

**CONTRACT BETWEEN THE CITY OF AUSTIN
AND
ENVISIONWARE, INC.
FOR
INTEGRATED SOLUTION FOR AUSTIN PUBLIC LIBRARY**

CONTRACT NUMBER: MA 5600 NS170000048

This Contract is made by and between the City of Austin ("City"), a home-rule municipality incorporated by the State of Texas, and EnvisionWare Inc. ("Contractor"), having offices at 2855 Premiere Parkway, Suite A, Duluth, GA 30097-5201.

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 providing the commodities identified in Section 2. In the event that the need arises for the Contractor to provide deliverables beyond those stated in the Section 2, the Contractor and the City shall negotiate mutually agreeable terms and compensation for such.

1.3 **Responsibilities of the City.** The City's Contract Manager will be responsible for exercising general oversight of the Contractor's activities in delivering the commodities. 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.

1.4 **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be John Himes, Phone: 678-382-6552, Email Address: jhimes@envisionware.com. The City's Contract Manager for the engagement shall be Jorge Valle, 512-974-7432, Email Address: Jorge.Valle@austintexas.gov. The City's 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.** The Contractor will be paid an amount not-to-exceed \$548,168.85 for all fees and expenses.

3.2 **Invoices.**

3.2.1 The Contractor shall submit separate invoices in duplicate on each purchase order or delivery order after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.

3.2.2 **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 the Contractor's invoice. Invoices received without all required information cannot be processed and will be returned to the Contractor. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. Invoices shall be mailed to the below address:

	City of Austin
Department	Communication Technology Management (CTM)
Attention	Accounts Payable
Email Address	CTMAPIInvoices@austintexas.gov

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 Documents.

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 **Reimbursable Expenses.** Expenses incurred directly in support of completing the work set forth in this Contract are reimbursable to the Contractor within the Contract amount.

3.5.1 **Administrative.** The Contractor will be reimbursed for selected administrative expenses incurred directly in support of executing this Contract. Reimbursable administrative expenses include actual charges for long distance telephone calls, facsimile transmissions, reproduction, printing and binding, postage, express delivery and report processing.

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

3.6.1 If an MBE/WBE Program Compliance Plan is required by the Solicitation, and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the project manager or contract manager no later than the 15th calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements of the Compliance Plan as accepted by the City.

3.6.2 The making and acceptance of final payment will constitute:

3.6.2.1 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

3.6.2.2 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.** This Contract shall become effective on the date executed by the City ("Effective Date") and shall remain in effect for 36 months or until the earliest of when the deliverables set forth in the Scope of Work are complete or the City terminates the Contract.

4.2.1 Upon expiration of the contract, 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 City may request that the Contractor 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 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 in Paragraph 5.1.2, Specific Coverage Requirements, 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 Contractor/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 CA0444, or equivalent coverage.

5.1.2.2.2 Thirty (30) calendar days Notice of Cancellation, Endorsement CA0244, or equivalent coverage.

5.1.2.2.3 The City of Austin listed as an additional insured, Endorsement CA2048, 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 WC420304, or equivalent coverage.**

5.1.2.3.3 **Thirty (30) calendar days Notice of Cancellation, Form WC420601, or equivalent coverage.**

5.2 Contractor To Package Deliverables. The Contractor will package deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price. Unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

5.3 Shipment Under Reservation Prohibited. The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables.

5.4 Title & Risk of Loss. Title to and risk of loss of the deliverables shall pass to the City only when the City actually receives and accepts the deliverables.

5.5 Right Of Inspection And Rejection. The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the deliverables at delivery before accepting them, and to reject defective or non-conforming deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.

5.6 No Replacement Of Defective Tender. Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.

5.7 Special Tools & Test Equipment. If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

5.8 Equal Opportunity.

5.8.1 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 Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. 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.

5.8.2 Americans With Disabilities Act (ADA) Compliance. No Contractor, or Contractor's agent, shall engage in any discriminatory practice against individuals with disabilities as defined in the ADA, including but not limited to: employment, accessibility to goods and services, reasonable accommodations, and effective communications.

5.9 Interested Parties Disclosure. As a condition to entering the Contract, the Business Entity constituting the Offeror must provide the following disclosure of Interested Parties to the City prior to the award of a contract with the City on Form 1295 "Certificate of Interested Parties" as prescribed by the Texas Ethics Commission for any contract award requiring council authorization. The Certificate of Interested Parties Form must be completed on the Texas Ethics Commission website, printed, and signed by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury. The City will submit the "Certificate of Interested Parties" to the Texas Ethics Commission within 30 days of receipt from

the Offeror. Link to Texas Ethics Commission Form 1295 process and procedures below:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

5.10 **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.

5.11 **Delays.**

5.11.1 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.

5.11.2 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.

5.12 **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.

5.13 **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 to 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 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; and

7.2.2.2 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 City's Contract Manager of any current or prospective "significant event" on an ongoing basis. All notifications shall be submitted in writing to the 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;

7.4.7 known or anticipated sale, merger, or acquisition;

7.4.8 known, planned or anticipated stock sales;

7.4.9 any litigation against the Contractor; or

7.4.10 significant change in market share or product focus.

7.5 **Audits and Records.**

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 Records Retention:

7.5.2.1 Contractor is subject to City Code 2-11 (Records Management), and as it may subsequently be amended. For purposes of this subsection, a Record means all books, accounts, reports, files, and other data recorded or created by a Contractor in fulfillment of the Contract whether in digital or physical format, except a record specifically relating to the Contractor's internal administration.

7.5.2.2 All Records are the property of the City. The Contractor may not dispose of or destroy a Record without City authorization and shall deliver the Records, in all requested formats and media, along with all finding aids and metadata, to the City at no cost when requested by the City

7.5.3 The Contractor shall include sections 7.5.1 and 7.5.2 above 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 thereunder, 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 2nd Street, 4th 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 Management Specialist IV

P O Box 1088

Austin, TX 78767

To the Contractor:

EnvisionWare, Inc.

ATTN: Michael J Monk,

CEO

2855 Premiere Parkway, Suite A

Duluth, GA 30097-5201

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 in writing signed by both parties. No pre-printed or similar terms on any 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 **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.

7.23 **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.

7.24 **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.

7.25 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.

7.26 Non-Solicitation.

7.26.1 During the term of the contract, and for a period of six (6) months following termination of the contract, the Contractor, its affiliate, or its agent shall not hire, employ, or solicit for employment or consulting services, a City employee employed in a technical job classification in a City department that engages or uses the services of a Contractor employee.

7.26.2 In the event that a breach of this paragraph occurs the Contractor shall pay liquidated damages to the City in an amount equal to the greater of: (i) one (1) year of the employee's annual compensation; or (ii) 100% percent of the employee's annual compensation while employed by the City. The Contractor shall reimburse the City for any fees and expenses incurred in the enforcement of this provision.

7.26.3 During the term of the contract, and for a period of six (6) months following termination of the contract, a department that engages the services of the Contractor or uses the services of a Contractor employee will not hire a Contractor employee while the employee is performing work under a contract with the City unless the City first obtains the Contractor's.

7.26.4 In the event that a breach of this) occurs, the City shall pay liquidated damages to the Contractor in an amount equal to the greater of: (i) one (1) year of the employee's annual compensation or (ii) 100% percent of the employee's annual compensation while employed by the Contractor

7.27 Non-Suspension or Debarment Certification. The City of Austin 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 Vendor 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:
https://assets.austintexas.gov/purchase/downloads/standard_purchase_definitions.pdf

7.29 Order of Precedence. The Contract includes, without limitation, the Solicitation, the Offer submitted in response to the Solicitation, the Contract award, the Standard Purchase Terms and Conditions, Supplemental

Terms and Conditions if any, Specifications, and any addenda and amendments thereto. Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order.

7.29.1 any exceptions to the Offer accepted in writing by the City;


7.29.2 the Supplemental Purchase Terms and Conditions;

7.29.3 the Standard Purchase Terms and Conditions;

7.29.4 the Offer and exhibits; within the Offer, drawings (figured dimensions shall govern over scaled dimensions) will take precedence over specifications or scope of work.

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

ENVISIONWARE, INC.

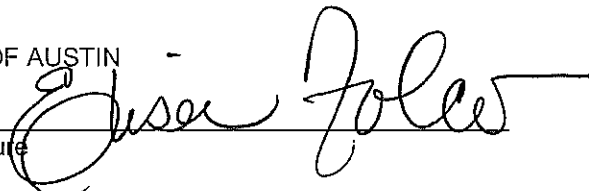
By: 
Signature

Name: Michael J Monk
Printed Name

Title: CEO

Date: June 21, 2017

CITY OF AUSTIN

By: 
Signature

Name: Elisa Folco
Printed Name

Title: Contract Management Specialist IV

Date: 06/22/2017

List of Exhibits

Exhibit A	EnvisionWare Inc. Offer
Exhibit B	EnvisionWare Terms and Conditions
Exhibit C	End User License Agreement and Limited Warranty
Exhibit D	Hardware and Software Maintenance Information
Exhibit E	Performance Guarantee
Exhibit F	Payment Card Industry Data Security Standard for US Customers
Exhibit G	Non-Discrimination and Non-Retaliation Certification
Exhibit H	Non-Suspension or Debarment Certification

Exhibit B
EnvisionWare Terms and Conditions



STANDARD TERMS AND CONDITIONS

1. **“Software”** means the object code versions of any software programs stated in a Specification and any updates to the software programs that we may provide to you pursuant to this Agreement. **“Hardware”** means the equipment stated in a Specification. We will deliver, install, and test the Software and Hardware product(s) (the **“Product”**) we have agreed to sell to you as specified in the specification (the **“Specification”**) contained in the Quotation or RFP response (both referred to as **“Quotation”**) attached hereto as Exhibit A, when it is finally agreed to and approved in writing by you and us. We will also provide support and training services as specified in the Specification. This Agreement shall govern all future Quotations that you and we agree to in writing from to time hereafter and which reference this Agreement (such future Quotations being incorporated herein).
2. Subject to the terms of this Agreement we hereby grant to you a non-exclusive license, without the right to sublicense, to the Software specified in the Specification to (i) install, use and display the Software on the designated systems; and (ii) use the documentation solely in connection with the authorized use of the Software. All Software is licensed and not sold. We retain all rights not specifically granted in this Agreement. The terms of use of the Software are contained in the Software End User License Agreement and Warranty (**“EULA”**) attached hereto as Exhibit B.
3. You agree to respect our intellectual property, that you will not use our trademarks or logos without our permission, and that you limit access to provided technical documentation to your library staff. We own or have a license to use the Software. Under no circumstances may you transfer our manuals, documentation, software, or license to another entity without our prior written approval. Any transfer in violation of this provision shall be of no power or effect. You agree to not provide any of our Products, Software, documentation, confidential information or licenses to a competitor of ours. You may not publish technical information about our Products in a forum that is publicly accessible. Your use of the Product on a protected Intranet is acceptable provided that only your staff has access to the system.
4. We reserve the right to list you as our customer on our customer list. You have final review and approval over any proposed press release or announcement about the installation of our products at your Library.
5. A copy of our insurance certificate is attached as Exhibit C.
6. Price Quotations
 - A. The estimated price for crating, freight and delivery to destinations is listed separately on the Quotations in Exhibit A. Freight charges may vary based on actual shipping addresses per item. Prices quoted are fixed for twelve (12) months from the Effective Date of this Agreement.
 - B. When we introduce new Products, the discounted prices will be added to the PICS Estimate (as published in the EnvisionWare Customer Center for your library) at discounted prices.
 - C. After twelve (12) months, quoted prices may increase by not more than the U.S. Department of Labor, Consumer Price Index, All Items, Unadjusted, Urban Areas (**“CPI-U”**) for the twelve (12) month period ending in January of each year of the contract, except for those RFID-related components affected by the Euro/Dollar exchange rate. You will be notified about price increases that may affect future add-on purchases at least sixty (60) days prior to an effective change.



