with this section.

The parties' authorized signatories have duly executed this Agreement as of the Effective Date:

Social Solutions Global, Inc.

By:



Print Name:

Patricia Benedix

Title:

CFO

Date:

09/28/2014

City of Austin-HHSO

By:



Print Name:

Elisa Foko

Title:

Corp. Contract Administrator

Date:

9/28/2014





Amendment No. 2  
to  
Contract No. NS140000037  
for  
Maintenance and Support of CKT Online Data Manager Software  
Between  
Community Techknowledge Inc.  
and the  
City of Austin

- 1.0 The Contract is hereby amended as follows: Change the vendor name as requested and documented by the vendor effective date, June 19, 2015

	From	To
Vendor Name	Community Techknowledge Inc.	Social Solutions Global, Inc. dba Social Solutions
Vendor Code	COM8322211	V00000930556
FEIN	[REDACTED]	[REDACTED]

- 2.0 All other terms and conditions of the Contract remain unchanged and in full force and effect.

BY THE SIGNATURE affixed below, this Amendment No. 2 is hereby incorporated into and made a part of the Contract.

A handwritten signature in cursive script, reading "Linell Goodin-Brown".

Linell Goodin-Brown, Contract Compliance Supervisor  
City of Austin  
Purchasing Office

A handwritten date "9-28-16" in cursive script.

Date



Amendment No. 1  
of  
Contract No. NS140000037  
for  
Maintenance and Support of Online Data Manager Software  
between  
Community Techknowledge Inc.  
and the  
City of Austin

- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective September 15, 2015 the term for the extension option will be September 15, 2015 to September 14, 2016 and there are two remaining options.
- 2.0 The total contract amount is increased by \$13,623.00 for the extension option period. The total Contract authorization is recapped below:

Term	Action Amount	Total Contract Amount
Basic Term: 09/15/14 – 09/14/15	\$13,623.00	\$13,623.00
Amendment No. 1: Option 1 09/15/15 – 09/14/16	\$13,623.00	\$27,246.00

- 3.0 MBE/WBE goals were not established for this contract.
- 4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

Signature and Date: 08/17/15

*Kathryn Engelhardt Crank*

Printed Name:  
Authorized Representative

Community Techknowledge Inc.  
9442 Capital of Texas Hwy N Bldg. I Ste. 200  
Austin, TX 78759

Signature and Date:

*Beatrice Washington*

Beatrice Washington, Contract Compliance Specialist Senior  
City of Austin  
Purchasing Office



**Financial Service Department**  
**Purchasing Office**  
124 W. 8<sup>th</sup> St., Austin, Texas, 78701

August 11, 2014

Community Knowledge Inc  
Kathryn Engelhardt-Cronk  
9442 Capital of Texas Hwy N, Bldg I, Ste. 200  
Austin, Texas 78759

Dear Ms. Engelhardt-Cronk:

The City has approved the execution of a contract with your maintenance and support of CTK Online Data Manager software.

Responsible Department:	Health and Human Services
Department Contact Person:	Leslie Boyd
Department Contact Email Address:	Leslie.Boyd@Austintexas.gov
Department Contact Telephone:	(512) 972-5036
Project Name:	Maintenance and support of CTK Online Data Manager software
Contractor Name:	Community Techknowledge Inc
Contract Number:	MA-5600-NS140000037
Contract Period:	September 15, 2014 through September 14, 2015
Extension Options:	Three 12-month extension Options
Dollar Amounts:	Initial Term Not to Exceed \$13,623; 1 <sup>st</sup> Option Not to Exceed \$13,623, 2 <sup>nd</sup> Option Not to Exceed \$14,647.80, and 3 <sup>rd</sup> Option Not to Exceed \$14,647.80

Thank you for your interest in doing business with the City of Austin. If you have any questions regarding this contract, please contact the person referenced under Department Contact Person.

Sincerely,

***Shawn M. Willett***

Shawn M. Willett  
Corporate Contract Compliance Manager  
IT Contract Management and Procurement Team  
City of Austin, Purchasing Office

cc: Leslie Boyd, HHSD

**CONTRACT BETWEEN THE CITY OF AUSTIN  
AND  
COMMUNITY TECHKNOWLEDGE INC.  
FOR  
MAINTENANCE AND SUPPORT FOR THE CTK ONLINE DATA MANAGER SOFTWARE**

This Contract is made by and between the City of Austin ("City"), a home-rule municipality incorporated by the State of Texas, and Community TechKnowledge Inc. ("Contractor"), having offices at 9442 Capital of Texas Hwy North, Bldg. 1, Suite 200, Austin, TX 78759.

