

ORIGINAL

SOFTWARE LICENSE AND SERVICES AGREEMENT FOR PETTRACK SYSTEM SOFTWARE

This Software License And Services Agreement For PetTrack System Software (this "Master Agreement") is made this 11th day of January, 2013, by and between Snohomish County, a home rule charter county and a political subdivision of the State of Washington (the "County" or "Licensee") and Progressive Solutions Inc., incorporated under the laws of the State of California, ("PSI", "Contractor", or "Licensor").

RECITALS

- A. The County has a need for accurate and consolidated pet and kennel licensing and animal control complaint tracking. The County's needs include certain functional requirements, including but not limited to: stabilizing pet information data sets; eliminate duplication of records; present enhanced data queries and reporting; interface directly with the public IVR and on-line pet license systems for lost pet look-up, and other related requirements.
- B. Pursuant to the County's Request for Proposal No. RFP-11-11 dated July 11, 2011 (the "RFP"), the County solicited bids from software vendors for the software needed for accurate and consolidated pet and kennel licensing and animal control complaint tracking.
- C. PSI is the creator, vendor and distributor of certain commercial off the shelf (COTS) systems and modules, commonly known as the PetTrack system (the "PetTrack system"), that are used in pet and kennel licensing and animal control complaint tracking functions. The PetTrack system and module can also be customized to meet various business needs of a contracting entity.
- D. PSI submitted a response to the County's RFP on August 31, 2011 (the "Response to RFP," and, together with the "RFP," the "RFP Documents"), proposing that the County use the PetTrack Software to fulfill the County's business needs.
- E. After evaluating all responses to the RFP, the County selected PSI's Response to RFP as proposing the best solution for the County's business needs, and the parties commenced the negotiations leading to this Master Agreement.
- F. The County desires to obtain a license to use the PetTrack system and have PSI develop certain modifications and enhancements for the County and provide ongoing support and maintenance services. The Contractor desires to license such software to the County and perform the services all as more fully described and under the terms and conditions contained in this Master Agreement.

NOW, THEREFORE, in consideration of the respective agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and Progressive Systems, Inc. agree as follows:

1. Definitions

- A. Acceptance:** Licensed software shall be deemed Accepted by Licensee upon; (1) receipt of Licensed software and delivery of a signed acceptance statement to Licensor or (2) sixty (60) consecutive days of continuous availability of the Licensed software or operation of the system/modules/customization (Acceptance Testing) without a written report to Licensor of one or more confirmed Material Defects(s). The Acceptance Testing process shall be as described in Section 8 of this Agreement.
- B. Application Programming Interface (API)** means the interface provided by the Contractor for integrating workflows between PetTrack and CallXpress IVR (Interactive Voice Response System) and between PetTrack and iNovah, the County Auditor's cashiering system.
- C. Critical Defect** means any Defect that (1) severely impacts the County's ability to use the Software or the System or the Contractor's ability to provide Services, or (2) has a significant financial impact on the County.
- D. Defect** means (1) any failure of the PetTrack Software to operate in accordance with the Documentation, Functional Specifications, and/or (2) any failure of the Contractor to perform the Services in the manner set forth in this Master Agreement.
- E. Deliverable** means the Software, Documentation, and Services to be delivered under this Master Agreement.
- F. Documentation** means collectively: (a) all of the written, printed, electronic, or other format materials published or otherwise made available by PSI that relate to the functional, operational, and/or performance capabilities of the PetTrack Software, including but not limited to, all help files, user or operator reference materials, training documentation, system administration and technical manuals or materials, and other technical information and support or reference materials. The term "Documentation" shall not include Source Code.
- G. Functional Specifications** shall mean those specifications to which the PetTrack Software and the System, respectively, shall conform as set forth in Exhibit A, Requirements Analysis Report, RFP-11-11, and PSI's Response to RFP 11-11.
- H. Hardware** means those items that are classified in Exhibit B1 as recommended County provided hardware.
- I. License(s)** shall mean any license or licenses granted by the Contractor to the County under this Master Agreement.
- J. Material Defect** means Critical Defect and/or Medium Defects.
- K. Medium Defect** means any Defect that materially impacts the County's ability to use the Software or the System or the Contractor's ability to provide services.
- L. Object Code** shall mean the binary machine-readable version of the Software.