7. You agree that other public institutions may acquire products directly from EnvisionWare using the prices published in the PICS and updated PICS described in Section 6 above.
8. Our payment terms are as follows:
 - A. For all purchases except maintenance and subscription or recurring monthly, quarterly or annual services we will invoice for Hardware and Software as outlined on your **"Sales Order Confirmation"**. Payment terms are set forth in each Quotation.
 - i) Custom or built-to-order Products include, but are not limited to, sorters, 24-Hour Library, kiosks and other products which may be noted in the item description in the Quotation as being custom-built or made to order.
 - ii) All Quotations that include custom or built-to-order Products require an advance deposit, which must be received by EnvisionWare before orders can be placed with our factories. The deposit is non-refundable unless we fail to comply with the applicable Acceptance Criteria in the Statement of Work.
 - iii) Acceptance Criteria are developed in advance of delivery. Acceptance tests are conducted upon installation of each component for which Acceptance Criteria have been defined.
 - iv) When all tests pass for items on a Sales Order Confirmation the Customer must confirm an Order Acceptance.
 - B. Maintenance: Full payment prior to expiration of your first year warranty or prior to the expiration of the current maintenance period.
 - C. Subscription and Rental Services: Full payment prior to expiration of your current, fully paid month, quarter or year as defined in your subscription or rental agreement.
9. We are not responsible for delays caused by non-working library equipment, viruses or worms on your systems, or any other delays caused by you, your staff or your consultants. If you cause delays that result in added expense to us, we will issue a change order to recover for those losses and you agree to pay for such losses. We will be responsible for delays caused by us. We will notify you promptly and in writing if there is a delay, which will add expense.
10. You agree to provide adequate space, network connections, and power as outlined in the Specification for each device. For building modifications, we agree to provide technical documentation that clearly defines the requirements for the modifications. We are responsible for the accuracy of the documentation we provide. If an error in our documentation results in construction error, we will be responsible for such error, but we retain the right to obtain competitive bids to mitigate the costs of remedy. You are responsible for ensuring the modifications are completed prior to our scheduled installation time. If modifications are not completed or are incorrect, you will be responsible for correcting the errors and for payment of the costs associated with the lost time and travel of our staff.

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11. We will install the Product on your computers (per the Specification) or those provided by us provided you make a library technical staff person available to provide administrative access and aid us in resolution of any issues relating to network connection, permissions, or other things over which we have no control.
12. Notwithstanding the Warranty Period start date stated in the EULA, for the specific Products set forth in the applicable Quotation the applicable Product Warranty Period will commence upon your acceptance of the items specified in the applicable Sales Order Confirmation that EnvisionWare will email to you confirming your order. We will maintain the Product during the applicable Warranty Period. You will be responsible for basic troubleshooting and providing assistance to our support staff that will assist via email, telephone, remote access, chat or other tools that provide access and communication with you and your system. If an on-site visit is required because of a hardware failure that is not easily remedied by a simple swap of a module, we will come on site at no additional expense to you. The performance terms of the Product Warranty set forth in the EULA are superseded if the Platinum or PlatinumPLUS Maintenance Program apply to you. Support is provided for the particular Products or Services according to the applicable Maintenance Program as set forth in the Quotation.
13. You agree to provide remote access via the Central Management system we install as part of this Product. If you do not agree, we will increase your annual maintenance agreement cost by 10%.
14. During the Warranty Period, we will respond your questions and aid you in the support of your Product as stated in the applicable Maintenance Program. If you need additional installation services for expansion of your system or reinstallation of systems because of your hardware failures or related issues, our Professional Services Implementation Consultants will be available to help you for a fixed rate via telephone or on-site as defined in the price schedule set out in the quotation or RFP response.
15. We support only the then-current release of the given Software and the most recent previous release. We will provide notice of available Software updates, which you may download at your convenience and install on your systems according to your timetable for as long as you are covered under the Product Warranty or Maintenance Program. In order to know about these updates, you must subscribe to our customer forum or Twitter feed.
16. When you update the software, we will answer your questions for these processes and help you to understand how to perform your upgrades. If you wish to have us perform your upgrades, we will provide options for acquiring those services from our Professional Services group.
17. We will use skilled professionals in our training that will help to use your system effectively, plan a seamless implementation experience and obtain maximum value for your investment. We will minimize disruption to your current services and we will work in a professional manner that assures continued good public service and convenience for your staff. Upon successful completion of implementation and your total satisfaction, we will ask that you serve as a reference for us to other libraries that are considering similar purchases.
18. You agree to pay us according to the payment terms in the Quotation. If you do not provide timely payment, we will discontinue providing our services and support to you. In the event that you are ever dissatisfied, we ask that you contact us and provide an opportunity to remedy any problems. You may escalate your service request at any time by sending an email to customersatisfaction@envisionware.com.

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19. You may purchase additional maintenance agreements for future years at a discount if you pay for additional maintenance with your original order. The discounted prices are defined in Exhibit A used to make this purchase. If you do not pay in advance for maintenance, near the end of the warranty period or each successive maintenance renewal period, you will receive an invoice for the annual maintenance agreement. We will provide a separate value for Software and Hardware for Time and Materials and the Gold Support Level so that you can decide to cover your entire system or only Software. If you elect hardware coverage, all items must be covered. Platinum and PlatinumPLUS customers agree to maintenance for all products in use. For all Support Levels, if you retire an item and take it out of service you may contact Maintenance Services to have the item removed from your Maintenance Record. You will not have hardware protection without an agreement, which also means that you will not have access to firmware updates. If you choose not to purchase hardware coverage, the alternative is a time and materials charge plus expenses. When you are covered by hardware maintenance, you have the assurance of prompt remedy, which cannot be provided under the same Service Level Guarantee under a time and materials program. If you fail to pay your maintenance invoice on time, you will receive a 30-day grace period after which your support services and access to downloads will be suspended until payment is received. Maintenance agreements are available under one of four “**Maintenance Programs**” described below. The program you have elected is stated in the applicable Quotation.

A. “**Standard Support Hours**” are 8:30 a.m. to 7:00 p.m. Eastern US Time, Monday through Friday, excluding U.S. federal holidays. Our goal for customers under a maintenance agreement is to answer 90% of all incoming support calls with a live technician. Platinum and PlatinumPLUS customers have 24x7x365 access to Support.

B. Maintenance Programs

- i) **Time and Materials:** If you are not covered by a maintenance agreement as described below in Section B, ii through ix, when service of any kind is required you may contact support during Standard Support Hours. A support technician will forward terms for time and materials for your acceptance per Support Case. Upon authorized email acceptance of the terms the technician will provide the requested Services at our then-current hourly rates for customers that are not under a maintenance agreement. There is a minimum charge of one hour per incident. All hardware, labor and travel expenses will be invoiced.

Time and Material support is available by calling the support number during Standard Support Hours. Customers under Time and Materials may access the User to User Forum provided that signup occurs via the Customer Center prior to expiration of the warranty period and prior to transitioning to Time and Materials status. Time and Materials customers do not have access to LiveChat, the Knowledge Base, software downloads or documentation after the expiration of a warranty. Customers must download the electronic documentation for their installed versions of licensed Products before transitioning to Time and Materials.

Our objective is to have all Time and Materials calls answered within four (4) business hours Monday through Friday from 8:30am Eastern time until 7:00pm Eastern time excluding holidays. There is no response after hours. When determining that a site visit is required, the support technician will provide you with an estimate for time, estimated materials and expenses, using EnvisionWare's flat expense



rates of \$975 the first day of each 5-day period and \$250 for each additional day after the first per week. Upon receipt of approval from you, our goal is to dispatch a technician the same day for a determination made by noon Eastern time or the next business day for approvals received after noon Eastern time. The maximum interval for onsite arrival is two (2) business days after determining that an onsite visit is required and approval is received. You will be invoiced for the total number of hours for remote and onsite work plus the total number of onsite travel expenses.

Software patches and new versions of licensed software are not provided in Time and Materials support. If a Software or firmware update is required, you may have the option to catch up on lapsed maintenance (see Section 20) or you may pay for a new license, if available, based upon whichever is lower in cost. There is no separately available software license for embedded systems such as sorters (AMH) and 24-Hour Libraries and turnkey hardware/software systems in which the software is part of the item bundle. Hardware Revisions, which are included in maintenance for sorters (AMH) and 24-Hour Libraries, may not be available for purchase under Time and Materials.

The EnvisionWare (10) year life guarantee program is not available for Time and Materials. After (5) years, "ten (10) year systems" will become part of an End of Life program in which maintenance automatically escalates in year 5 and continues to rise each year thereafter according to the limits set forth in Section 3. An End of Life notice may identify certain parts or modules which may no longer be available. If the at-risk items fail, we will attempt to extend the life of your system by providing a quotation for a replacement module or alternative sub-system. If options to extend the life are not available, we will provide a reduced price upgrade quotation to replace your system if an upgrade is available.

- ii) **Gold Level Support:** Services are available via the EnvisionWare Customer Center portal and via toll-free telephone in North America during Standard Support Hours. Gold Level support is the standard program included with all sales other than for circulation and security products (Self Checkout, RFID, Sorters (AMH) and 24-Hour Libraries), which are covered by the Platinum Level program.

These services include the Knowledge Base, Customer Forum access, Support Case management, Enhancement and Defect tracking, software downloads, and documentation. LiveChat is available via the Customer Center during Standard Support Hours. There is no after-hours support available in the Gold Level maintenance program.

Our goal is to answer all calls within 4 hours during Standard Support Hours. On-site response is guaranteed for two business days after determination that a site visit is required for weekday visits. There is no Preventative Maintenance service included in Gold Level support. Software patches and new versions of licensed Software are available.

Our other maintenance programs, Platinum and PlatinumPLUS, provide long term service guarantees for some products. Sorters (AMH) and 24-Hour Libraries are products for which we provide a ten (10) year life expectancy. The Gold program does not offer guaranteed ten (10) year life expectancy.



Some products, particularly Sorters (AMH) and 24-Hour Libraries, may receive Hardware Revisions from time to time. These Revisions are not included in the Gold level support.

The Gold level program permits you to be selective about the products covered by maintenance. If an item is covered, all of that same item must be covered. As such you may only discontinue Gold support on items if all of a particular item are not covered. You may remove items from maintenance if you no longer use a particular item.

- iii) **Platinum Level Support:** Services available via the EnvisionWare Customer Center portal during Standard Support Hours and via toll-free telephone in North America 24x7 365 days per year.

These services include the Knowledge Base, Customer Forum access, Support Case management, Enhancement and Defect tracking, software downloads, and documentation. LiveChat is available via the Customer Center during Standard Support Hours. Requests for service after Standard Support Hours must be made via the toll-free telephone number using your Platinum support access PIN.

Our objective is to have calls answered within 2 hours during all times and onsite response generally dispatched within 4 hours of determining that a site visit is required. The maximum interval for onsite arrival is 24 hours after determination that a site visit is required.

If a sorter (AMH) or a 24-Hour Library™ unit is purchased, a Preventative Maintenance site visit is performed within 60 days of each annual renewal. Continual, consecutive Platinum Level Support renewals assure a long life for Products covered by Preventative Maintenance. The lifetime coverage limit is specified on a per-item basis and in no case exceeds a guaranteed lifetime of ten (10) years. Sorters (AMH) and 24-Hour Libraries are guaranteed for a lifetime of ten (10) years provided there is continued Platinum maintenance coverage from the Effective date. Any lapse in coverage for a period of more than 30 days will void the ten (10) year guarantee.

Software patches and new versions of licensed Software as well as Hardware Revisions are available without added charge.

Platinum Level Service requires continued coverage of all items purchased from EnvisionWare that remain in use by you except for consumables.

- iv) **PlatinumPLUS Level Support:** Services available from a Resident Technician via the EnvisionWare Customer Center portal and via a dedicated telephone number 24x7, 365 days per year.

“Resident Technician” means a local field technician employed by us that dedicates 50% of his or her time to service your library. The Resident Technician’s priority is focused on your uptime.

Support services include the Knowledge Base, Customer Forum access, Support Case management, Enhancement and Defect tracking, software downloads and documentation. LiveChat to the Atlanta Support Center is available via the Customer Center during Standard Support Hours.

Our objective is to have telephone calls answered by the Resident Technician within 1 hour during all times, to have onsite response dispatched within 2 hours of determining that a site visit is required,

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and to have the maximum interval for onsite arrival to be 6 hours or less after determining that a site visit is required.

Preventative Maintenance is included. This service is continual and performed incrementally each month by the Resident Technician and/or other EnvisionWare technicians and engineers as required. The Preventative Maintenance service includes proactive replacement of parts, routine cleaning, system updates and performance testing and certification.

Continual, consecutive PlatinumPLUS renewals assures a long life for Products covered by Preventative Maintenance. The lifetime coverage limit is specified on a per-item basis and in no case exceeds a guaranteed lifetime of ten (10) years. Sorters (AMH) and 24-Hour Libraries are guaranteed for a lifetime of ten (10) years provided there is continued PlatinumPLUS maintenance coverage from the Effective date. Any lapse in coverage for a period of more than 30 days will void the ten (10) year guarantee.

The Resident Technician can provide or coordinate ongoing training and orientation for new staff. Spare parts are stocked locally. You must provide network access, locked storage and facility and computer access to facilitate the proactive delivery of services. PlatinumPLUS customers have a direct escalation path to the Director of Support and Professional Services.

Software and firmware updates as well as Hardware Revisions are available without added charge and will be applied by the Resident Technician and/or other EnvisionWare technicians and engineers as required.

In addition to Support, Preventative Maintenance, and proactive upgrades the Resident Technician will be available for consultation and planning to aid in rollout and system wide upgrade programs that include any EnvisionWare applications. The Resident Technician can provide insight into pending releases and can serve as your advocate for product enhancements.