**SECTION 1. GRANT OF AUTHORITY, SERVICES AND DUTIES**

1.1 **Engagement of the Contractor.** Subject to the general supervision and control of the City and subject to the provisions of the Terms and Conditions contained herein, the Contractor is engaged to provide the services set forth in Section 2, Scope of Work.

1.2 **Responsibilities of the Contractor.** The Contractor shall provide all technical and professional expertise, knowledge, management, and other resources required for accomplishing all aspects of the tasks and associated activities identified in the Scope of Work. In the event that the need arises for the Contractor to perform services beyond those stated in the Scope of Work, the Contractor and the City shall negotiate mutually agreeable terms and compensation for completing the additional services.

1.3 **Responsibilities of the City.** The City's Contract Manager will be responsible for exercising general oversight of the Contractor's activities in completing the Scope of Work. Specifically, the Contract Manager will represent the City's interests in resolving day-to-day issues that may arise during the term of this Contract, shall participate regularly in conference calls or meetings for status reporting, shall promptly review any written reports submitted by the Contractor, and shall approve all invoices for payment, as appropriate. The City's Contract Manager shall give the Contractor timely feedback on the acceptability of progress and task reports.

1.4 **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Kathryn Engelhardt-Cronk; Phone: 512-345-9090; Email: kec@communitytech.net. The City's Contract Manager for the engagement shall be Leslie Boyd; Phone: 512- 972-5036; Email: Leslie.Boyd@austintexas.gov. The City and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor will promptly notify the City Contract Manager and obtain approval for the replacement. Such approval shall not be unreasonably withheld.

**SECTION 2. SCOPE OF WORK**

2.1 **Contractor's Obligations.** The Contractor shall fully and timely provide all deliverables described herein and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

**SECTION 3. COMPENSATION**

3.1 **Contract Amount.** In consideration for the services to be performed under this Contract, the Contractor shall be paid an amount not-to-exceed \$13,623.00 for the initial twelve (12) month term, with three 12-month extension options in an amount not-to-exceed \$13,623.00 for the first extension option, \$14,647.80 for the second extension option and \$14,647.80 for the third extension option for a total contract amount not-to-exceed \$56,541.60 for all fees and expenses.

3.2 **Invoices.**

3.2.1 **Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized. The Contractor's name and, if applicable, the

tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on Contractor's invoice. Invoices received without all required information cannot be processed and will be returned to the Contractor. Invoices shall be mailed to the below address:

	City of Austin
Department	Health and Human Services
Attention	Robert Kingham
Address	P.O. Box 1088
City, State, Zip Code	Austin, TX 78767

3.2.2 Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.

3.2.3 Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

3.2.4 Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

### 3.3 **Payment.**

3.3.1 All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice, whichever is later.

**3.3.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**

3.3.3 The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of;

3.3.3.1 delivery of defective or non-conforming deliverables by the Contractor;

3.3.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

3.3.3.3 failure of the Contractor to pay Subcontractors, or for labor, materials or equipment,

3.3.3.4 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

3.3.3.5 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

3.3.3.6 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or

3.3.3.7 failure of the Contractor to comply with any material provision of the Contract.

3.3.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.



3.3.5 Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic transfer of funds.

3.4 **Non-Appropriation.** The awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this Contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

3.5 **Travel Expenses.** All travel, lodging, and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Contract will be reviewed against the City's Travel Policy and the current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

<http://www.gsa.gov/portal/category/21287>

No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulation.

3.6 **Final Payment and Close-Out.**

3.6.1 The making and acceptance of final payment will constitute:

3.6.1.1 a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and

3.6.1.2 a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

**SECTION 4. TERM AND TERMINATION**

4.1 **Term of Contract.** The Contract shall become effective on September 15, 2014 and shall remain in effect for an initial term of twelve (12) months and may be extended thereafter for up to three (3) additional twelve (12) month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.

4.1.1 Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 calendar days unless mutually agreed on in writing).

4.2 **Right To Assurance.** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

4.3 **Default.** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under the "Right to Assurance paragraph herein, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by Contractor to the City.

4.4 **Termination For Cause.** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

4.5 **Termination Without Cause.** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

4.6 **Fraud.** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

## **SECTION 5. OTHER DELIVERABLES**

5.1 **Insurance.** The following insurance requirements apply.

### **5.1.1 General Requirements**

5.1.1.1 The Contractor shall at a minimum carry insurance in the types and amounts indicated herein for the duration of the Contract and during any warranty period.

5.1.1.2 The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to contract execution and within fourteen (14) calendar days after written request from the City.

5.1.1.3 The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.

5.1.1.4 The Contractor shall not commence work until the required insurance is obtained and has been reviewed by City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

5.1.1.5 The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

5.1.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.