- M. Performance Standards** means, collectively the warranties and performance standards set forth in Section 13 and Exhibits A, B, and C, as well as RFP-11-11 and PSI's Response to RFP 11-11.
- N. PetTrack Software** means the pre-existing software products owned by Progressive that are described in the Requirement Analysis Report attached to this Master Agreement as Exhibit A, including all customizations, upgrades, maintenance releases, service packs, bug fixes or patches, and other deliverables provided to the County by Progressive Solutions under this Master Agreement.
- O. Services** means, individually or collectively, all installation, implementation, integration, testing, development, conversion, training, consulting, Support and Maintenance Services, and any other professional or other services that may be provided by the Contractor to the County under this Master Agreement.
- P. Site** shall mean the County's facilities in Snohomish County, Washington.
- Q. Software** means the aggregate of the PetTrack Software and the Custom Work Product: all upgrades, maintenance releases, bug fixes or patches, and other modifications or additional provided under this Master Agreement.
- R. Software [or System] Acceptance Plan** shall mean that plan set forth in Exhibit A.
- S. Source Code** means computer software in the form of source statements for the Software (excluding all Third Party Software) including, without limitation, all software in the form of electronic and printed human-readable, mnemonic or English-like program listings, including printed and on-line descriptions of the design of such software including, without limitation, data definition models, indices, structure tables, system flow charts, program flow charts, defined terms, file layouts, program narratives, global documentation (including global variables) and program listings.
- T. System** means the Deliverables to be installed and integrated so as to be operational at the County Site.
- U. Warranty Period** means the period commencing upon Acceptance and continuing for ninety (90) days.
- V. Work Product** means all products, devices, computer programs, techniques, know-how, algorithms, procedures, discoveries or inventions, and all materials, texts, drawings, specifications, source code and other recorded information, in preliminary or final form and on any whatsoever, that are conceived, reduced to practice, developed, discovered, authored, designed, programmed, invented or otherwise created or made by Contractor (whether solely or jointly with others) in connection with or as a result of its performance of the Services.

2. Scope of This Agreement

- A. **Scope.** This Master Agreement defines the terms and conditions, under which the Contractor will design, develop, integrate, deliver, install, train, and support the Software and other Deliverables.
- B. **Turn-key Basis.** The parties acknowledge that the performance by the Contractor of its obligations under this Master Agreement is to be done on a “turn-key basis.” This expression is understood to mean that the Contractor is fully responsible, pursuant to the terms and conditions of this Master Agreement, for the delivery of the Deliverables in full conformity with the terms and conditions hereof, and that the Deliverables shall function in conformity with the performance criteria stipulated herein upon delivery, upon Acceptance of the System, throughout the Warranty Period, and throughout the term of the ongoing Support and Maintenance Services.

3. Progressive Software and Services

- A. **License Grant.** The Contractor hereby grants the County a nonexclusive, nontransferable license (the “License”) to use the Software and Documentation, pursuant to the terms and conditions set forth in the Progressive Solutions Software License Agreement attached hereto as Exhibit B (the “Progressive Solutions Software License Agreement”), as amended by this Master Agreement.
- B. **Delivery and Installation.** The Contractor shall deliver the PetTrack Software and the Documentation to the County in the manner described in Exhibit A. Installation of the PetTrack software shall occur as described in Exhibit A.
- C. **Conformance with Functional Specifications.** The PetTrack Software delivered to the County by PSI shall conform to the Functional Specifications.
- D. **Training Services.** PSI shall provide training services to the County with respect to the Pet Track software as described in Exhibit A.
- E. **Security and Access.** In performing Services under this Master Agreement, PSI’s employees, agents, and subcontractors shall comply with the County’s security, access, and safety requirements while on the County’s premises.

- 4. **No Reverse Engineering.** Except as expressly provided in this Master Agreement, the County shall not translate, reverse engineer, decompile, disassemble, recompile, update, or modify all or any part of the PSI Software or merge the PSI Software into any other derivative works. In addition The County agrees not to contest or do or aid others in contesting or doing anything which impairs the validity of any proprietary & intellectual property rights, title or interest of Licensor in and to any software.

5. Software Maintenance Services

As a part of this Master Agreement the County is purchasing from PSI one (1) year of maintenance and support services (the “Software Maintenance”) for the PetTrack Software, pursuant to the terms and conditions contained in the Progressive Solutions Software Maintenance Agreement, (“Software Maintenance Agreement”) attached to this Agreement

as Exhibit C. The County may purchase additional years of maintenance and support services under the terms set forth in Exhibit C. The provisions of this Section 5 shall survive the expiration or termination of this Master Agreement, remaining in effect so long as the License is in effect.