The Resident Technician will collaborate with your staff to develop a routine schedule for reporting and status meetings.

When a Resident Technician is scheduled away from the local area, such as during vacation time, a backup technician will be assigned to provide the PlatinumPLUS services. The backup technician will provide the same response times as the Resident Technician.

PlatinumPLUS Level Service requires continued coverage of all items purchased from EnvisionWare that remain in use by you except for consumables.

- C. Should we fail to achieve the applicable performance objective for the Platinum or PlatinumPLUS Level Maintenance Programs measured as an average of all failures over a calendar quarter not meeting the applicable objective of all incidents and if you have notified your dedicated EnvisionWare technician or our Director of Support via email (with appropriate details of the case number and the failure) no later than thirty (30) calendar days from the end of the calendar quarter in which failure occurred, we will credit the next invoice to you in the amount of one month of maintenance as prorated for that item being serviced. The measurements will reset each calendar quarter.

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D. A failure to achieve a service objective shall not be a breach of the maintenance agreement or give rise to a credit if and to the extent that failure to achieve a service objective was primarily caused by any one or more of the following:

- i) Prioritization of tasks or reduction of resources requested by you in writing with the written understanding by the parties that we will be excused by any resulting service level impact;
- ii) Occurrence of a Force Majeure event (as defined herein);
- iii) Any breach, failure to perform an agreed upon responsibility, user error or other act or omission of you or your customers, third party contractors or agents that materially prevents us from achieving the applicable service level; or,
- iv) Problems originating from your facility, network, hardware, software, hosting or storage provider, server or other provider, that are outside the scope of our services.

E. Force Majeure Events. Except for payment obligations by you, neither party shall be held responsible for any delay or failure in performance of any obligation under this Agreement to the extent that delay or failure is caused by fire, flood, explosion, war, act of terrorism, strike, embargo, government requirement, civil or military authority, act of God, act or omission of carriers or other similar causes beyond its control (each, a “**Force Majeure**” event). If any Force Majeure event occurs, the party delayed or unable to perform (“**Delayed Party**”) shall give immediate notice to the other party (“**Affected Party**”), and the Delayed Party, upon giving prompt notice to the Affected Party, shall be excused from performance under this Agreement for the duration of the Force Majeure event, provided, however, that the Delayed Party shall take all reasonable steps and cooperate with the Affected Party to avoid or remove the cause of non-performance and shall resume performance hereunder with dispatch when the cause is removed; and provided further that if the Delayed Party cannot within sixty (60) days remove the cause of non-performance, the Affected Party may terminate this Agreement.

20. Re-establishing Maintenance After a Lapse:

- A. If your budget or other reason prevents you from acquiring maintenance or local ordinance prevents an annual agreement in advance of a fiscal period, your system will not be disabled by expiration of the maintenance agreement, but, as of the date of expiration, you will not have further access to updates, upgrades or technical support.
- B. If you later choose to resume maintenance, you will be charged as follows:
 - i) The full amount of the next twelve (12) months of maintenance; and
 - ii) Any time and costs for updating Hardware or Software or for on-site visits; and,
 - iii) A catch-up fee as follows:



- (1) for Software maintenance: 50% of the amount of maintenance that would have been paid if maintenance had been maintained (calculated on an annual basis) or
 - (2) ~~for~~ Hardware maintenance: 100% of the amount of maintenance that would have been paid if maintenance had been maintained (calculated on an annual basis), subject to the availability of support for the Hardware you have at the time of re-establishing maintenance.
- C. The amounts above cover the continuing development and evolution of the system during your lapsed period. The fact that you did not avail yourself of telephone or other support services during the period the Produce was covered by maintenance is no cause for adjustment. If you have replaced Hardware that is no longer supported by us, in order to be eligible for re-establishment of maintenance on the Hardware you will need to purchase new Hardware from us. As part of re-establishing maintenance we will provide you with the updates to the Software
- D. Re-establishment of lapsed maintenance is permitted only once.
21. All notices required to be given pursuant to this Agreement shall be given in writing and delivered by fax, hand, certified first class mail, email or overnight courier, addressed to the receiving party at the address stated on the first page of this Agreement to the contact information set forth below. Each party will provide written notice to the other party in the event of a change in the contact information below. Notice shall be deemed given (i) on the date when sent by fax to the fax number specified below, (ii) on the date when delivered by hand to the address specified below, (iii) three (3) days after mailing by certified first class mail, (iv) one (1) day after delivering to a recognized overnight delivery carrier, or (v) on the date when sent by electronic mail, provided that confirmation is sent by one of the other foregoing methods.
22. This Agreement constitutes the entire agreement and understanding between the parties concerning the subject matter hereof, and cancels, terminates, and supersedes all prior written and oral understandings, sales and promotional materials, agreements, proposals, promises and representations of the parties or any other person with respect to any subject matter contained herein. No representation or promise hereafter made with respect to the subject matter of this Agreement, nor any modification or amendment of this Agreement, shall be binding unless in writing and signed by the parties. The provisions of these Terms and Conditions shall control in the event of any conflict with any provisions in the EULA in Exhibit B.
23. Professional Services. Upon request and agreement between the parties, we shall provide you with professional consulting or training services ("**Professional Services**") according to the applicable Professional Services Statement of Work ("**SOW**", a sample of which is attached hereto as Exhibit D). The parties acknowledge that the scope of the Professional Services provided hereunder consists solely of any or all of the following: (a) assistance with Software or Hardware installation, deployment, and usage; (b) training in use of the Software or Hardware; and, (c) delivery of additional related Software or code proprietary to us. You shall have a limited license right to use any deliverables (including any documentation, code, Software, training materials or other work product) delivered as part of the Professional Services ("**Deliverables**") solely in connection with your permitted use of the Software, subject to all the same terms and conditions herein as apply to your Software license, and subject to any additional terms and conditions provided with the Deliverables. You may order Professional Services under a SOW describing the work to be performed, fees and any applicable milestones, dependencies and other technical specifications or related information. Each



SOW must be signed by both parties before we will commence work under such SOW. If the parties do not execute a separate SOW, the Services shall be provided as stated on the Quotation. You agree to reimburse us for reasonable travel and lodging expenses as incurred.

24. The EnvisionWare One Year 100% Money Back Hardware and Software Performance Guarantee is set forth in the attached Exhibit E.
25. Section 15 of the EULA is hereby amended as follows: Delete "the State of Georgia" and insert "the state of the customer's principle business address on page 1." The remainder of the sentence is as in the original. This Agreement shall be governed by the laws of the state in which you maintain your main office.
26. Section 8A of the EULA (Indemnification), first sentence, is hereby amended as follows: Delete the first appearance of "claims" and insert "actions, suits, proceedings, claims, losses, liabilities, damages, and expenses (including attorneys' and experts' fees and sums reasonably expended in investigation and settlement of litigation, pending or threatened)". The remainder of the sentence is as in the original.
27. Section 9, Subsections A and B, of the EULA (Disclaimer of and Limitations on Damages), is hereby amended to read as follows: " (A) FOR ANY SOFTWARE AND HARDWARE PRODUCTS COVERED UNDER THIS EULA, EXCEED TWO (2) TIMES THE PURCHASE PRICE FOR THE SOFTWARE AND HARDWARE OR (B) FOR ANY SERVICES, EXCEED TWO (2) TIMES THE FEES PAID BY YOU FOR THE SERVICES (EXCLUDING MAINTENANCE AND SUPPORT SERVICES) WHICH DIRECTLY CAUSED THE DAMAGES ALLEGED...".

Exhibit C
End User License Agreement and Limited Warranty

ENVISIONWARE, INC.

END USER LICENSE AGREEMENT AND LIMITED WARRANTY ("EULA")

IMPORTANT: PLEASE READ THE TERMS AND CONDITIONS OF THIS EULA CAREFULLY BEFORE USING THE SOFTWARE. ENVISIONWARE, INC. ("ENVISIONWARE") IS WILLING TO LICENSE THE SOFTWARE TO YOU AS THE INDIVIDUAL, THE ORGANIZATION, OR THE LEGAL ENTITY THAT WILL BE UTILIZING THE SOFTWARE (REFERRED TO AS "YOU" OR "YOUR") ONLY ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS OF THIS EULA.

UPON AND AS OF THE DATE ENVISIONWARE SENDS AN EMAIL TO YOU (THE "EFFECTIVE DATE") ISSUING CREDENTIALS TO LOG INTO ENVISIONWARE'S WEBSITE FROM WHERE THE SOFTWARE MAY BE DOWNLOADED, YOU AGREE TO THE TERMS AND CONDITIONS OF THIS EULA.

IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS EULA, DO NOT ATTEMPT TO DOWNLOAD OR INSTALL THE SOFTWARE, OR, IF INSTALLED, MAKE NO FURTHER USE OF THE SOFTWARE, AND NOTIFY IN WRITING ENVISIONWARE OR THE RESELLER FROM WHOM IT WAS ACQUIRED WITHIN THIRTY (30) DAYS OF PURCHASE, AND THE PURCHASE PRICE WILL BE REFUNDED.

1. License: The software and documentation (collectively the "Software") are owned by and are the property of EnvisionWare or its licensors and are protected by copyright and other intellectual property laws. Some licensors may be express or intended beneficiaries of this EULA. Subject to all of the terms and conditions of this Agreement, EnvisionWare grants you a limited, non-exclusive, worldwide, non-transferable, non-sublicensable license to use the Software for which you have been issued a Product Key by EnvisionWare or an authorized distributor or reseller, but only in accordance with (i) the documentation, (ii) the restrictions contained herein and any restrictions on the applicable invoice, and (iii) the number of authorized users. Portions of some Software modules are licensed from Artifex Software, Inc. Portions of some modules may contain MySQL connector (pursuant to the GNU GPL v2 license at <http://www.gnu.org/licenses/gpl-2.0.html>). Portions of some modules may contain the MS access driver, licensed from Microsoft Corporation. Portions of some modules may be licensed under the Microsoft Reciprocal License (MS-RL) <http://opensource.org/licenses/ms-rl>. Portions of some Software modules are licensed under the Apache License, Version 2.0; you may not use these files except in compliance with the Apache License. You may obtain a copy of the Apache License at <http://www.apache.org/licenses/LICENSE-2.0>. Unless required by applicable law or agreed to in writing, software distributed under the Apache License is distributed on an "AS IS" BASIS, WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, either express or implied. See the Apache License for the specific language governing permissions and limitations under the Apache License. Portions of some Software modules are licensed under the MIT Expat License. This EULA also incorporates the terms of the Verifone Pass Through Terms of Use attached hereto. This EULA governs any releases, revisions, or enhancements to the Software that EnvisionWare may furnish to you. Your rights and obligations with respect to the use of this Software are as follows:

A. You may:

- i. use the Software on the quantity and type of computers indicated on EnvisionWare invoice. You may make that number of copies of the Software licensed to you by EnvisionWare.
- ii. make one copy of the Software for archival purposes, or copy the Software onto the hard disk of your computer and retain the original for archival purposes;
- iii. use the Software on a network, provided that you have a licensed copy of the Software for each computer that can access the Software over that network; and,
- iv. make printed copies of electronic documentation for your internal use.

B. You may not:

- i. transfer, assign, convey, sublicense, rent or lease the Software (or any portion thereof) to another person or entity or unlicensed division, subsidiary, or affiliate (or to anyone other than the entity named as licensee as appearing on the software splash screen), and any transfer in violation hereof shall be of no power or effect;
- ii. distribute, sell, sublicense, rent, lease or use the Software (or any portion thereof) for time sharing, hosting, service provider or like purposes, except as expressly permitted under this Agreement;
- iii. reverse engineer, decompile, disassemble, modify, translate, make any attempt to discover, modify or use the source code, underlying ideas, algorithms, file formats or programming interfaces of the Software by any means whatsoever (except and only to the extent that applicable law prohibits or restricts reverse engineering restrictions), or create derivative works from the Software (any such modifications shall automatically be owned by EnvisionWare upon

creation);

iv. utilize any equipment, device, software, or other means designed to circumvent or remove any form of product key or copy protection used by EnvisionWare in connection with the Software, or use the Software together with any authorization code, product key, serial number, or other copy protection device not supplied by EnvisionWare or through an authorized distributor or reseller;

v. use the Software to develop or facilitate development of a product which is competitive with any EnvisionWare product offerings;

vi. post or otherwise publish electronic documentation of the Software for access outside the licensed organization;

vii. use a previous version or copy of the Software after you have installed a replacement set or an upgraded version and, upon upgrading the Software, all copies of the prior version must be uninstalled or rendered unusable;

viii. use a later version of the Software than is provided in the email with the login credentials except as provided under the Software Product Warranty, unless you have purchased maintenance and update service or have otherwise separately acquired the right to use such later version;

ix. remove any product identification, proprietary, copyright or other notices contained in the Software;

x. provide any product key or login information to a third party; or

xi. use the Software or product keys in any manner not expressly authorized by this EULA.