5.1.1.7 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall contain the Contractor's email address, and shall be mailed to the following address:

City of Austin  
Purchasing Office  
P. O. Box 1088  
Austin, Texas 78767

5.1.1.8 The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.

5.1.1.9 If insurance policies are not written for amounts specified, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

5.1.1.10 The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

5.1.1.11 The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.

5.1.1.12 The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

5.1.1.13 The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

5.1.1.14 The Contractor shall endeavor to provide the City thirty (30) calendar days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

5.1.2 **Specific Coverage Requirements.** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

5.1.2.1 **Commercial General Liability Insurance.** The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries). The policy shall contain the following provisions and endorsements.

5.1.2.1.1 Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project



- 5.1.2.1.2 Contractors/Subcontracted Work
- 5.1.2.1.3 Products/Completed Operations Liability for the duration of the warranty period
- 5.1.2.1.4 Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage
- 5.1.2.1.5 Thirty (30) calendar days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
- 5.1.2.1.6 The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage

5.1.2.2 **Business Automobile Liability Insurance.** The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements:

- 5.1.2.2.1 Waiver of Subrogation, Endorsement TE 2046A, or equivalent coverage
- 5.1.2.2.2 Thirty (30) calendar days Notice of Cancellation, Endorsement TE 0202A, or equivalent coverage
- 5.1.2.2.3 The City of Austin listed as an additional insured, Endorsement TE 9901B, or equivalent coverage

5.1.2.3 **Worker's Compensation and Employers' Liability Insurance.** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee. The policy shall contain the following provisions and endorsements:

- 5.1.2.3.1 The Contractor's policy shall apply to the State of Texas
- 5.1.2.3.2 Waiver of Subrogation, Form WC 420304, or equivalent coverage
- 5.1.2.3.3 Thirty (30) calendar days Notice of Cancellation, Form WC 420601, or equivalent coverage

5.1.2.5 **Endorsements.** The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

## 5.2 **Equal Opportunity.**

5.2.1 **Equal Employment Opportunity.** No Contractor or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit C. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the Contract

and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

**5.2.2 Americans With Disabilities Act (ADA) Compliance.** No Contractor, or Contractor's agent shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

**5.3 Acceptance of Incomplete or Non-Conforming Deliverables.** If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

#### **5.4 Delays.**

**5.4.1** The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified herein. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

**5.4.2** Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

**5.5 Rights to Proposal and Contractual Material.** All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.

**5.6 Publications.** All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

### **SECTION 6. WARRANTIES**

#### **6.1 Warranty – Price.**

**6.1.1** The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

**6.1.2** The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

**6.1.3** In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

**6.2 Warranty – Services.** The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

6.2.1 The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.

6.2.2 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the acceptance date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

6.2.3 If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

## **SECTION 7. MISCELLANEOUS**

**7.1 Place and Condition of Work.** The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

### **7.2 Workforce.**

7.2.1 The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

7.2.2 The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property:

7.2.2.1 use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract.

7.2.2.1.1 use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.

7.2.3 If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

**7.3 Compliance with Health, Safety, and Environmental Regulations.** The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

**7.4 Significant Event.** The Contractor shall immediately notify the Contract Manager of any current or prospective "significant event" on an ongoing basis. All notifications shall be submitted in writing to Contract Manager. As used in this provision, a "significant event" is any occurrence or anticipated occurrence which might reasonably be expected to have a material effect upon the Contractor's ability to meet its contractual obligations. Significant events may include but not be limited to the following:

7.4.1 disposal of major assets;

7.4.2 any major computer software conversion, enhancement or modification to the operating systems, security systems, and application software, used in the performance of this contract;

7.4.3 any significant termination or addition of provider contracts;

7.4.4 the Contractor's insolvency or the imposition of, or notice of the intent to impose, a receivership, conservatorship or special regulatory monitoring, or any bankruptcy proceedings, voluntary or involuntary, or reorganization proceedings;

7.4.5 strikes, slow-downs or substantial impairment of the Contractor's facilities or of other facilities used by the Contractor in the performance of this contract;

7.4.6 reorganization, reduction and/or relocation in key personnel such as, but not limited to, customer service representatives or claims adjusters;

7.4.7 known or anticipated sale, merger, or acquisition;

7.4.8 known, planned or anticipated stock sales;

7.4.9 any litigation filed by a member against the Contractor; or

7.4.10 significant change in market share or product focus.

**7.5 Right To Audit.**

7.5.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

7.5.2 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract.

**7.6 Stop Work Notice.** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work

until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

## **7.7 Indemnity.**

### **7.7.1 Definitions:**

7.7.1.1 "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:

7.7.1.1.1 damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or;

7.7.1.1.2 death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),

7.7.1.2 "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

**7.7.2 THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

**7.8 Claims.** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform hereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2<sup>nd</sup> Street, 4<sup>th</sup> Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

**7.9 Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:

City of Austin, Purchasing Office

ATTN: Elisa Folco, Contract Administrator

P O Box 1088

Austin, TX 78767

To the Contractor:

Community TechKnowledge, Inc.