6. Term of Agreement

- A. Term of Agreement.** The term of the Master Agreement shall commence upon execution and continue for five (5) year(s) from the date of Acceptance of the System ("Initial Term"). The Initial Term may be extended by the County for one (1) year ("Extension") by providing written notice to the Contractor a minimum of sixty (60) days prior to the expiration date of the Initial Term or applicable Extension. Extensions are subject to termination as provided in this Master Agreement. The maximum number of Extensions under this Master Agreement is limited to a total of five (5).
- B.** The Warranty Period begins at Acceptance and continues for period of ninety (90) days. Support and Maintenance Services shall continue throughout the Initial Term and any Extensions of the Master Agreement.

7. Default and Termination.

- A. Termination for Default.** If either the County or the Contractor fails to perform any act or obligation required to be performed by it hereunder, the other party shall deliver written notice of such failure to the non-performing party. The non-performing party shall have thirty (30) days after its receipt of such notice in which to correct its failure to perform the act or obligation at issue, after which time it shall be in default ("Default") under this Master Agreement; provided, however, that if the non-performance is of a type that could not reasonably be cured within said thirty (30) day period, then the non-performing party shall not be in Default if it commences cure within said thirty (30) day period and thereafter diligently pursues cure to completion. In the event of a party's Default under this Master Agreement, then after giving notice and an opportunity to cure as described above, the non-Defaulting party shall have the right to exercise any or all rights and remedies available to it in law or equity including, without limitation, declaring the Master Agreement terminated, initiating a suit for damages, instituting proceedings for specific performance, and/or requesting an injunction to compel the Defaulting party to observe or perform its covenants and obligations hereunder. If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued as a Termination for Convenience.
- B. Termination for Convenience.** Either Party for its convenience may terminate this Master Agreement, in whole or in part, at any time by providing thirty (30) days written notice, sent certified mail, return receipt requested, to the other Party. After Contractor's receipt of a Notice of Termination, and except as directed by the County, the Contractor shall immediately stop work as directed in the notice, and comply with all other requirements in the notice. Whenever the Master Agreement is terminated for convenience, the Contractor shall be entitled to payment for actual work satisfactorily performed up to the date of termination at unit contract prices for completed items of work and an equitable portion thereof the partially completed items, but shall not be entitled to payment for loss or anticipated profit on deleted or uncompleted work. The

Contractor shall promptly submit its request or termination payment, together with detailed supporting documentation. If the Contractor has any property in its possession belonging to the County, the Contractor shall account for the same and dispose of it in the manner the County directs. All termination payment requests may be subject to determine reasonableness and compliance with the Master Agreement, applicable laws and regulations.

- C. **Termination for Non-Appropriation.** In the event that sufficient funds are not appropriated or allocated for payment under this Master Agreement for any future fiscal period, the County may terminate this Master Agreement as a matter of public convenience as provided herein. The County will not be obligated to make payments for services or amounts incurred after the end of the current fiscal period, provided the County provides the Contractor written notice prior to the end of the current fiscal period that non-allocation of funds is probable and provides a Notice of Termination within fourteen (14) days after the end of the fiscal period.
- D. **Effect of Termination.** The termination of this Master Agreement shall not affect the accrued rights of the County under any other section or paragraph of this Master Agreement or limit the rights and remedies of the County hereunder in any manner.

8. Testing and Acceptance.

- A. Acceptance testing of PetTrack Software shall be deemed to commence either on the date of software installation or on the 5th business day after notification to the County of the availability of the PetTrack Software, whichever occurs first. PetTrack Software shall be deemed Accepted upon: (1) receipt of Licensed software and delivery of a signed acceptance statement to Licensor or (2) sixty (60) consecutive days of continuous availability of the Licensed software or operation of the software without a written report to Licensor of one or more Material Defect(s).
- B. During the acceptance testing period, if Licensee discovers a Material Defect(s) in the PetTrack Software, Licensee shall contact Licensor's telephone support desk and relate the alleged Material Defects. Such contact will suspend the acceptance testing process. Acceptance Testing shall resume immediately if within forty-eight (48) hours of reporting a Material Defect the County receives written notification that a reported issue has been corrected. In the event of an emergency (such as a medical emergency of the staff member or immediate family, act of god, etc), is experienced by a Contractor key staff member, Contractor shall have an additional twenty-four (24) hours to correct and notify the County. If the Material Defect is not resolved within forty eight (48) hours of contacting the support desk (excluding weekends and holidays), Licensee shall deliver a written report to Licensor which will describe the alleged Material Defect(s) and include the day/time of initial support desk notification. For purposes of Acceptance, the date the Licensee contacts Licensor's support desk shall be deemed the day of notification.
- C. If the Material Defect(s) cannot be corrected within forty eight (48) hours (excluding weekends and holidays or a Contractor's employees' emergency) or if forty-eight (48) hours has elapsed without a response from Licensee, the Acceptance Testing shall stop and reset pertaining to the PetTrack Software. Licensor shall provide a detailed, written plan to achieve Acceptance or to make correction or replacements within a mutually agreed upon time at no charge to Licensee. A new Acceptance testing period shall begin upon notification to Licensee of the availability of corrections addressing confirmed deficiencies.