2. Thirty Day Money Back Guarantee: If you are the original licensee of the Software and are dissatisfied with it for any reason, and if at any time during the thirty (30) day period following the Effective Date you email EnvisionWare confirming your complete removal and deletion of the complete product and provide a signed statement to EnvisionWare attesting to removal of all software components, then EnvisionWare will provide a full refund, subject to the provisions of the Hardware Return Policy below.

3. Hardware Return Policy: Custom printed RFID tags, manufactured, built-to-order or custom-configured Hardware as designated on a Quotation, such as but not limited to, kiosks or sorters, may not be returned or canceled for any reason. Custom items include any item listed in an EnvisionWare quotation, product description or order form as being a custom item, or any item which is modified by EnvisionWare after installation. Standard Hardware products may be accepted for return within ninety (90) days of the date of invoice subject to advance, written approval expressed in the form of an EnvisionWare Return Merchandise Authorization ("RMA"). EnvisionWare, at its sole discretion, may grant the right to return standard Hardware products during this return period. Any such returns are subject to a 20% restocking fee unless EnvisionWare determines that the cause of the return is a result of an error on the part of EnvisionWare, in which case EnvisionWare may waive all or part of the restocking fee. No Hardware product will be accepted for return for ANY reason without a Return Merchandise Authorization issued by EnvisionWare. The RMA number must be clearly displayed on any packaging shipped to EnvisionWare. Products returned without an RMA number on the package will be refused. Any return for any reason, whether for an authorized RMA or for warranty support must be shipped to EnvisionWare freight prepaid. Equipment serviced under warranty will be returned freight prepaid.

4. Limited Warranty:

A. Software Product Warranty: EnvisionWare warrants that the Software as distributed operate in substantial conformity with the documentation (the "Software Product Warranty") for a period of one (1) year from the delivery of the Software to you (the "Software Warranty Period"). This is the sole warranty EnvisionWare provides for all Software supplied by EnvisionWare, unless specifically stated otherwise in EnvisionWare's quotation. EnvisionWare does not warrant that your use of the Software will be uninterrupted or error-free. EnvisionWare's sole liability (and your sole remedy) in the event of a breach of this Product Warranty will be that EnvisionWare will, in EnvisionWare's sole discretion, (A) use commercially reasonable efforts to provide you with an error correction or a work-around which corrects the reported non-conformity or (B) if EnvisionWare determines such remedies to be impracticable within a reasonable period of time, refund the money you paid for the Software being returned. EnvisionWare does not warrant that the Software will meet your requirements or that operation of the Software will be uninterrupted or that the Software will be error-free. EnvisionWare provides Software product support through the reseller from whom you purchased the Software or directly from EnvisionWare for a period of twelve (12) months from date of delivery of the Software.

B. Hardware Product Warranty: EnvisionWare warrants that EnvisionWare-branded hardware as distributed will be free from material defects (the "Hardware Product Warranty") for a period of one (1) year from the date of delivery of the EnvisionWare-brand hardware to you (the "Hardware Warranty Period"). Other Hardware components supplied to you by EnvisionWare that are not manufactured or branded by EnvisionWare are covered by the warranties provided by the product manufacturer. EnvisionWare shall have no obligation with respect to a warranty claim unless notified of such

claim within the applicable Software or Hardware Warranty Period. The term “delivery” in this Section 4 means, with respect to Software, the date of invoice, and, with respect to Hardware, “delivery” means the date that the Hardware is delivered to your facility.

C. Exclusions: The above warranties shall not apply: (i) if the Software or Hardware is used with hardware or software not specified in the documentation; (ii) if any modifications are made to the Software or Hardware by you or any third party; (iii) to defects in the Software or Hardware that are due to accident, abuse or improper use by you or your contractors; or (iv) to any evaluation version or other Software or Hardware provided on a no-charge or evaluation basis. Any replacement Software or Hardware will be warranted for the remainder of the original applicable Software Warranty Period or Hardware Warranty Period.

D. THE ABOVE SOFTWARE PRODUCT WARRANTY AND HARDWARE PRODUCT WARRANTY ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, ALL OF WHICH ARE SPECIFICALLY DISCLAIMED. THE SOFTWARE PRODUCT WARRANTY AND THE HARDWARE PRODUCT WARRANTY GIVE YOU SPECIFIC LEGAL RIGHTS. YOU MAY HAVE OTHER RIGHTS, WHICH VARY FROM STATE TO STATE AND COUNTRY TO COUNTRY.

E. EnvisionWare uses virus protection scanning software to scan the Software prior to installation and to the best of EnvisionWare’s knowledge as of the installation date, the Software, when installed, does not contain or otherwise introduce any computer virus or any harmful or destructive code which could damage or harm your computers; however, EnvisionWare cannot guarantee that benign or harmful viruses or other malware will not enter your computers or systems.

5. Personal Information:

A. In the event that your (or your users’) use of the Software currently or in the future involves the transmitting, uploading, downloading, storage, management, manipulation or other use of personal information (as defined by the Gramm-Leach-Bliley Act, Payment Card Industry Security Standards Council or other applicable standards or rules relating to electronic transaction processing and personal information, such information referred to herein as “Personal Information”), you agree to the following provisions:

- i. You shall maintain as confidential any Personal Information.
- ii. You covenant that you have, as of the Installation Date become and currently are PCI and HIPAA (as applicable) compliant and shall maintain compliance and/or certification under the PCI (Payment Card Industry), PCI-DSS, HIPAA and other relevant and applicable standards relating to electronic transaction processing and personal healthcare information existing as of the Effective Date and as promulgated thereafter.
- iii. If you are de-certified, have your compliance proof expire or are threatened with de-certification, you shall notify EnvisionWare in writing within ten (10) days of such de-certification or threat thereof.

B. EnvisionWare shall use commercially reasonable efforts to maintain all of your Personal Information confidential, but EnvisionWare is not liable for the confidentiality of any Personal Information in the event of unauthorized access, theft or use of such Personal Information, either by you, your users, or third parties.

C. The obligations of the parties under this Section 5 shall survive any expiration or termination of this EULA.

6. Data:

A. CUSTOMER DATA. In connection with the Software and any related hardware or services provided by EnvisionWare, EnvisionWare may collect and maintain data and information provided by you, your patrons and users (collectively, “Customer Data”). As between EnvisionWare and you, all Customer Data shall be and remain owned by you and be your property. EnvisionWare shall maintain the aspects of all Customer Data identify an individual as confidential. All third parties authorized by EnvisionWare which may have access to the Customer Data shall be under obligations of confidentiality to maintain the Customer Data as confidential.

B. USE OF CUSTOMER DATA. EnvisionWare shall have the right to use Customer Data in connection with EnvisionWare’s business, provided that such data shall be anonymized or aggregated such that Personal Information has been de-identified so that one could not link anonymized information back to a specific individual (“Anonymized Data”). All such Anonymized Data shall be the sole property of EnvisionWare. EnvisionWare may use, disseminate, share, or transfer the Anonymized Data or any portion thereof in any way EnvisionWare chooses.

C. ENVISIONWARE DATA. EnvisionWare may also collect data and information in connection with the service that EnvisionWare provides generally (but not including Customer Data) through its services ("EnvisionWare Data"). You acknowledge and consent that the Software may communicate (e.g., via an outbound or inbound call using SSL) with EnvisionWare's servers (which may be hosted by a third-party service provider) and support personnel, or vice versa, to communicate diagnostic, event logs, support, licensing, compliance, and other information (which is included in the definition of EnvisionWare Data). Some communication may be done automatically by the Software without your needing to be involved, other communication may be at your initiation (e.g., uploading logs) or initiated by EnvisionWare. All such EnvisionWare Data shall be the sole property of EnvisionWare.

7. Confidential Information: Each party agrees that all code, inventions, know-how, business, technical and financial information it obtains ("Receiving Party") from the disclosing party ("Disclosing Party") constitute the confidential property of the Disclosing Party ("Confidential Information"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be Confidential Information due to the nature of the information disclosed and the circumstances surrounding the disclosure. Any software, documentation or technical information provided by EnvisionWare (or its agents), performance information relating to the Software, and the terms of this Agreement shall be deemed Confidential Information of EnvisionWare without any marking or further designation except as such disclosure is required by FOIA requirements. Except as expressly authorized herein, the Receiving Party will hold in confidence and not use or disclose any Confidential Information. The Receiving Party's nondisclosure obligation shall not apply to information which the Receiving Party can document: (a) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (b) is or has become public knowledge through no fault of the Receiving Party; (c) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; (d) is independently developed by employees of the Receiving Party who had no access to such information; or (e) is required to be disclosed pursuant to a regulation, law or court order (but only to the minimum extent required to comply with such regulation or order and with advance notice to the Disclosing Party). The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party shall be entitled to appropriate equitable relief in addition to whatever other remedies it might have at law. In order for any information to be considered Confidential Information under this EULA, the Disclosing Party must label such information in writing as "Confidential" prior to or contemporaneous with disclosure to the Receiving Party. The obligations under this Section 7 shall, with respect to Confidential Information, continue for a period of two (2) years after disclosure and, with respect to any information considered by and treated as a trade secret by the Disclosing Party, continue until the trade secret status has been lost.

8. Indemnification:

A. Infringement. Subject to your compliance with the terms of this EULA, EnvisionWare shall indemnify and hold harmless you and your officers, directors, employees and agents from and against all third party claims, to the extent such claim alleges that the Software (in each case as provided by EnvisionWare) infringes any copyright, U.S. patent right, trade secret right, or other intellectual property right provided, however, that you must comply with the following terms: EnvisionWare must have received from you: (i) prompt written notice of such claim (but in any event notice in sufficient time for EnvisionWare to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense, and settlement (if applicable) of such claim; and (iii) all reasonable necessary cooperation by you. In the event that the Software is, or in EnvisionWare's sole opinion is likely to be, enjoined or subject to a claim due to the type of infringement described in this Section 8, EnvisionWare, at its option and expense, may (a) replace the Software with functionally equivalent non-infringing Software or (b) obtain a license for your continued use of the Software, or, if the foregoing alternatives are not reasonably available to EnvisionWare (c) terminate this Agreement and refund a pro rata amount, as determined by EnvisionWare, of the purchase price of the Software and Hardware. Notwithstanding the above, EnvisionWare shall have no liability for any infringement claim which: (i) pertains to any Software that has been altered or modified without EnvisionWare's prior written approval; (ii) is based on use of the Software in conjunction with any item not provided by EnvisionWare, unless such use is shown to constitute the infringement when not used in conjunction with the item not provided by EnvisionWare; (iii) pertains to any unauthorized use of the Software; (iv) pertains to an unsupported release of the Software; or, (v) pertains to any Open Source Software or other third party code provided with the Software. **THIS SECTION 8 SETS FORTH ENVISIONWARE'S SOLE LIABILITY AND YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.**

B. EnvisionWare shall indemnify, defend and hold you harmless from any losses (including, but not limited to, damage awards, reasonable attorneys' fees and costs, cost of notification, remediation, and penalties) you incur due to any third party claim or action directly resulting from any Data Breach of your (or your patrons') Personal Information to the extent that such losses are due to the direct act or omission of EnvisionWare or its representatives, agents or contractors.

C. This Section 8 shall survive any expiration or termination of this EULA.

9. Disclaimer of and Limitations on Damages: SOME STATES AND COUNTRIES, INCLUDING MEMBER COUNTRIES OF THE EUROPEAN ECONOMIC AREA, DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES SO THE LIMITATION OR EXCLUSION BELOW MAY NOT APPLY TO YOU. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE, IN NO EVENT WILL ENVISIONWARE OR ITS LICENSORS BE LIABLE TO YOU FOR ANY LOSS OF USE, LOST DATA, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS OR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, EXEMPLARY OR SIMILAR DAMAGES, INCLUDING ANY LOST PROFITS ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE OR HARDWARE, EVEN IF ENVISIONWARE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO CASE SHALL ENVISIONWARE'S OR ITS LICENSORS' TOTAL LIABILITY (A) FOR ANY PRODUCTS COVERED UNDER THIS EULA, EXCEED THE PURCHASE PRICE FOR THE SOFTWARE AND HARDWARE OR (B) FOR ANY SERVICES, EXCEED THE FEES PAID BY YOU FOR THE SERVICES (EXCLUDING MAINTENANCE AND SUPPORT SERVICES) WHICH DIRECTLY CAUSED THE DAMAGES ALLEGED. The disclaimers and limitations set forth above in this Section 9 will apply regardless of whether or not you accept the Software or Hardware. The parties agree that the limitations specified in this Section 9 will survive any expiration or termination of this EULA and apply even if any limited remedy specified in this EULA is found to have failed of its essential purpose.