ATTN: Kathryn Engelhardt-Cronk, Contract Manager

9442 Capital of Texas Hwy North, Bldg. 1, Suite 200,  
Austin, TX 78759



7.10 **Confidentiality.** In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

7.11 **Advertising.** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

7.12 **No Contingent Fees.** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

7.13 **Gratuities.** The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

7.14 **Prohibition Against Personal Interest in Contracts.** No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.

7.15 **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.

7.16 **Assignment-Delegation.** The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.

7.17 **Waiver.** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

7.18 **Modifications.** The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

7.19 **Interpretation.** The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

7.20 **Dispute Resolution.**

7.20.1 If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

7.20.2 If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

7.21 **Minority And Women Owned Business Enterprise (MBE/WBE) Procurement Program.**

7.21.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

7.21.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

7.21.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Contractor must also make a Good Faith Effort to use available MBE and WBE firms. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract; using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

## 7.22 Subcontractors.

7.22.1 If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan, the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

7.22.2 Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:

7.22.2.1 require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract.

7.22.2.2 prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

7.22.2.3 require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

7.22.2.4 require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

7.22.2.5 require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

7.22.3 The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract



shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.

7.22.4 The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) days after receipt of payment from the City.

7.23 **Jurisdiction And Venue.** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

7.24 **Invalidity.** The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

7.25 **Holidays.** The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

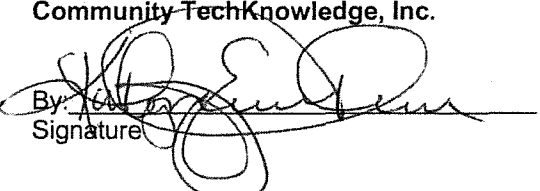
7.26 **Survivability of Obligations.** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

7.27 **Non-Suspension or Debarment Certification.** The City is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a contract with the City, the Contractor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

7.28 **Incorporation of Documents.** Section 0100, **Standard Purchase Definitions**, is hereby incorporated into this Contract by reference, with the same force and effect as if they were incorporated in full text. The full text versions of this Section are available, on the Internet at the following online address: [www.austintexas.gov/purchase/standard.htm](http://www.austintexas.gov/purchase/standard.htm).

In witness whereof, the parties have caused duly authorized representatives to execute this Contract on the dates set forth below.

**Community TechKnowledge, Inc.**

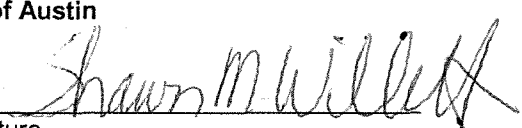
By:   
Signature

Name: Kathryn Engelhardt-Cronk  
Printed Name

Title: CEO

Date: 05/28/14

**City of Austin**

By:   
Signature

Name: Shawn M Willett  
Printed Name

Title: Corporate Contract Compliance Mgr

Date: 5/29/14

### **List of Exhibits**

Exhibit A	Pricing
Exhibit B	Maintenance & Support Agreement
Exhibit B	Non Discrimination Certification

**Exhibit A**  
Pricing

Pricing

Item	Cost
Monthly Service Fee (100-133 agencies/contractors)	\$759.00
OR	OR
Monthly Service Fee (134-165 agencies/contractors)	\$854.00
<p>The monthly fee can be subject to increase for the following reasons:</p> <p>At the beginning of the third year of the Contract term the monthly fee shall be increased by 10% to cover cost of business increases.</p>	
Annual Upgrade Fee: (Payable each year of the contract)	\$2,775.00
Optional Custom code block (20 hours custom code block at \$200.00 per hour – The standard CTK rate is \$250.00 per hour)	\$4,000.00
ODBC Connection – Optional	\$50.00/month

Item	Amount	Unit	Preliminary Cost	Total Contract Period: 15 Sep 2014 - 14 Sep 2018				Total
				Year 1	Year 2	Year 3	Year 4	
				Start Date				
				15-Sep-14	15-Sep-15	15-Sep-16	15-Sep-17	
				End Date				
				14-Sep-15	14-Sep-16	14-Sep-17	14-Sep-18	
				Base	1st Renewal Option	2nd Renewal Option	3rd Renewal Option	
Service Fee (Monthly) Service Fee (134-165 agencies/contractors)	\$854.00	12	\$10,248.00	\$10,248.00	\$10,248.00	\$10,248.00	\$10,248.00	\$40,992.00
Service Fee Increase Per Exhibit A	\$85.40	12	\$1,024.80	\$0.00	\$0.00	\$1,024.80	\$1,024.80	\$2,049.60
Annual Upgrade Fee	\$2,775.00	1	\$2,775.00	\$2,775.00	\$2,775.00	\$2,775.00	\$2,775.00	\$11,100.00
ODBC Service Fee	\$50.00	12	\$600.00	\$600.00	\$600.00	\$600.00	\$600.00	\$2,400.00
Total				\$13,623.00	\$13,623.00	\$14,647.80	\$14,647.80	\$56,541.60