- D. Testing of released corrections pertaining to any alleged Material Defects not corrected within forty eight (48) hours from Licensee notification (excluding weekends and holidays) shall be deemed Accepted after another sixty (60) days of continuous availability/operation of the System/modules/customization without written report to Licensor of one or more Material Defect(s) otherwise Licensee shall revert back to the process described in Section 8C.
- E. If Licensor does not provide a plan within forty eight (48) hours to correct or replace confirmed Material Defects of the System, Licensee may declare a Default (as such term is defined in Section 7A above) of the Master Agreement.

9. Price and Payment.

- A. The County shall pay the Contractor One Hundred Nine Thousand Four Hundred Forty- Five Dollars (\$109,445.00), plus applicable Washington State Sales Tax, for the Deliverables required to be provided by the Contractor through the end of the Warranty Period as stated in the cost summary sheet and payment schedule, described in Appendix C to Exhibit A. Fixed costs for Support and Maintenance Services in Extension years 2 through 10 shall not exceed the amounts indicated in Exhibit C, plus applicable rate of increase per year, as defined in RFP-11-11, or a total of One Hundred Sixty Four Thousand Thirty Five Dollars and Ninety Nine Cents (\$164,035.99), plus applicable Washington State Sales Tax.
- B. Payment schedule and milestones are specified in Exhibit A to the Master Agreement. The County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly in arrears, through the County voucher system for the Contractor's service pursuant to the fee schedule set forth in Exhibit A. Payment shall be made on a Net Thirty (30) day basis. This is a "Fixed-Price" contract based upon the Deliverables identified in Exhibit A and RFP-11-11.
- C. **Dispute of Invoice.** Should the County dispute any of the charges on any invoice from PSI, it shall notify PSI of such disputed charges in writing. The notice shall set forth all details concerning the disputed charges and reasons for the dispute. The County shall pay the invoiced amount minus the disputed amount on the due date of original invoice. If the dispute is subsequently resolved in favor of PSI, PSI shall re-invoice the disputed amount owed then, including interest at the annual rate of one percent (1%) from the original due date, and the County shall pay all amounts agreed or found to be owing to PSI within (30) days of the date of the reissued invoice.

10. Support Services.

- A. Training Services are described in Exhibits A and C.
- B. Installation services are described in Exhibit A
- C. Software Support and Maintenance Services are described in Exhibit C
- D. Software Corrections: Licensee acknowledges that updates/version releases/patches made available to Licensee from time to time are an integral part of the overall performance and value of the PetTrack software. Licensee shall make a good faith effort to (1) install all software

updates/version releases/ operating system patches in a test environment for thorough evaluation and testing prior to deployment in a production environment, and (2) install the tested upgrades/version releases/ operating system patches promptly after completion of testing occurring no later than nine (9) months from the date such updates are made available by Licensor. If the corrective nature of software upgrades are not promptly reviewed and/or the software upgrade installed shortly after notification of availability from Licensor, Licensor staff shall NOT provide further support (*i.e. workarounds*) relating to any issues where Licensor has offered Licensee a recommended resolution that requires implementation of a software update.

11. Confidentiality and Public Disclosure.

- A. Confidential Data.** The Contractor acknowledges that it may be provided access to confidential data of the County that is not subject to public disclosure pursuant to Washington State Chapter 42.56 RCW (the Public Records Act). The Contractor shall use its best efforts: (1) not to, at any time, disclose or disseminate confidential data provided by the County to the Contractor to any other person, firm, organization, or employee who does not need to obtain access thereto consistent with the Contractor's obligations under this Master Agreement; (2) not to disclose or disseminate such confidential data to any third party not affiliated with this Master Agreement or for any purpose not required by the Master Agreement; and (3) to ensure that all persons working for the Contractor, or provided access to the County's data for any reason, protect the County's confidential data against unauthorized use, dissemination, or disclosure. The Contractor's obligations under this section shall not apply to any information that is or becomes available without restriction to the general public by acts attributable to the County or its employees.
- B. Public Disclosure.** In the event that the County receives a request pursuant to the Public Records Act to disclose the Contractor's proprietary software, software documentation, or other information identified by the Contractor in writing as confidential, the County's sole obligations shall be to: (1) notify the Contractor and (2) refrain from disclosing such records for a period of up to ten business days to allow the Contractor an opportunity to seek legal protection against disclosure from a court of competent jurisdiction. The County will not withhold requested records beyond the ten business days unless it may do so based on good faith reliance upon an exception to disclosure under the Public Records Act. The County may but shall not be required to join in any legal proceedings relating to the requested disclosure unless required to do so by the court. In the event that the Contractor initiates legal proceedings, or the County initiates legal proceedings or withholds requested records at the Contractor's request, the Contractor shall indemnify and hold the County harmless against all proceedings and/or withholding of the records. The County shall not be liable to the Contractor for any loss, cost or expense relating to the disclosure of requested records if the Contractor fails to obtain legal protection against disclosure and the County releases the records in good faith.
- C.** Contractor shall indemnify and hold harmless the County, its officials, agents and employees from all loss or expense, including, but not limited to settlements, judgments, set-offs, attorneys' fees and costs resulting from Contractor's breach of this provision.