10. U.S. Government Restricted Rights: RESTRICTED RIGHTS LEGEND. All EnvisionWare products and documentation are commercial in nature. The Software and software documentation are "Commercial Items", as that term is defined in 48 C.F.R. section 2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are defined in 48 C.F.R. section 252.227-7014(a)(5) and 48 C.F.R. section 252.227-7014(a)(1), and used in 48 C.F.R. section 12.212 and 48 C.F.R. section 227.7202, as applicable. Consistent with 48 C.F.R. section 12.212, 48 C.F.R. section 252.227-7015, 48 C.F.R. section 27.7202 through 227.7202-4, 48 C.F.R. section 52.227-14, and other relevant sections of the Code of Federal Regulations, as applicable. EnvisionWare's computer Software and software documentation are licensed to United States Government end users with only those rights as granted to all other end users, according to the terms and conditions contained in this EULA. The manufacturer is EnvisionWare, Inc., 2855 Premiere Parkway, Suite A, Duluth, GA 30097-5201.

11. Export Compliance: You acknowledge that the Software is subject to export restrictions by the United States government and import restrictions by certain foreign governments. You shall not, and shall not allow any third-party hired or under contract by you, to, remove or export from the United States or allow the export or re-export of any part of the Software or any direct product thereof: (i) into (or to a national or resident of) any embargoed or terrorist-supporting country; (ii) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals; (iii) to any country to which such export or re-export is restricted or prohibited, or as to which the United States government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval; or (iv) otherwise in violation of any export or import restrictions, laws or regulations of any United States or foreign agency or authority.

12. Third-Party Code: The Software may contain or be provided with components subject to the terms and conditions of "open source" or freeware software licenses ("Open Source Software"). Licenses for open source are identified in Section 1. To the extent required by the license that accompanies the Open Source Software, the terms of such license will apply in lieu of the terms of this EULA with respect to such Open Source Software, including, without limitation, any provisions governing access to source code, modification or reverse engineering.

13. Professional Services: Upon request and agreement between the parties, EnvisionWare may provide consulting, training, installation, development, customization, report creation or other services ("Professional Services"). You may order Professional Services under a Statement of Work ("SOW") describing the work to be performed, fees and any applicable milestones, dependencies and other technical specifications or related information. Each SOW must be signed by both parties before EnvisionWare shall commence work under such SOW. If the parties do not execute a separate SOW, the Services shall be provided as stated on the invoice. You will reimburse EnvisionWare for reasonable travel and lodging expenses as incurred. EnvisionWare shall be deemed the sole owner of any work product created pursuant to the Professional Services, whether created solely by EnvisionWare or jointly with you or your contractors. Subject to your full payment of any and all fees pursuant to the applicable SOW, EnvisionWare grants to you the limited, nontransferable right to use any deliverables (including any documentation, code, Software, training materials or other work product) (collectively referred to as the "Deliverables") delivered as part of the Professional Services solely in connection with your permitted use of the Software, subject to all the same terms and conditions as apply to your Software license (including the restrictions set forth in Section 1B), and subject to any additional terms and conditions provided with the Deliverables.

14. General: This EULA is the entire agreement between you and EnvisionWare relating to the license and use of the Software and Hardware. This EULA supersedes all prior EnvisionWare end user license agreements for the Software.

EnvisionWare may terminate this EULA upon your breach of any term contained herein. Upon termination, you shall cease use of, uninstall or render inoperable, and delete destroy all copies of the Software. The disclaimers of warranties and damages and limitations on liability shall survive termination. No provision of any purchase order or other business form employed by you will supersede the terms and conditions of this EULA, and any such document relating to this EULA shall be for administrative purposes only and shall have no legal effect. The parties to this EULA are independent contractors with respect to one another. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent. This document may not be changed. In the event of any conflict with local law, the sole method for changes to EULA language are the incorporation of overriding text in an Agreement or a separate EULA Amendment.

See Section 7.22, Jurisdiction And Venue

15. Governing Law; Jurisdiction and Venue: ~~This Agreement shall be governed by the laws of the State of Georgia and the United States without regard to conflicts of law provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods or the Uniform Computer Information Transactions Act, as currently enacted by any jurisdiction or as may be codified or amended from time to time by any jurisdiction.~~

16. Software Escrow: At your request, EnvisionWare is willing to set up and maintain the Software with EnvisionWare's independent U.S. escrow agent and make ongoing escrow deposits for significant updates. You would be responsible for additional fees for this service. Please contact EnvisionWare to for more information and pricing.

17. Purchase in Australia: If you purchase Software, Hardware or services from EnvisionWare Pty Ltd or its partners, the laws of South Australia, Australia govern all warranty and service claims. EnvisionWare Pty Ltd is authorized to convey and effect all of the rights expressed in this EULA for its direct and indirect customers.

18. Contact Us: Should you have any questions concerning this EULA, or if you desire to contact EnvisionWare for any reason, please email info@envisionware.com or write to: EnvisionWare, Inc., 2855 Premiere Parkway, Suite A, Duluth, GA 30097-5201 USA, unless you purchase from an Asia Pacific country in which case, please write EnvisionWare Pty Ltd, 10 George Street, Stepney, SA 5069 Australia.

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Solely for the purposes of the following Verifone Terms of Use, the following terms shall have their associated meanings. "Agreement" means the Verifone Terms of Use. "BPP" means Verifone's Buyer Protection Program. "Covered Territory" means your location(s). "Customer Agreement" means the EULA. "Payment Gateway" means Verifone's transaction gateway portal which provides transaction routing, online reporting and other tools made available by the portal. "Point Solution" and "Rental Devices" mean the Point Solution hardware and Software manufactured or provided by Verifone and offered by EnvisionWare under the EULA. "Reseller" means EnvisionWare. "Software" means the software accompanying the Point Solutions Rental Devices. "Verifone" means VeriFone, Inc.

VERIFONE PASS THROUGH TERMS OF USE

1. The following are Verifone's Pass Through Terms of Use for its Point Solution Rental Device hardware and Software.
2. Each Verifone payment device used with the Point Solution is subject to an initial service term of 36 months (the "Initial Service Term"). Subject to the terms of the Customer Agreement, with respect to a particular Verifone payment device, Verifone shall provide the Point Solution to customer for a service term commencing (A) for Rental Devices (or any other payment devices shipped directly by Verifone), on the date such devices are shipped by Verifone, or (B) for any other payment devices, on the date on which such device is activated on the Payment Gateway, and in any case ending on the earliest of (1) the date on which Reseller removes such device from the Payment Gateway, (2) upon Verifone's ceasing to provide the Point Solution for a payment device, which Verifone shall have the right to do on thirty days' notice to customer following the Initial Service Term for such device, and (3) termination of customer's right to use the Point Solution by Reseller due to breach by customer of the Customer Agreement (the "Service Term"). In addition, in the event Verifone's separate agreement with Reseller terminates or Verifone ceases to offer the Point Solution to its customers generally, Verifone reserves the right to terminate the Service Terms for any or all Verifone payment devices. Upon the termination of the Service Term for a particular Verifone payment device, customer shall cease using the Point Solution for such payment device. In the event that a customer desires to end the Service Term for a payment device, the customer must request that Reseller remove the applicable device from the Payment Gateway on its behalf; Verifone will not be responsible for removing a payment device from the Payment Gateway provided that, notwithstanding customer's earlier request, the Service Term will end on the day Reseller actually removes the device from the Payment Gateway.
3. Subject to the terms of this Agreement and customer's payment of the applicable fees, Verifone hereby grants to customer a limited, non-exclusive, non-transferable, non-sub-licensable right and license, in the Covered Territory during the Service Term for each payment device, to access and use the Point Solution subscribed to hereunder solely for customer's internal business purposes. Notwithstanding the foregoing, Reseller will be responsible for managing and monitoring customer's payment devices on customer's behalf, including with respect to the installation of payment applications and key loading, and customer will not be able to directly manage or monitor its payment devices via the Payment Gateway portal. Verifone may modify the Point Solution from time to time in its reasonable discretion, provided that such modifications shall not materially diminish the functionality thereof. If Reseller fails to pay Verifone for services rendered in accordance with its agreement with Verifone, Verifone reserves the right to withhold customer's access to the Point Solution until such fees are paid in full, and Verifone shall not have any liability to customer for any amounts paid to Reseller and not received by Verifone for such services.
4. Customer shall have no right to market, distribute, sell, assign, pledge, sublicense, lease, deliver or otherwise transfer the Point Solution, or any component thereof, including without limitation the Software, to any third party. Customer shall not reverse engineer, decompile, disassemble, translate, modify, alter or create any derivative works based upon the Software, or determine or attempt to determine any source code, algorithms, methods or techniques embodied in the Software, without the prior express written consent of Verifone. Customer shall not remove from the Rental Devices or the Software, or alter, any of trademarks, trade names, logos, patent or copyright notices, or other notices or markings, or add any other notices or markings to the Rental Devices or the Software, without the prior express written consent of Verifone.
5. Customer acknowledges that the Point Solution (including any related documentation) and any intellectual property rights relating to or residing therein (including any patents, copyrights, trade secrets, trademarks, trade names or mask work rights), including the proprietary electronics, software and technical information of Verifone therein, are proprietary products of Verifone and that ownership of such shall remain with and inure to Verifone. Except for the license rights set forth in this clause 5, customer shall have no right, title or interest therein.
6. Customer grants VeriFone a limited, non-exclusive and irrevocable license during and after the term of this Agreement to follow customer's activity inside of the Point Solution components and to use, share, and disseminate data from customer's activity (including its transactions) on an aggregate and anonymous basis only (such data, "Derived Data"), including for purposes of data analytics and optimizing or otherwise enhancing its products and services. VeriFone will comply with all applicable laws with respect to any use, sharing and dissemination of Derived Data. This clause 6 shall survive any expiration or termination of this Agreement.
7. VERIFONE DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE POINT SOLUTION, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. VERIFONE DOES NOT WARRANT THAT THE POINT SOLUTION, OR ANY COMPONENT THEREOF, WILL MEET THE REQUIREMENTS OF CUSTOMER OR THAT THE OPERATION OF THE POINT SOLUTION, OR ANY COMPONENT THEREOF, WILL BE UNINTERRUPTED OR ENTIRELY ERROR FREE. CUSTOMER ACKNOWLEDGES THAT UNDER NO CIRCUMSTANCES DOES VERIFONE REPRESENT OR WARRANT THAT ALL ERRORS IN ANY SOFTWARE CAN BE REMEDIED. NO ADVICE OR INFORMATION OBTAINED BY CUSTOMER FROM VERIFONE OR FROM ANY OTHER THIRD PARTY ABOUT THE POINT SOLUTION SHALL CREATE ANY WARRANTY.

8. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE CUSTOMER AGREEMENT: EXCEPT TO THE EXTENT PROHIBITED BY LAW: (A) VERIFONE SHALL HAVE NO LIABILITY TO CUSTOMER OR ANY THIRD PARTY FOR SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, LOSS OF BUSINESS, LOSS OF PROFITS OR REVENUE, GOODWILL OR SAVINGS, DOWNTIME, OR DAMAGE TO, LOSS OF OR REPLACEMENT OF DATA OR TRANSACTIONS, COST OF PROCUREMENT OF SUBSTITUTE SERVICES) RELATING IN ANY MANNER TO THE POINT SOLUTION (WHETHER ARISING FROM CLAIMS BASED IN WARRANTY, CONTRACT, TORT OR OTHERWISE), EVEN IF VERIFONE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DAMAGE; (B) IN ANY CASE, VERIFONE'S ENTIRE LIABILITY RELATING IN ANY MANNER TO THIS AGREEMENT OR THE POINT SOLUTION, REGARDLESS OF THE FORM OR NATURE OF THE CLAIM, SHALL BE LIMITED IN THE AGGREGATE TO THE FEES ACTUALLY RECEIVED BY VERIFONE FROM RESELLER FOR CUSTOMER FOR THE POINT SOLUTION UNDER THE CUSTOMER AGREEMENT DURING THE SIX (6) MONTHS PRIOR TO THE CLAIM ARISING; AND (C) VERIFONE SHALL NOT BE LIABLE FOR ANY CLAIMS OF THIRD PARTIES RELATING TO THE POINT SOLUTION. THE LIMITATIONS ON VERIFONE'S LIABILITY SET FORTH IN CLAUSES "(B)" AND "(C)" OF THIS SECTION SHALL NOT APPLY TO LIABILITY FOR DEATH, PERSONAL INJURY OF A PHYSICAL NATURE OR DAMAGE TO TANGIBLE PROPERTY CAUSED BY VERIFONE'S NEGLIGENCE OR INTENTIONAL MISCONDUCT. THE LIMITATIONS CONTAINED IN CLAUSE 7 ABOVE AND THIS CLAUSE 8 ARE A FUNDAMENTAL PART OF THE BASIS OF VERIFONE'S BARGAIN HEREUNDER, AND VERIFONE WOULD NOT PROVIDE THE POINT SOLUTION TO CUSTOMER ABSENT SUCH LIMITATIONS

9. Customer shall comply with all applicable laws, rules, and regulations in connection with this Agreement, including, but not limited to, export control laws and anti-corruption and anti-bribery laws, rules, and regulations. Customer agrees that if Verifone reasonably believes that customer is in breach of this clause 9, that alone shall be sufficient grounds for further action by Verifone, including, without limitation, cancellation of any orders or denial of future business, without any liability or obligation to customer. In addition, customer hereby indemnifies Verifone and its affiliates, directors, officers and employees for all costs, expenses, damages, claims, charges, penalties, fines and other losses that arise in connection with any breach by customer or customer subsidiaries, owners, officers, directors, employees, partners, subcontractors, agents and representatives of the terms and conditions contained in this clause 9.