## **Exhibit B**

### **Maintenance and Support Agreement**

CTK provides an array of services, and access to the state of the art hardware, software, set up assistance, initial training, technical support, legal and security, and 24/7 system admin services to CTK customers, all significant value-adds in product support and service:

#### **Monthly Fee Related Services:**

##### 24/7 Application Hosting

###### Facilities

- Redundant Power
- Redundant Internet tier up-links
- Climate Control
- Fire suppression
- Physical security and monitoring

###### Application Processing

- Application server hardware at hosting site, in a clustered environment that is easily scaled to meet requirements
- Redundant, managed, networking infrastructure at hosting site, scaled to meet requirements
- Maintenance of balanced server loads for optimum application response times and performance.
- Ongoing optimization of server architecture and software application features.
- Associated software and licenses.
- Systems installation and maintenance (Including server hardware, operating systems, and CTK applications)
- Research and development of production system architecture.

##### 24/7 Application Data Access & Transfer

- 100Mbit burstable, redundant, Tiered Internet Connection.
- Purchase and maintenance of all internet domain names.
- Redundant, load-balanced, mirrored DNS server hardware.
- Maintenance of public DNS records, accounts, and information.

##### Application Data Storage

- Dual raid 5 and raid 10 data storage arrays.
- Billing, administrative, and management efforts associated with maintenance of data storage systems.

##### HIPAA-Compliant Application Data Backup

- 24/7 logistical record of all changes to application data maintained locally and replicated immediately via Encrypted channels to remote servers in both North America and Europe.
- Hourly backup, via encrypted channels, of the customer-uploaded files to remote servers in both North America and Europe.

- Daily automated snapshots of each Application instance taken for archival purposes and retained for a period of no less than 1 month.
- Profiles of mission critical server architecture stored offsite for disaster recovery and restoration.
- All associated bandwidth costs.
- Backup infrastructure hardware and associated software licenses.
- Administrative efforts associated with design, monitoring and maintenance of backup systems and data.

#### HIPAA-Compliant Application Data Security

- Strong cipher SSL certificates issued by trusted authority VeriSign
- Regular software upgrades and operating system upgrades.
- Network protection systems (Firewalls, routers, active attack auditors, intrusion detection systems)
- Security guarantee related E&O insurance - \$1 ml per customer incident
- Development and maintenance of additional application and data security measures, systems, protocols and policies for HIPAA, Safe Harbor, UK Data Security Act of 1998 – legal consultation, research, staff time, admin and G&A associated costs, training.

#### Application Systems Development and Support

##### Internal Processing

- Separate server systems (including hardware, installation, and maintenance) for software development, deployment testing, advanced research, and data backup.
- Software development environment (Including source code control, project managements systems and deployment tools)
- Software testing environment (Including replication of live system environment).
- Advanced research environment (Including experimental software and hardware).
- Supportive computer system hardware (Including logging and monitoring subsystems, data storage arrays, kvm hardware, and desktop computers).
- Internal networking infrastructure (Including firewalls, routers, and switches for multiple separate subnets).
- Associated software and licenses.
- Administrative efforts associated with maintenance of internal systems.

##### Internal Transfer

- Multiple dedicated T1's and other internal connectivity (Including gigabit infrastructure for backup system components).

##### Internal Storage

- Multiple Internal file storage servers and raid storage arrays.

##### Internal Backup

- Full daily backup of user mail and associated server configuration information.
- Backup of numerous and varied key components and systems necessary for the continued operation of CTK's support, development, and administrative staff.

##### Internal Security

- Maintenance of multiple segregated internal subnets for security purposes.
- Network protection systems (Including firewalls, routers, anti-virus, spyware protection).

- Download and installation of all security patches and updates for desktop operating systems and associated software.
- Development and maintenance of additional internal security measures, systems, protocols and policies for HIPAA, Safe Harbor, UK data Security Act of 1998 – legal consultation, research, staff time, admin and G&A associated costs, training.

#### 24/7 Systems Administration

- Dedicated server and subnet for 24/7 monitoring of production environment including Alert notification software.
- Research, development, documentation and administration associated with all of the above mentioned services in the document.
- Development and enforcement of all IT policies and procedures.
- Development and implementation of CTK disaster recovery plan.
- Maintenance and administration of all software and hardware not explicitly mentioned previously (Including printers, fax machines, phone systems, UPS etc.)
- Associated management and supervision.
- 24-hour emergency call answering service and availability of staff members to assist, if needed.