12. Reproduction of Documentation and Object Code

- A. Documentation.** So long as the license is in effect, the County shall have the right, at no additional charge, to reproduce solely for its own internal use, all Documentation furnished by

the Contractor pursuant to this Master Agreement regardless of whether such Documentation is copyrighted by the Contractor. All Copies of Documentation made by the County shall include any proprietary notice or stamp that has been affixed by the Contractor. Contractor shall furnish for each license purchased by the County, and at no additional charge to customer, one (1) copy of the documentation sufficient to enable the County to operate the Software. All documentation shall be in the English Language.

B. Object Code. The County may reproduce one (1) copy of the Object Code, at no additional charge, solely for back-up or archival purposes.

13. Warranty Provisions.

Unless otherwise extended or limited, the warranties and commitments contained in this Section shall remain in full force and effect throughout the term of this Master Agreement

- A. General Warranties.** Contractor warrants that it owns all rights, title, and interest in and to the Software, or that in the case of any third party software that it has the right to grant a sublicense to use such third party software, that all Software shall conform to the Functional Specifications and Documentation, and that the Software and Services shall be free from material defects in workmanship and materials. This warranty coverage shall include any modifications made to the Software by the Contractor and shall survive the expiration or termination of this Master Agreement.
- B. System.** The Contractor represents and warrants to the County that the System shall function without Defect in accordance with the applicable specifications, Performance Standards, and Documentation.
- C. Software Performance.** Contractor represents and warrants to the County that the Software or System, as applicable, shall meet the Performance Standards, including the maximum response times and availability. The contractor shall correct any failure of the applicable Software and/or System to operate in accordance with the performance warranties set forth in this Section by providing all additional software, and/or services to the County at no additional cost to the County. In the event the Contractor is unable to correct such failure within thirty (30) calendar days, a Default shall be deemed to have occurred.
- D. Services.** The Contractor represents and warrants to the County that it shall perform the Services and provide the Deliverables required by this Master Agreement in a workmanlike manner, in accordance with the standards of care and diligence and the level of skill, knowledge, and judgment normally practiced by nationally recognized information technology services firms in performing services of a similar nature, provided, however, that where this Master Agreement specifies a particular standard or criteria for performance, this warranty is not intended to and does not diminish that standard or criteria for performance. Further, the Contractor represents, warrants, and covenants that it shall provide the services or create any Deliverables using only proven current technology or methods unless otherwise mutually agreed by the parties.
- E. Documentation.** The Contractor represents and warrants to the County that it has provided to the County all Documentation for the Software and the System and that such Documentation is detailed and complete and accurately describes the functional and operation characteristics of the

software and the System. The Contractor further represents and warrants that it will provide to the County updated versions of all such Documentation when it provides updates and other required Maintenance Services and that all such updated Documentation will be complete and accurate and will be at least as detailed as the Documentation issued to the County with the initial version of the Software and the System.