10. VERIFONE SHALL BE A THIRD-PARTY BENEFICIARY OF THIS AGREEMENT, WITH THE RIGHT TO ENFORCE THE TERMS HEREOF AGAINST CUSTOMER WITH RESPECT TO THE POINT SOLUTION.

11. In the case of any customer agreements that include Rental Devices:

A. Verifone Property. The Rental Devices shall remain the property of Verifone. Customer shall have no right, title or interest therein except as a lessee under this Agreement. Customer shall keep all Rental Devices free and clear from all liens, including any direct or indirect charge, encumbrance, lien, security interest, legal process or claim against the Rental Devices. Customer may not assign, hypothecate, sublet, sell, transfer, permit the sale of or part with possession of all or any of the Rental Devices or interest in the Customer Agreement, without Verifone's prior written consent. If customer fails to pay any undisputed fees when due, and fails to cure such failure within ten (10) business days of written notice thereof, Verifone may, at any time thereafter enter, with or without legal process, any premises where any Rental Device may be, and repossess and remove such Rental Device. Customer hereby waives any claim of trespass or right of action for damages by reason of such entry and repossession. In addition, customer shall pay to Verifone any actual additional expenses incurred by Verifone in collection efforts.

B. Upgrades. Customer may, commencing on the one year anniversary of the start of the Service Term for a Rental Device, upgrade to a different Rental Device (in which event customer may be subject to an increase in fees based on the new Rental Device subscription fee). For such upgrades, customer shall be required to commit to a new Initial Service Term for such Rental Device and shall be required to return the old Rental Device in accordance with clause (d) below.

C. Loss and Damage. Subject to Verifone's obligation to provide the Services, customer assumes and shall bear the entire risk of loss or damage to the Rental Devices from any use whatsoever from the date of delivery of the Rental Devices to the customer site, until such Rental Devices are returned to Verifone. No loss or damage shall relieve customer from the obligation to make payments hereunder or to comply with any other obligation under the Customer Agreement. In the event of a loss of a Rental Device (but not damage), customer shall immediately notify Reseller thereof. With respect to any lost Rental Device, customer shall be obligated to pay Reseller the Non-Return Fee applicable to such Rental Device. Subject to Verifone's receipt of such Non-Return Fee from Reseller, Verifone shall ship customer a new or refurbished replacement Rental Device. At all times payments for the Point Solution for such Rental Device shall continue in effect.

D. Return at End of Service Term. At the end of the Service Term for a Rental Device, customer shall return such Rental Device to Reseller or Verifone, as directed by Reseller. When returning a Rental Device to Verifone a Material Return Authorization number is required. If a Rental Device is not returned to Verifone within thirty (30) days of the end of its Service Term, customer shall be obligated to pay Reseller the Non-Return Fee for such Rental Device. If, upon return of the Rental Device, Verifone determines that the Rental Device requires repair that is not covered by the BPP or Repair Services (e.g., "Out of Scope" or "Limitations"), customer shall be required to pay Reseller for such services at Verifone's standard fees.

Exhibit D
Hardware and Software Maintenance Information



North America Headquarters:
2855 Premiere Parkway, Suite A
Duluth, GA 30097-5201 USA
Toll Free U.S.: 1-800-216-8370
Voice: +1-678-382-6500
Fax: +1-678-382-6501
www.envisionware.com
Info@envisionware.com

February 8, 2017

Austin Public Library
800 Guadalupe
Austin TX, 78701

EnvisionWare Hardware and Software Maintenance Information

Support Services Support Levels *Gold* is the standard which includes all of the communication channels listed except for direct calls to a resident technician or 24x7 PIN telephone access. |

Platinum (US only) customers receive higher priority and generally faster turnaround, and may call support 24x7.

PlatinumPLUS (US only) customers have an onsite EnvisionWare support technician assigned to and working at their account.

Time & Materials customers may contact support for an hourly fee. Parts are available for purchase. There are no software updates for customers under Time and Materials and there are no long-life guarantees on major systems.

Fees [US] -Time & Materials customers are billed for all services at an hourly rate of \$195 / hour. Parts are charged at the published rate plus freight and handling.

Customers under maintenance can procure Consulting services at the discounted rate of \$150 / hour. Parts are shipped at no charge under maintenance provided a requested defective item is returned within 15 days of repair. All freight charges for replacement *parts* under maintenance to and from a US customer are paid by EnvisionWare.

Hours - Gold support level customers and those under Time & Materials in North America may obtain support from EnvisionWare between the hours of 8:30am and 7:00pm Eastern Time, Monday through Friday. Platinum and *PlatinumPLUS* support level customers have access to support technicians 24x7 by using their Platinum PIN (available from the Support Tab in the Customer Center). APAC customers have access to support resources from 9:00 to 17:00 Central Australian Time, Monday through Friday.

Submitting a Case via the EnvisionWare Customer Center - An online [self-service](#) portal into your relationship with EnvisionWare where you can open and manage support Cases, view Issues and submit and track enhancements, view your maintenance status and annual billing information, see a history of items purchased and much more. Credentials for customer access are issued from our Operations Group

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when products are licensed or invoiced. Visit the Customer Center at <http://support.envisionware.com>. To register a new contact for your library [visit this link](#). To open a new Case use the [Contact Support link](#) on the Main Menu.

Note: Platinum level customers should submit **Contacting Support via Telephone** - North America: 888-409-0888 or +1 678-382-6600 APAC: +61 (0)8 8132 5800 **EnvisionWare LiveChat [US]** - Login to a chat session from any computer and communicate with one of our support technicians. **LiveChat** provides instant access to your computer thanks to our Central Management technology. Available during Gold level support hours from the Customer Center [Support Tab Link](#).

Customer Forum - An open forum where EnvisionWare customers from around the world share ideas and concerns related to Computer and Financial Management, Self Service Circulation, RFID, Automated Materials Handling and the 24-Hour Library. Available 24x7. Subscribe via the [Support Tab Link](#) in the Customer Center.

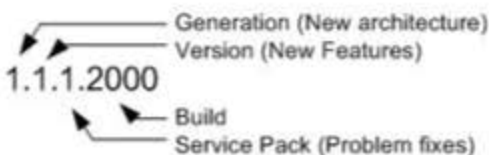
Access the Knowledge Base and FAQs from any computer, any time. Open 24x7 from the Customer Center Knowledge Base **Tab**. **View the list archives** where a repository of information exchanges between customers can provide invaluable insight into EnvisionWare products and the related services and technologies they affect. Access 24x7 via the Customer Forum.

Professional Services - In addition to help with troubleshooting issues and answering product questions, EnvisionWare Professional Services consultants can be scheduled to assist with special projects, migrations to new generations of products, installation and project management for new implementations, and a host of other advanced level services that are outside the scope of normal support services. Contact Professional Services at 800-216-8370 Opt 5 [US] to learn more about these optional services.

EnvisionWare Central Management - Central Management is a powerful software tool that provides remote access to your computers for troubleshooting. The compact protocol uses minimal bandwidth. [CM/TeamViewer](#) is included with all products. A special version of Central Management/[NetSupport](#) is typically used with the 24-Hour Library, sorters and [OneStop](#). It is generally sold with a Central Management Gateway and a Control. The gateway aggregates all of your EnvisionWare management services into a common service point and the Control gives you the same access as that provided to our support technicians. File transfers can be performed without interference to users. CM is a required component for support for continued maintenance at the established rates.

Advanced Network Consulting - Our network consulting group stands ready to help customers with networking, routing, and infrastructure needs. If a problem is caused by EnvisionWare products, there is no charge for use of these services.

Product Updates and Releases EnvisionWare developers and the product management team continue to enhance products every day to add new features and to correct problems related to compatibility, new operating systems, or issues with software. Customers under maintenance can download product updates, new versions, and new generations of product as they become available. The versioning is illustrated at the right and explained in detail below. We generally refer to the term UPGRADE when updating to a new VERSION and MIGRATION when moving to a new GENERATION. This is because the underlying architecture is often dramatically different when a product is completely rewritten.





Hotfixes address urgent needs and can be released in as little time as a day when a problem arises at a customer site that affects the enterprise operation. Hotfixes are available by clicking the [Software and Documentation link](#) on the Customer Center Main Menu.

Service Packs are issued regularly to address problems discovered at customer sites. Service packs are often issued when an operating system updates or third party release creates compatibility concerns. Numbered by the third decimal as in 3.5.1.x, 3.5.2, and for Service Pack 3: 3.5.3. Note that Service Packs require only update to the Management or Host components, not to Clients. This means that most customers can easily apply a hotfix without concern for any changes to public computers.

New Versions - New versions of products are released to add new functionality to EnvisionWare products. Most products are updated quarterly and each version release incorporates new customer-driven features. New versions are designated in the second decimal as 4.1.x and 4.2.x. New version installation requires update of all components including clients. PC Reservation, ~~LPT:One~~ and the EnvisionWare Suite will auto-update clients provided rollback software is disabled. Admin login is not required for client updates.

Next Generation - When customers have extracted all of the value possible from a generation of product, EnvisionWare creates a new, Next Generation design from the ground up to take advantage of today's technology and to incorporate a plethora of new and exciting features. New generations are noted by the first digit as in 3.x.x and 4.x.x. Some new generations can be in-place upgrades whereas others may require a change to the architecture. Release Notes will indicate the requirement and products changing architecture will be accompanied by a Migration Guide in the [software/manuals](#) download area.

Enhancement Requests - File a request for a new feature by opening a new Case in the Customer Center. Select Enhancement. Be certain to select Enhancement only when you are requesting a new feature. Enhancements are directed to the Product Management group who review your requests monthly. Other types of Support Cases, Problems and Questions, route directly to Support for rapid response.

Update Notification - The best way to stay informed about updates and hotfixes is to subscribe to [Twitter](#) (@EnvisionWare). Alternatively you may view the Customer Forum by product to see information about the latest release, which is posted to the top of the forum topic. Release Notes (Customer Center [Release Notes Tab](#)) inform you about the features and defect fixes in each release as well as an important known issues. The above are the three ways to become aware of hotfixes and service packs. In addition to the above notification methods, EnvisionWare Communications sends all customers a graphical, email release announcement for new versions of products. In addition, the EnvisionWare customer newsletter, ~~AlphaBytes~~, is emailed to all customers quarterly and posted on [www.envisionware.com](#).

DocumentationOnline Administration Manuals and User Guides - updated with every new release to provide the most up-to-date technical and user manuals available. Each new release incorporates new features at which time the online PDF documentation is updated to not only include the changes but to improve layout and overall content. Users under maintenance always have access to the most current product information. Documentation is delivered in the same location as software downloads - visit the [Software and Documentation link](#) on the Main Menu of the customer Center.

Customers under a current maintenance and support agreement can take full advantage of all of the above Support services.

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**What happens if I allow my maintenance and support coverage to expire?**

Your products will continue to operate but you will not have access to any downloads or documentation. Support is available on a low priority basis for an hourly fee.

Can I renew my maintenance if I allowed it to expire?

You can renew your maintenance at any time but you must pay a special lapsed coverage fee plus the next 12 months.

I shouldn't have to pay for maintenance I did not use. Why do you require a fee for the lapsed period?

While you may not have called, during the lapsed coverage period the developers continued to enhance the products, third parties continued to introduce challenges, and other customers continued their coverage in support of an ever evolving and improving solution. EnvisionWare reinvests maintenance revenues into product improvements so that our customers continue to use the best solutions on the market that remain current and competitive.

Can I cover software but not hardware?

Gold Level customers can opt out of hardware coverage in which case all hardware failures will be addressed on a time and materials basis with a minimum of 1-hour labor per Support Case

Can I have different coverage periods for different products?

Unfortunately we have no way of addressing this need. While EnvisionWare products are sold as modules, they aggregate into a complete system. Much like an Integrated Library System, when you add modules you generally continue to have one anniversary date. To the extent possible we attempt to adhere to generally accepted practice for our industry. In some special cases certain products may be excepted for Gold-level customers. Customers under Platinum or PlatinumPLUS agreements require full coverage for all products in use. Note that SUBSCRIPTION products like eCommerce terminals and gateways and cloud services like the MobilePrint Service may be on different renewal periods based on when these products went live.