#### Utilization of Proprietary CTK Code

#### Technical Support / Provision of Technical Support Tools and Customer Access

Maintenance of internal database tracking all technical support issues and communications.

#### Customer Support / Provision of Customer Support Tools and Training

- Customer Response Architecture Including Customer Contact Points for:
  - Sales/Additional Bid requests and ongoing customizations
  - Technical Consultation/Feasibility Evaluation
  - Technical Support (Customers and Channel Partners)
- Software systems costs for technical support management
- Hardware systems costs for technical support management
- Training
  - Manuals and other written materials associated with training and implementation
  - Training and demonstration software costs and associated administration



## **Annual Fee-Related Services**

### Technical Product Development:

- Initial and ongoing research and upgrade/development costs for all CTK patent-pending code, products, tools, work flow, algorithms; including but not limited to: Online Data Manager, CIODM, CAPilot, FirstCallNet, ODM Designer, and ODM Report Builder
  - Customer systems access infrastructure
    - Secure Socket Layer Encryption (implementation)
  - Ongoing Development
    - Feature Development and associated administration/consultation
    - Cross-browser compatibility initiatives
    - Accessibility Tools compatibility initiatives as dictated by Federal Law

## **Hardware/Software/Hosting Architecture Specifications**

### Networking

- Powered by HP Procurve networking technology.
- Mirrored network switches, routes, and firewalls provide fully redundant network paths throughout CTK's hosting network—no single point of failure.
- Monitored 24/7

### Application processing

- Powered by HP DL servers running Red Hat Enterprise Linux.
- Application servers feature 64-bit AMD Opteron technology.
- Application servers are interlinked via two bonded gigabit Ethernet connections, providing 100% redundancy and automatic failover.

### Database processing

- Powered by HP DL servers running Red Hat Enterprise Linux.
- Database servers feature 64-bit AMD Opteron Technology.
- Fully redundant database architecture is achieved with mirrored 1.5+ terabyte RAID disk arrays.
- Servers are interlinked via a bonded gigabit Ethernet connection, providing 100% redundancy and automatic failover.

### Scalability

- Load balancers are powered by HP DL servers running Red Hat Enterprise Linux.
- Hot-spare load balances provide 100% redundancy and automatic failover.
- Load balanced architecture allows CTK to rapidly scale to meet any demand.

### Security

- CTK hosting networks are secured by load-balanced, redundant Cisco PIX firewalls.
- Network traffic is further controlled and monitored by independent software-based firewalls on CTK's Linux cluster.



**Exhibit C**  
**City of Austin, Texas**  
**EQUAL EMPLOYMENT/FAIR HOUSING OFFICE**  
**NON-DISCRIMINATION CERTIFICATION**

**City of Austin, Texas**  
**Human Rights Commission**

To: City of Austin, Texas, ("OWNER")

I hereby certify that our firm conforms to the Code of the City of Austin, Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

**Sec. 4-2 Discriminatory Employment Practices Prohibited.** As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations and agrees:

- (B) (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with OWNER's Human Rights Commission in connection with any investigation or conciliation effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Nondiscrimination Policy set forth below.

**City of Austin**  
**Minimum Standard Non-Discrimination in Employment Policy:**

*As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.*

*The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.*

*Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.*

*Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.*

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE A COPY TO THE CITY OF THE CONTRACTOR'S NON-DISCRIMINATION POLICY ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION POLICY, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES (THE FORM OF WHICH HAS BEEN APPROVED BY THE CITY'S EQUAL EMPLOYMENT/FAIR HOUSING OFFICE), WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

**Sanctions:**

Our firm understands that non-compliance with Chapter 5-4 may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4.

**Term:**

The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payments, the Contractor's Non-Discrimination Policy will automatically renew from year-to-year for the term of the underlying Contract.


Dated this 28<sup>th</sup> day of May, 2014

CONTRACTOR

Authorized  
Signature

Title

Community  
TechKnowledge, Inc.

  
CEO

## **Directions for Completing**

### **FSD Purchasing Office Certification of Exemption Form**

*(The following steps must be completed prior to forwarding form to Purchasing)*

1. Enter date of request in MM/DD/YYYY format
2. Enter Purchasing Buyers name
3. Enter Department requesting exemption
4. Enter Originator of certification
5. Enter phone number of Originator
6. Select one of the exemptions that that apply to this procurement
7. Complete the Exemption Form providing any additional information required for the chosen exemption
8. Enter Vendor's Company Name
9. Enter Total Aggregate Amount
10. Obtain signature of:
  - Person requesting exemption (Originator)
  - Department Director or designee
  - AE General Manager (for Critical Business Needs)
  - Assistant City Manager, AE General Manager or designee (for all other exemptions where the purchase > \$50,000)
11. Forward completed form to Purchasing:
  - Buyer reviews and signs document
  - Purchasing Officer or designee (only required if purchase > \$50,000)