- F. Compatibility.** The Contractor warrants that the Software will be compatible with the County's technical environment, including hardware, operating system(s), software application(s), CPU's, and networks specified in Exhibit A, and RFP-11-11.
- G. Future Compatibility.** Contractor warrants that all updates, upgrades, and revisions to the Software furnished hereunder will be implemented in such a manner as to maintain backward compatibility with the previous version or release of the Software furnished under the Master Agreement, so that such previous versions or releases shall continue to be operable with the Software as updated, upgraded, or revised, in materially the same manner and with materially equivalent performance. Without limiting the foregoing, Contractor further warrants that future Support, Maintenance and other Services will not cause a breach of any other warranty, or require the County to purchase new or additional hardware or software for continued operation of the Software or the System. If newly offered features require faster hardware or new system software, the Contractor will notify County of the new requirements prior to any deployment schedule. If the County elects not to update its software or hardware to comply with such requirements within nine (9) months from the version release date, Contractor shall continue to support the County's software version through the term of any purchased Software Maintenance.
- H. Software Obsolescence.** The Contractor acknowledges that the County is making a significant resource commitment in order to acquire the Software and that the County does not want to move involuntarily to a new system prior to 2030. Having acknowledged the foregoing, the Contractor represents and warrants to the County that it will continue to enhance the Software (meaning adding new features and functionality, in addition to ordinary course defect corrections), as long as the County continues to receive Maintenance and Support Services from the Contractor.
- I. Latest Versions.** Contractor warrants that all Software as delivered will be the most current release or version that the Contractor has made commercially available to its customers, unless the County, after being advised by the Contractor of the availability of a newer release or version, expressly elects to acquire and deploy an older one.
- J. Virus Warranty.** The Contractor warrants that the Software does not contain any malicious code, program or other internal component (e.g., computer virus, computer worm, computer time bomb, or similar component), that could damage, destroy, or alter any computer program, firmware, or hardware or which could, in any manner, reveal damage, destroy, or alter any data or other information accessed through or processed by the Software in any manner. The Contractor shall immediately advise the County, in writing, upon reasonable suspicion or actual knowledge that the Software may result in the harm described above. The Contractor shall indemnify and hold the County harmless from any damage resulting from the harm described above.
- K. Disabling or Restrictive Code.** It is understood that Contractor utilizes encrypted software keys to enable purchased functionality/modules. Without limiting any other provision to the Master

Agreement, the Contractor warrants that the Software does not contain and the Contractor will not introduce any code, date block, time-bomb, Trojan horse, back door, or remote disabling function that may restrict the County's use of or access to the Software or the System or related (non zip code) data or equipment unless the County does not renew annual support and maintenance within the first five (5) years of this Agreement. The Contractor understands and agrees that the County's inability to use the Software or System or its related data or equipment will cause substantial injury or harm to the public health or safety or grave harm to the public interest substantially affecting third persons. No limitation of liability, whether contractual or statutory, shall apply to a breach of this warranty.

- L. Intellectual Property.** The Contractor represents and warrants to the County that the County's use of the Software does not and shall not infringe upon any United States or Canadian patent, trademark, copyright, trade secret or other intellectual property, or proprietary right of any third party, and there is currently no actual or threatened suit against the Contractor by any third party based on an alleged violation of such right.
- M. Third Party Warranties and Indemnities.** For any third party Software provided by the Contractor to the County, Contractor hereby assigns to the County all end-user warranties and indemnities relating to such third party Software. To the extent that the Contractor is not permitted to assign any of such end-user warranties and indemnities through to the County, the Contractor shall enforce such warranties and indemnities on behalf of the County to the extent the Contractor is permitted to do so under the terms of the applicable third party agreements.
- N. Authority.** Each Party represents and warrants to the other that it has the right to enter into this Master Agreement. Contractor further represents and warrants that there are no outstanding assignments, grants, licenses, encumbrances, obligations, or agreements (whether written, oral, or implied) that are inconsistent with this Master Agreement and the rights granted or transferred herein. This warranty shall survive the expiration or termination of this Master Agreement.
- O. Privacy.** Contractor acknowledges that the County data may contain personal data, health data, and/or medical records data, the use of which data is subject to various Privacy Laws, including all state, federal, and international laws and regulations and state, federal, and national government agency orders and decrees to which the County may be subject ("Privacy Laws"), as well as certain restrictions imposed on the County data by the data subjects or other third party data providers. The Contractor agrees to strictly abide by all such restrictions pertaining to the county data, as they are promulgated and applied, currently and in the future. Furthermore, Contractor shall in good faith execute any and all agreements that the County is required to have the Contractor execute in order that the County may comply with any Privacy Laws. If the Contractor's use (whether directly or indirectly) of the County data is contrary to any Privacy Law, or contrary to any of the restrictions set forth in this Master Agreement, the County shall have the right to: (1) terminate this Agreement for cause if such breach has not been cured within five (5) days of receipt by the Contractor of written notice, and (2) pursue any other legal and equitable remedies.
- P. Survival.** The provisions of this Section 13 shall survive the expiration or earlier termination of this Agreement.