Will you agree to fix maintenance rates for future years?

EnvisionWare has no control over the economy or costs but you have options to mitigate future increases. Within 60 days of original purchase you can extend your maintenance coverage for up to 4 additional years. You will receive a 10% discount off maintenance for purchasing advance maintenance with your original product purchase. You save money and you fix your rates for 4 more years.

Can I purchase more products if I have allowed maintenance to lapse?

You can add more of any modules for products you already own but you cannot add new products to an account with lapsed coverage.

What happens to my first year warranty coverage if I add modules a few months prior to my expiration?

Our Maintenance Services Group automatically prorates the full value of your 12-month coverage on your Master Maintenance Record. At the time of renewal, any unused *warranty* coverage from the new licenses is applied as a credit to your annual maintenance invoice. We work to ensure that you always receive full value for your purchases from EnvisionWare.

What is involved in hardware repairs and who pays for what?

The best way to obtain a replacement part is to open a Case in the Customer Center. Select the item you own and include the serial number of the hardware. Support will assist with troubleshooting and then set up an advance replacement shipment. A part will be shipped to you and you will be invoiced for the

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item. With the emailed invoice you will also receive a Return Merchandise Authorization. Simply place the defective part in the box containing the replacement and return the shipment, placing the RMA number on the outside of the box. Upon receipt of the defective item at our Atlanta or Adelaide primary service centers, we will credit the advance replacement if your hardware is under warranty or maintenance. If you are under maintenance we pay all freight charges in the US. You can track RMAs in the Customer Center. If your hardware is not covered by a warranty or maintenance, support time and parts will be charged on a time and materials basis and freight will be added to the outbound shipment. You pay for the return freight. A purchase authorization is required for non-warranty repairs, which can be as simple as an email authorization.

Support told me that they could not help me install my system at a new branch. I paid for support so what is the problem?

Our support technicians are highly skilled in problem solving and helping customers with technical issues. Support technicians can help you with the addition of a new Client but they are not equipped to provide the level of consulting that may be required to install and configure a Management Console or similar product at a new site. Professional Services Implementation Consultants are highly skilled professionals that know how to interpret your needs into an implementation that maximizes the value of your investment. Implementation Consultants are available to help with a re-install, a computer replacement scenario, or a major migration to a new generation (where the architecture may warrant added services.) When the level of expertise is beyond normal troubleshooting and module additions, Support will refer you to a Consultant who can estimate the cost for added services. Some customers that have limited local technical resources often use consulting time to expand systems and perform upgrades. Customers under maintenance are provided a discounted rate for these services as indicated above.

What if I refuse to permit Central Management (CM) access?

Naturally, you have every right to decide what products are installed on your computers. We provide Central Management *normal access* and *on demand access* (which requires your presence at a computer during troubleshooting to enable or disable the CM software.) The most convenient solution is normal access in which we can gather logs and diagnose problems upon report of a Case without interfering with your time. Our maintenance charges are based on normal CM access. If you refuse to provide access, it significantly hampers our ability to troubleshoot problems for you and it increases the cost of service delivery. At your next renewal, maintenance prices will increase 10% as a partial offset to denied access.

Some of these concepts don't fit my idea of the way you should handle these issues.

We try very hard to be the most flexible company in the business and to listen and respond to customer needs. We believe that every customer is unique and that our mission is to serve the diverse needs of a global community of customers. We try to *do business the way you want us to*. If your opinion differs we are open to your suggestions and very willing to learn from our customers about new ways of improving our services. Please call the primary support number as shown at the top of this document and ask to be connected to the Maintenance Services Group about billing concerns, or the Director of Support and Professional Services (about support issues) or email customersatisfaction@envisionware.com to send email to the entire management team at EnvisionWare.

TELEPHONE CONTACT INFORMATION

The Americas and Europe

SUPPORT

Customer Center: <http://support.envisionware.com>

Email: Not Available

Toll Free: 888-409-0888 | Direct/International: +1 678-382-6600

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**PROFESSIONAL SERVICES**

Toll Free: 800-216-8370 Opt 5 | Direct/International: +1 678-382-6650

Manager: Nova Chase, Director of Support and Professional Services

Toll Free: 800-216-8370 x6601 | Direct/International: +1 678-382-6601

OPERATIONS / LOGISTICS / ACCOUNTING

General Inquiries: Toll Free: 800-216-8370 Opt 2 | Direct/International: +1 678-382-6530

Maintenance Services: Hazel Franklin, Maintenance Services Coordinator

Toll Free: 800-216-8370 x6532 | Direct/International: +1 678-382-6532

Manager: Alexis Seymour, CPA, Director of Financial Operations

Toll Free: 800-216-8370 x6531 | Direct/International: +1 678-382-6531

SALES

Toll Free: 800-216-8370 Opt 1 | Direct/International: +1 678-382-6550

Email/Online: [Click Here](#)

Manager: John Himes, Director of Sales and Library Business Development

Toll Free: 800-216-8370 x6552 | Direct/International: +1 678-382-6552

Asia Pacific Region

Customer Center: <http://support.envisionware.com>

Email: Not Available

All enquiries via telephone: +61 (0)8 8132 5800

Sincerely,

John Himes
Director of Sales
1-(678)- 382-6552

Exhibit E
Performance Guarantee



Exhibit E –
Performance Guarantee

EnvisionWare One Year 100% Money Back Hardware and Software Performance Guarantee

1. For one (1) year from date of installation, EnvisionWare provides a money back performance guarantee as described herein for hardware and software components (together, “**Components**”) delivered as part of a turnkey RFID Product consisting of EnvisionWare products, services and supplies (the “**Performance Guarantee**”). EnvisionWare will refund to you 100% of the Component prices you have paid EnvisionWare if within the first year after the date of installation the hardware or software system does not perform according to the component performance criteria provided as part of a Quotation and confirmed and finalized as part of the Statement of Work (the “**Performance Criteria**”) and we fail to timely address any performance problems of which you advise us via a case filed and managed in the EnvisionWare Customer Center.
2. At the time of installation, an EnvisionWare consultant will perform a series of acceptance tests, which you will certify when successfully completed, demonstrating that the system and all of its Components perform according to the Performance Criteria. The acceptance tests are developed in advance of implementation and agreed upon as part of accepting the Statement of Work. When you sign for acceptance, you are confirming that the system performs according to the Performance Criteria. Your acceptance is your confirmation of final payment due by you.
3. The Performance Guarantee described herein is in consideration of a customer environment that is maintained in accordance with common and reasonable standards established for the installation including distance restrictions between equipment, interference devices, and other specifications that must be met in order for the system to remain at the proper performance level. When a customer moves equipment or otherwise compromises the performance of a system due to component relocation either of those items installed by EnvisionWare or those items adjacent to installed components that are moved into a sphere that causes interference, the above Performance Guarantee and our warranty do not apply to a system maintained for that location. The customer is responsible for restoring the environment and for any costs incurred by EnvisionWare as a result of providing on-site or other service for environmental changes implemented by the customer. Upon a remedy of this situation and appropriate remuneration for the costs of on-site services, the remaining warranty period (if any) will be resumed. The Performance Guarantee will not be extended during this time.
4. The Performance Guarantee shall not apply to any systems, or Components thereof which do not meet the Performance Criteria due to intentional or unintentional damage or misuse caused by you or your patrons, contractors, facilities, installation or environment, or caused by lightning, flooding, hurricanes, earthquakes or other natural causes, acts of God, acts of war or terrorism, power surges, brownouts, blackouts, other power interruptions, or the like, or used in a manner inconsistent with the intended use of the Components.
5. Should any Component fail during the Warranty Period set forth in the EULA in Exhibit B, EnvisionWare will, at its option, repair or replace the Component. Should the performance of any Component be compromised for the same failure more than three times in the first year after installation, EnvisionWare will replace the Component with an item of equal value and performance. Where style is considered, such as for RFID gates or kiosks, a replacement will be provided that complements the style of the existing Component as closely as is reasonably possible. Upon completion of this remedy, you will sign a service order acceptance confirming that



the repaired or replaced Component is in conformance with the Performance Criteria originally used for the initial installation acceptance. This Section 5 shall control in the event of any conflict with any similar provision in the EULA.

6. If the replacement Component fails to perform according to the Performance Criteria, at that time you may request a return of the Component or Components or the system. Upon receipt of a written request (sent by fax, U.S. Postal Service or overnight delivery; email is not acceptable) we will either issue a return authorization or come on site to inspect prior to return. We will issue a refund for the full price of the Component or Components within thirty (30) days of receipt of the returned item or items.

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Exhibit F
Payment Card Industry Data Security Standard for US Customers



**EXHIBIT F: PAYMENT CARD INDUSTRY DATA SECURITY STANDARD
FOR U.S. CUSTOMERS**

For customers purchasing any EnvisionWare eCommerce product the following provisions apply to eCommerce products:

ENVISIONWARE will not have access to CUSTOMER personal information, including, without limitation, social security number, driver's license number or other state issued identification number, date of birth, personal identification number or password, credit card number(s) and/or bank account number(s); and

WHEREAS, in light of the sensitive and confidential nature of the information, the parties enter into this amendment agreement.

NOW, THEREFORE, in consideration of the promises set forth in the Agreement between the Parties and the promises in this Addendum, ENVISIONWARE and CUSTOMER agree as follows:

A. ENVISIONWARE REPRESENTATIONS AND WARRANTIES

ENVISIONWARE represents and warrants that its Services under the Agreement and this Addendum shall comply with Payment Card Industry Data Security Standard (PCI DSS) and further represents and warrants the following to CUSTOMER:

1. that the product being purchased by CUSTOMER currently complies with the PCI DSS;
2. that it is obligated to maintain compliance with the PCI DSS; including remaining aware at all times of changes to the PCI DSS and promptly implementing all procedures and practices as may be necessary to remain in compliance with the PCI DSS, in each case, at ENVISIONWARE's sole cost and expense except for costs incurred by TCLPL for becoming and maintaining PCI compliance via Trustwave self assessment or similar annual subscription services;
3. that it is responsible for the security of cardholder data that it possesses by means of its Agreement with CUSTOMER, and that this acknowledgement satisfies Section 12.8 of the PCI DSS requiring the Parties to maintain a written agreement acknowledging that ENVISIONWARE has responsibility for the security of cardholder data it possesses by means of its Agreement with CUSTOMER; and
4. that its collection, access, use, storage, disposal and disclosure of Personal Information does and will comply with all applicable federal, state, and foreign privacy and data protection laws, as well as all other applicable regulations and directives.

B. ENVISIONWARE SERVICES

ENVISIONWARE will use all reasonable and necessary precautions to prevent anyone other than its authorized employees from monitoring, using, or gaining access to CUSTOMER personal information. ENVISIONWARE will use all reasonable and necessary precautions to protect CUSTOMER personal information from loss, corruption or unauthorized access or alteration and to prevent the disclosure of CUSTOMER personal information to anyone other than authorized ENVISIONWARE or CUSTOMER employees.



ENVISIONWARE will periodically test and re-evaluate the effectiveness of such precautions. ENVISIONWARE will notify CUSTOMER within 24 hours, if such precautions are violated and ENVISIONWARE has reason to believe that CUSTOMER personal information is affected or disclosed or in danger of being affected or disclosed. Notwithstanding the foregoing, ENVISIONWARE may use, process, view the contents of or monitor CUSTOMER personal information to the extent necessary for ENVISIONWARE to perform under this Agreement.

ENVISIONWARE eCommerce policies require that CUSTOMER establish passwords for the VeriFone gateway known only to CUSTOMER. ENVISIONWARE requires remote access to the CUSTOMER software for diagnostic purposes when a problem occurs but will request that CUSTOMER change any password provided to ENVISIONWARE for the remote session. ENVISIONWARE will not, under any circumstances, maintain a persistent connection to TCLPL internal eCommerce-related systems and will access only when a problem occurs and when CUSTOMER enables remote access. TCLPL is required to assert control as above and to configure all eCommerce-related passwords to industry-approved secure passwords that are changed every 90 days. CUSTOMER must maintain a list of users who are approved to access the VeriFone gateway.

In the event that security vulnerabilities are identified, ENVISIONWARE will promptly notify CUSTOMER and will provide instructions to mitigate risk of that vulnerability being exploited. ENVISIONWARE will provide a patch release or security update within 48 hours of a security vulnerability being discovered, and will provide support as necessary to properly deploy the patch or security update at ENVISIONWARE's sole cost and expense while TCLPL is under maintenance.

ENVISIONWARE will notify CUSTOMER of any security breach within 24 hours of notice or discovery of same. CUSTOMER will notify ENVISIONWARE of any security breach or discovery of same within 24 hours. TCLPL's maintenance agreement will be upgraded to 24x7 live support to facilitate rapid reporting and remedy of issues. ENVISIONWARE shall immediately investigate same and shall coordinate its investigation with CUSTOMER to verify that any breach has been remedied and any security intrusion or flaw eliminated as the sole cost and expense of ENVISIONWARE, unless said security breach was the result of actions or inactions of CUSTOMER.