# City of Austin FSD Purchasing Office

## Certificate of Exemption

DATE: 03/11/2014

DEPT: Health and Human Services (HHSD)

TO: Purchasing Officer or Designee

FROM: Robert Kingham

BUYER: Erin D'Vincent

PHONE: (512) 972-5026

Chapter 252 of the Local Government Code requires that municipalities comply with the procedures established for competitive sealed bids or proposals before entering into a contract requiring an expenditure of \$50,000 or more, unless the expenditure falls within an exemption listed in Section 252.022.

Senate Bill 7 amended Chapter 252 of the Local Government Code to exempt from the requirements of such Chapter expenditures made by a municipally owned electric utility for any purchases made by the municipally owned electric utility in accordance with procurement procedures adopted by a resolution of its governing body that sets out the public purpose to be achieved by those procedures. The Austin City Council has adopted Resolution No. 040610-02 to establish circumstances which could give rise to a finding of critical business need for Austin Energy.

This Certification of Exemption is executed and filed with the Purchasing Office as follows:

1. The undersigned is authorized to submit this certification.
2. The undersigned certifies that the following exemption is applicable to this purchase. (Please check which exemption you are certifying)
  - ☐ a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality
  - ☐ a procurement necessary to preserve or protect the public health or safety of municipality's residents
  - ☐ a procurement necessary because of unforeseen damage to public machinery, equipment, or other property
  - ☐ a procurement for personal, professional, or planning services
  - ☐ a procurement for work that is performed and paid for by the day as the work progresses
  - ☐ a purchase of land or right-of-way
  - ☒ a procurement of items available from only one source, including: items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; gas, water, and other utility services; captive replacement parts or components for equipment; books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits
  - ☐ a purchase of rare books, papers, and other library materials for a public library
  - ☐ paving, drainage, street widening and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements
  - ☐ a public improvement project, already in progress, authorized by voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes as authorized by the voters

- ☐ a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212
- ☐ personal property sold: at an auction by a state licensed auctioneer; at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or under an interlocal contract for
  - cooperative purchasing administered by a regional planning commission established under Chapter 391
  - ☐ services performed by blind or severely disabled persons
  - ☐ goods purchased by a municipality for subsequent retail sale by the municipality
  - ☐ electricity
  - ☐ advertising, other than legal notices
  - ☐ Critical Business Need (Austin Energy Only)

3. The following facts as detailed below support an exemption according to Section 252.022 of the Local Government Code for this purchase. Please verify the steps taken to confirm these facts. If you are citing the following exemptions, please provide the additional information requested below. A more detailed explanation of these exemptions is attached.

- **Preserve and Protect the Public Health and Safety** – Describe how this purchase will preserve and protect the public safety of residents.
- **Sole Source** – Describe what patents, copyrights, secret processes, or natural monopolies exist. Attach a letter from vendor supporting the sole source. The letter must be on company letterhead and be signed by an authorized person in company management.
- **Personal Services** – Describe those services to be performed personally by the individual contracted to perform them.
- **Professional Services** – Describe what mainly mental or intellectual rather than physical or manual and/or disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence are required to perform this service.
- **Planning Services** – Describe the services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan, or regional land areas.
- **Critical Business Need** – Describe the procurement necessary to protect the competitive interests or position of Austin Energy.

Software has been in use by department (HHSD) personnel for nearly eight years. This is a continuation for support and maintenance of this software.



4. Please attach any documentation that supports this exemption.
5. Please provide any evaluation conducted to support the recommendation. Include the efforts taken to ensure the selected vendor is responsible and will provide the best value to the City (Ex: evaluation of other firms, knowledge of market, etc).

This sole source is required to provide an online social services contract management and performance reporting system that includes configurable grant application process and secure data collection forms (i.e., agency, program, business continuity related, budget, board, performance measures, outcomes, etc.) to support contract management. No other online data management system integrates these functions required by the Community Services Division. The item/service system is protected by vendor as sole developer and owner of their intellectual property. All services contracted pertaining to the installation, customization, maintenance, support and training of the CTK CI ODM can only be obtained through vendor. No comparable products on the market exists offering product capabilities and integration. Vendor is in good standing with City and has proven success in supplying all previous contract deliverables to date.

6. Because the above facts and documentation support the requested exemption, the City of Austin intends to contract with Community TechKnowledge, Inc. (CTK) which will cost approximately \$56,541.60 (Provide estimate and/or breakdown of cost).