14. Indemnification.

- A. Contractor's Indemnification.** The Contractor shall hold harmless from and indemnify the County, its elected and appointed officials, employees, and agents, against all claims, losses, suits, actions, costs, counsel fees, litigation costs, expenses, damages, judgments, or decrees by reason of damage to any property of any person or party and/or any death, injury or disability to or of any person or party, including any employee, arising out of or suffered, directly or indirectly, by reason of the performance of this Master Agreement or any act, error or omission of the Contractor, Contractor's employees, agents, or subcontractors, whether by negligence or otherwise; provided, that if the claims for damages arise out of bodily injury to persons or damage to property and caused by or result from the concurrent negligence: (1) of the County and its elected or appointed officials, employees, or agents, and (2) the Contractor and its agents, employees, or subcontractors, the hold harmless and indemnity provisions of this Master Agreement shall be valid and enforceable only to the extent of the negligence of the Contractor, its agents, employees, or subcontractors. The Contractor's obligation shall include, but not be limited to, investigating, adjusting, and defending all claims alleging loss from action, error, or omission or breach of any common law, statutory or other delegated duty by the Contractor, Contractor's employees, agents, or subcontractors.
- B. Industrial Insurance Act.** With respect to the performance of this Master Agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, and any similar law of any other jurisdiction, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Master Agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this Master Agreement.
- C. County's Indemnification.** The County acknowledges its duty to monitor ongoing operations, the County agrees to indemnify, defend and hold the Contractor harmless against any and all loss or damage in any way arising out of or in connection with products furnished hereunder, or by any failure of the products to function, in whole or in part due to the sole negligence or willful misconduct of the County.
- D. Patent and Other Proprietary Rights Indemnification.**
- a. Indemnification.** Contractor will indemnify and hold the County harmless from and against any and all claims, losses, liability, damages, costs, and expenses (including attorney's fees, expert witness fees, and court costs) directly or indirectly arising from or related to any actual or alleged infringement (including contributory infringement), misappropriation, or violation of any third party's patents, copyrights, trade secret rights, trademarks, or other intellectual property or proprietary rights of any nature in any jurisdiction in the world, resulting from the use of the Software by the County. If the County's continued use of the Software is restricted or prohibited as a result of any such infringement, misappropriation, or violation of third party rights, the Contractor shall, at the County's option and at no charge to the County, and in addition to the County's other rights and remedies, (1) secure for the County the right to continue using the Software as allowed under this Master Agreement, (2) modify or replace the infringing components of the software so that they are non-infringing with no loss or degradation of features,

functionality, or performance, or (3) refund to the County all amounts paid by the County for the Software.

- b. **Exclusions.** Notwithstanding the foregoing, the Contractor will not be obligated to indemnify the County to the extent that an infringement or misappropriation claim is based upon (1) use of the Software in breach of this Master Agreement, if such infringement or misappropriation would not have occurred but for such breach; (2) use of the Software in combination with other products not supplied or recommended by the Contractor or specified by the Contractor as being compatible with the software, if such infringement or misappropriation would not have occurred but for such combined use; (3) use of any release of the Software other than the most current release made available to the County, if the most current release was furnished to the County Specifically to avoid such infringement or misappropriation and if such infringement or misappropriation would have been avoided by use of the most current release; or (4) any modification of the Software made by the County (other than at the Contractor's direction), if such infringement or misappropriation would not have occurred but for such modification.

E. **Survival.** The provisions of this Section 14 shall survive the expiration or earlier termination of this Master Agreement.

15. Insurance.

A. **No Limitation.** Contractor's maintenance of insurance as required by this Master Agreement shall not be construed to limit the liability of the Contractor to the coverage provided by insurance or to limit the County's recourse to any remedy indemnification and payment to the County under the terms of a required insurance policy.

B. **Minimum Scope of Insurance and Limits.** The Contractor shall obtain and maintain continuously and for the duration of the Master Agreement, and for three years following termination, the following insurance:

- a. **Commercial General Liability Insurance** with a minimum limit of \$1,000,000 per occurrence, \$2,000,000 general aggregate, and endorsed to include Snohomish County, its officers, elected officials, agents, and employees as an additional insured with respect to the work performed for the County. Insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent coverage.
- b. **Worker's Compensation Coverage** as required by the industrial Insurance laws of the State of residency. The Contractor's obligation shall extend to itself and any subcontractors working on behalf of the Contractor and must be obtained before performing any work under the Master Agreement. The County will not be responsible for payment of workers' compensation premiums or for any other claim or benefit for the Contractor, its employees, consultants, or subcontractor that might arise under the residency state's Industrial Insurance laws, howsoever named.
- c. **Professional Technical Liability** insurance appropriate to the Contractor's profession with limits of \$1,000,000 per claim and \$1,000,000 policy aggregate limit. The policy

shall have a retroactive date prior to or coincident with the date of the Master Agreement, and the Contractor shall maintain coverage for the duration of the Master Agreement and for three years following termination of the Master Agreement.