C. LIABILITY AND INDEMNIFICATION

ENVISIONWARE agrees that it is responsible for the security of cardholder data that it possesses by means of this Agreement, and that the indemnification provision of this section applies to any failure of ENVISIONWARE to protect cardholder data from unauthorized disclosure resulting from a lack of compliance with the Payment Card Industry Data Security Standard or arising from any other negligent act or omission by ENVISIONWARE. Any breach in security related to failure of ENVISIONWARE to protect cardholder data resulting from a violation of any obligation imposed by or established pursuant to the Payment Card Industry Data Security Standard shall constitute a "material breach" of the Agreement.

ENVISIONWARE will not be liable for the disclosure, monitoring, loss, alteration or corruption of CUSTOMER private information to the extent it results from CUSTOMER's failure to implement reasonable security measures to protect against the unauthorized use of facilities, computers network access devices and passwords.



Notwithstanding the foregoing, ENVISIONWARE agrees to that CUSTOMER will be insured under its VeriFone PCI Assurance Program, which provides an AIG zero deductible insurance policy with up to \$100,000.00 of coverage per breach and up to a maximum annual limit of \$500,000.00 per Exhibit: PCI Assurance. ENVISIONWARE agrees to renew the policy, or equivalent, and keep CUSTOMER as an additional insured party through the duration of the contract including all future renewal years. TCLPL can access the insurance program online to verify coverage at any time.

D. ENTIRE EXHIBIT

This EXHIBIT constitutes the entire PCI DSS terms of the Agreement between the parties and shall supersede and merge all prior and contemporaneous communications, understandings and agreements with respect to the subject matter hereof.

PCI ASSURANCE COVERAGE SUMMARY

CUSTOMER (Merchant) will be enlisted in the PCI Assurance Program, which is merchant coverage for an actual breach as well as the costs of a potential credit card breach.

The following is an outline of coverage, benefits and clarifications:

- Coverage includes a breach and/or the costs associated with a suspected breach
- \$100,000.00 of insurance per incident
- \$500,000.00 annual maximum insurance per CUSTOMER
- \$0.00 deductible
- Maximum annual credit card transaction volume per CUSTOMER: \$999,999.00
- Underwritten by AIG Insurance
- Coverage is valid even if CUSTOMER(Merchant) is not currently PCI Compliant. However, merchant must become PCI compliant to reinstate the policy after a reported incident.
- Claim processing time is 30-60 days.
- Coverage is provided only when terminals are delivered under a subscription program.

Sincerely,

John Himes
Director of Sales
1-(678)-382-6552

EXHIBIT G
City of Austin, Texas
NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION

City of Austin, Texas
Equal Employment/Fair Housing Office

To: City of Austin, Texas,

I hereby certify that our firm complies with the Code of the City of Austin, Section 5-4-2 as reiterated below, and agrees:

- (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, including affirmative action relative to employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training or any other terms, conditions or privileges of employment.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Equal Employment/Fair Housing Office 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, 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 City and the Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of the Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require of all subcontractors having 15 or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with the City subject to the terms of this chapter that they do not engage in any discriminatory employment practice as defined in this chapter

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

City of Austin
Minimum Standard Non-Discrimination and Non-Retaliation 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.

The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.

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 and non-retaliation 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 THE CITY A COPY OF THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICIES ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION AND NON-RETALIATION POLICIES, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION AND NON-RETALIATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

Sanctions:

Our firm understands that non-compliance with Chapter 5-4 and the City's Non-Retaliation Policy 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 and the Non-Retaliation Policy.

Term:

The Contractor agrees that this Section 0800 Non-Discrimination and Non-Retaliation Certificate of the Contractor's separate conforming policy, which the Contractor has executed and filed with the City, 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 payment, the Contractor's Non-Discrimination and Non-Retaliation Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 21st day of June, 2017

CONTRACTOR
Authorized
Signature

Title

EnvisionWare, Inc.


CEO


Exhibit H
Non-Suspension or Debarment Certification

City of Austin, Texas
Section 0805
NON-SUSPENSION OR DEBARMENT CERTIFICATION

The City of Austin 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. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of \$25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Contractor's Name: ☐ EnvisionWare, Inc.

Signature of Officer or
Authorized
Representative: ☐  Date: ☐ June 21, 2017

Printed Name: ☐ Michael J Monk

Title ☐ CEO



City of Austin FSD Purchasing Office

Certificate of Exemption

DATE: 02/16/2017

DEPT: Library

TO: Purchasing Officer or Designee

FROM: Toni Lambert (Acting Director)

BUYER: Joe Faulk

PHONE: (512) 974-7466

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

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)

- ☐ 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.

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).

The Austin Public Library Integrated Library System (ILS) is a product from SirsiDynix called Symphony. After contacting a number of vendors, there was only one provider that could provide a solution that fully integrated with our ILS and met the Libraries needs for printing, reservations, and payments. Due to the complexities and scope of this project and the limited access to vendors, we had a need for engineering customization. EnvisionWare's engineers designed a solution that would work with the systems the Library has in place and meet the City of Austin requirements for payment handling.

EnvisionWare and SirsiDynix collaboratively developed support for an internal ILS deposit account so that funds could be placed on deposit and subsequently used for, print, remote print, copy, scan, fax, computer reservations, fines and fee payments and other services.

EnvisionWare was founded in 1998 to serve the needs of libraries with advanced technology solutions. The company's focus is public library self-service and efficiency.

6. Because the above facts and documentation support the requested exemption, the City of Austin intends to contract with EnvisionWare, Inc. which will cost approximately \$ 548,168.85 (Provide estimate and/or breakdown of cost).

Recommended
Certification

JC Yaulk 3/2/2017
Originator Date

Approved
Certification

Toni Lambert 3/4/17
Department Director or designee Date

[Signature] 03/06/17
Assistant City Manager / General Manager Date
or designee (if applicable)

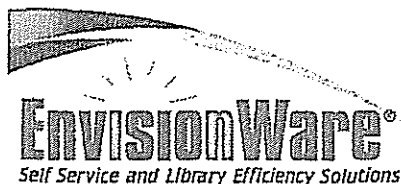
Purchasing Review
(if applicable)

Chisa Hales 04/17/17 JH
Buyer Date Manager Initials

Exemption Authorized
(if applicable)

[Signature] 4/19/17
Purchasing Officer or designee Date

02/26/2013



North America Headquarters
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Duluth, GA 30097-5201 USA
Toll Free US 1 800 216 8370
Voice +1 678 382 6560
Fax +1 678 382 0501
www.envisionware.com
info@envisionware.com

February 6, 2017

Terry Carroll
Project Manager
Austin Public Library
800 Guadalupe
Austin, TX 78701

Dear Terry:

This letter clarifies EnvisionWare's position related to the solution proposed for your library.

EnvisionWare was founded in 1998 to serve the needs of libraries with advanced technology solutions. Our company's focus is public library self-service and efficiency.

EnvisionWare is the publisher of the products proposed, which include the EnvisionWare Suite, Authentication and Accounting Module, SIP2SSL encryption service, EnvisionWare Enterprise Reporter, and EnvisionWare eCommerce Services. EnvisionWare is the creator of these products and has sole access to the source code for updates and ongoing maintenance.

Some of the capabilities, such as enterprise SIP2 encryption and the ability to develop enterprise-wide reports and visualizations for EnvisionWare combined with ILS and other library data sources is a unique offering from EnvisionWare. The seamless integration of MobilePrint Service into the EnvisionWare print management system provides print from any device – print from anywhere capabilities from a fully integrated system supporting a broad range of payment options. EnvisionWare and SirsiDynix collaboratively developed support for an internal ILS deposit account so that funds could be placed on deposit and subsequently used for print, copy, scan, fax, fines and fees and other services.

Certain components of the solution are available only directly from EnvisionWare, Inc. All support for customers is provided only directly by EnvisionWare. Our company continues to work closely with SirsiDynix to ensure seamless interoperability of our system. All releases are tested against new ILS releases.

Please let me know if you have any additional questions.

Sincerely,



Michael J. Monk
CEO

GOAL DETERMINATION REQUEST FORM

Buyer Name/Phone	Elisa Folco/512-974-1421	PM Name/Phone	Terry Carroll/512-974-7481
Sponsor/User Dept.	Library	Sponsor Name/Phone	Terry Carroll/512-974-7481
Solicitation No	REQ 25309	Project Name	Integrated Computer Solution
Contract Amount	\$548,169	Ad Date (if applicable)	NA
Procurement Type			
<input type="checkbox"/> AD – CSP <input type="checkbox"/> AD – Design Build Op Maint <input type="checkbox"/> IFB – IDIQ <input type="checkbox"/> Nonprofessional Services <input type="checkbox"/> Critical Business Need <input checked="" type="checkbox"/> Sole Source* <input type="checkbox"/> AD – CM@R <input type="checkbox"/> AD – JOC <input type="checkbox"/> PS – Project Specific <input type="checkbox"/> Commodities/Goods <input type="checkbox"/> Interlocal Agreement <input type="checkbox"/> AD – Design Build <input type="checkbox"/> IFB – Construction <input type="checkbox"/> PS – Rotation List <input type="checkbox"/> Cooperative Agreement <input type="checkbox"/> Ratification			
Provide Project Description**			
The contract provides the Austin Public Library (APL) patrons with a single integrated solution for computer reservations, pay for print, scanning, photocopying and fine and fee payment services that fully integrates with the APL's Integrated Library System (ILS).			
Project History: Was a solicitation previously issued; if so were goals established? Were subcontractors/subconsultants utilized? Include prior Solicitation No.			
No previous solicitation. This is a new solution.			
List the scopes of work (commodity codes) for this project. (Attach commodity breakdown by percentage; eCAPRIS printout acceptable)			
NA Exempt from M/WBE Program because this is a Sole Source.			
Elisa Folco		4/13/2017	
Buyer Confirmation		Date	

* Sole Source must include Certificate of Exemption ✓

**Project Description not required for Sole Source

FOR SMBR USE ONLY		
Date Received		Date Assigned to BDC
In accordance with Chapter 2-9(A-D)-19 of the Austin City Code, SMBR makes the following determination:		
<input type="checkbox"/> Goals	% MBE	% WBE
<input type="checkbox"/> Subgoals	% African American	% Hispanic
	% Asian/Native American	% WBE
<input type="checkbox"/> Exempt from MBE/WBE Procurement Program		<input checked="" type="checkbox"/> No Goals

GOAL DETERMINATION REQUEST FORM

This determination is based upon the following:

- | | |
|--|--|
| <input type="checkbox"/> Insufficient availability of M/WBEs | <input type="checkbox"/> No availability of M/WBEs |
| <input type="checkbox"/> Insufficient subcontracting opportunities | <input type="checkbox"/> No subcontracting opportunities |
| <input type="checkbox"/> Sufficient availability of M/WBEs | <input type="checkbox"/> Sufficient subcontracting opportunities |
| <input checked="" type="checkbox"/> Sole Source | <input type="checkbox"/> Other |

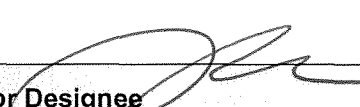
If Other was selected, provide reasoning:

MBE/WBE/DBE Availability

Provide information on availability. *N/A* *see*

Subcontracting Opportunities Identified

List any subcontracting opportunities identified. *N/A* *see*

Counselor Name <i>Stella Richardson-Kinley</i>		<i>4/25/2017</i>
SMBR Staff	Signature/ Date	
		
SMBR Director or Designee	Date	<i>4-25-17</i>
Returned to/ Date:		

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

EnvisionWare, Inc.
Duluth, GA United States

Certificate Number:
2017-226490

Date Filed:
06/20/2017

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Austin

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

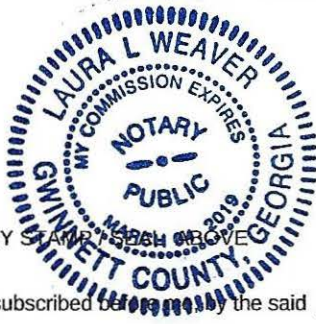
MA 5600 NS170000048
Integrated Solution for Austin Public Library

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Monk, Michael	Duluth, GA United States	X	

5 Check only if there is NO Interested Party. ☐

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



[Signature]

Signature of authorized agent of contracting business entity

AFFIX NOTARY SEAL HERE

Sworn to and subscribed before me by the said ALEXIS SEYMOUR, this the 20TH day of JUNE, 20 17, to certify which, witness my hand and seal of office.

[Signature]
Signature of officer administering oath

LAURA L. WEAVER
Printed name of officer administering oath

NOTARY PUBLIC
Title of officer administering oath