Recommended  
Certification


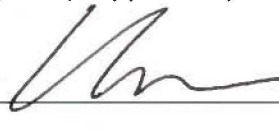
 3/13/14  
Originator Date

Approved  
Certification


 3/18/14  
Department Director or designee Date

 03/25/14  
Assistant City Manager / General Manager or designee (if applicable) Date

Purchasing Review  
(if applicable)

   
Buyer Date Manager Initials

Exemption Authorized  
(if applicable)

  
Purchasing Officer or designee Date

02/26/2013

March 10, 2014

Robert Kingham  
Manager, Community Based Resources  
Austin/Travis County HHSD  
7201 Levander Loop, H-28  
P. O. Box 1088  
Austin, Texas 78767

Dear Mr Kingham:

Thank you for your interest in CTK and the Community Impact Online Data Manager (CI ODM).

Community TechKnowledge, Inc. (CTK) is the sole developer, owner and marketing source of CTK's suite of web-based software solutions, which includes the CI ODM - specifically designed to meet the unique needs of city/county health and human service departments and other government and non-governmental funding bodies.

CTK products were produced to address the wide array of special software requirements unique to HHSD – from online contract application tools, contract allocation/award procedures, performance measure data collection, reporting and analysis to special project/program tracking. All CTK products represent carefully designed and tested technology that is HIPAA and Safe Harbor compliant and, because it is web-based, provides completely secure and redundant data storage and instant access in the case of disaster.

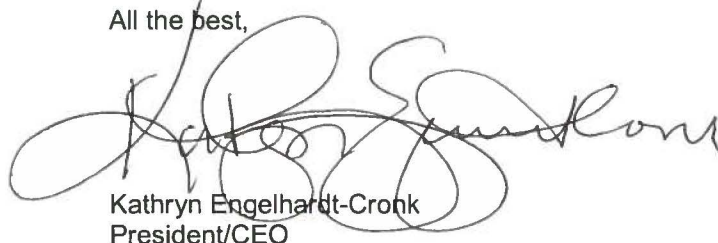
CTK also offers the nonprofit/public sector case management and service delivery databases, all inter-operable with the CI ODM, thus providing ongoing access to the building blocks of a completely flexible, enterprise software system.

As well, each and every data collection field in your CTK software systems can be configured to HHSD specifications and can then be modified by an administrative user as your requirements change. Your organization has an unlimited ability to add additional fields and forms without unbudgeted expense.

There are no comparable products on the market that can offer this wide array of product capabilities and integration. CTK's products are proprietary and copyrighted by CTK. All services contracted pertaining to the installation, customization, maintenance, support and training of the CTK CI ODM can only be obtained through Community TechKnowledge, Inc.

I am happy to answer any additional questions that you might have about CTK products and services.

All the best,



Kathryn Engelhardt-Cronk  
President/CEO



**Exhibit A****Pricing**

Item	Cost
Monthly Service Fee (100-133 agencies/contractors)	\$759.00
OR	OR
Monthly Service Fee (134-165 agencies/contractors)	\$854.00
The monthly fee can be subject to increase for the following reasons:	
At the beginning of the third year of the Contract term the monthly fee shall be increased by 10% to cover cost of business increases.	
Annual Upgrade Fee: (Payable each year of the contract)	\$2,775.00
Optional Custom code block (20 hours custom code block at \$200.00 per hour – The standard CTK rate is \$250.00 per hour)	\$4,000.00
ODBC Connection – Optional	\$50.00/month

## CI ODM New Master Agreement Terms With Community TechKnowledge (CTK)

Item	Amount	Unit	Preliminary Cost	Total Contract Period: 15 Sep 2014 - 14 Sep 2018					Total
				Year 1	Year 2	Year 3	Year 4		
				Start Date					
				15-Sep-14	15-Sep-15	15-Sep-16	15-Sep-17		
				End Date					
				14-Sep-15	14-Sep-16	14-Sep-17	14-Sep-18		
				Base	1st Renewal Option	2nd Renewal Option	3rd Renewal Option		
Service Fee (Monthly) Service Fee (134-165 agencies/contractors)	\$854.00	12	\$10,248.00	\$10,248.00	\$10,248.00	\$10,248.00	\$10,248.00	\$40,992.00	
Service Fee Increase Per Exhibit A	\$85.40	12	\$1,024.80	\$0.00	\$0.00	\$1,024.80	\$1,024.80	\$2,049.60	
Annual Upgrade Fee	\$2,775.00	1	\$2,775.00	\$2,775.00	\$2,775.00	\$2,775.00	\$2,775.00	\$11,100.00	
ODBC Service Fee	\$50.00	12	\$600.00	\$600.00	\$600.00	\$600.00	\$600.00	\$2,400.00	
Total									
				\$13,623.00	\$13,623.00	\$14,647.80	\$14,647.80	\$56,541.60	