C. Other Insurance Provisions. The required Commercial General Liability Insurance and Professional Technical Liability Policies shall meet the following requirements: The Contractor's insurance coverage shall be placed with insurance carriers licensed to do business in the state of Washington with a current A.M. Best rating of not less than A:VII. The Contractor's insurance coverage shall be primary insurance with respect to the County. Any insurance or self-insurance coverage maintained by the County shall be excess of the Contractor's insurance and shall not contribute with it. The County reserves the right to receive a certified copy of required insurance policies and to approve any deductible. The Contractor's insurance shall be endorsed to state that the insurer shall provide at least thirty days prior written notice by certified mail, return receipt requested, of any impending cancellation, non-renewal, expiration, or reduction in coverage. Contractor shall furnish the County with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Contractor before commencement of the work. The County reserves the right to receive a certified copy of required insurance policies and to approve any deductible.

16. Obligations that Survive Termination.

In addition to any other specific provisions that so state, the parties recognize and agree that their obligations under Sections 9 (Price and Payment), 11 (Confidentiality and Public Disclosure), 14 (Indemnification), 19(B) (Assignment and Transfer), 19(C) (Independent Contractor), 19(E) (Compliance with Laws), 19(I) (Governing Law and Venue), 19(J) (Applicability of Uniform Commercial Code), 19(K) (No Waiver), 19(M) (Covenant of Good Faith), 19(N) (Third Party Beneficiaries), 19(O) (No Construction Against Drafter), and 19(P) (Records) of this Master Agreement survive the cancellation, termination, or expiration of this Master Agreement.

17. Exhibits And Order Of Precedence

A. Incorporation of Exhibits. The following Exhibits, which are attached to this Master Agreement, are by this reference incorporated into and made a part of this Master Agreement:

- a. EXHIBIT A - Requirement Analysis Report
- b. EXHIBIT B - Software License Agreement
- c. EXHIBIT C - Software Maintenance Agreement

B. Entire Agreement and Order of Precedence. In the event of any conflict between the provisions of the Master Agreement, the provisions of Exhibit A, Exhibit B, Exhibit C and/or the provisions of RFP 11-11, such conflict shall be resolved as follows:

- a. Master Agreement
- b. Exhibit A - Requirement Analysis Report

- c. Exhibit B - Software License Agreement
- d. Exhibit C - Software Maintenance Agreement
- e. RFP-11-11

18. Notices

All notices, demands, or other communications herein provided to be given or that may be given by any party to the other under this Master Agreement shall be deemed to have been duly given when made in writing and delivered by one of the following methods: (1) in person, or (2) courier with signed receipt of delivery, or 3) upon the date of recorded receipt if deposited in the United States mail, postage prepaid, certified mail, return receipt requested, as follows:

Notices to PSI, Inc.: Glenn Vodhanel, President
Progressive Solutions, Inc.
PO Box 783
Brea, CA 92822-0783

Notices to County: Snohomish County Auditor
3000 Rockefeller Ave M/S 306
Everett, WA 98201

19. Miscellaneous

- A. Entire Agreement; Amendments.** No modification or amendment to this Master Agreement will be valid or binding unless reduced to writing and duly executed by authorized representatives of both parties.
- B. Assignment and Transfer.** No party may assign, delegate, or otherwise transfer of any rights or obligations under this Master Agreement without the prior written consent of the other party, which may be granted or withheld in the other party's sole discretion. In the event that Contractor assigns, or otherwise transfers this Master Agreement, or any part hereof, or delegates any of its duties hereunder to any Third Party or Affiliate and, within eighteen (18) months after such transfer, the County, in its sole discretion, is not satisfied with the level of service provided under this Master Agreement, the County shall have the right to terminate this Master Agreement for convenience and transition to a new vendor. All Services provided by the Contractor's transferee during the transition period shall be provided at no cost to the County. The County will be responsible for payment of the annual Software maintenance fees during the transition period.
- C. Independent Contractor.** All work performed by the Contractor in connection with the Software and/or Services described in this Master Agreement shall be performed by the Contractor as an independent contractor and not as the agent or employee of the County. All persons furnished by the Contractor shall be for all purposes solely Contractor's employees or agents and shall not be deemed to be employees of the County for any purpose whatsoever. The Contractor shall furnish, employ, and have exclusive control of all persons to be engaged in performing Services under this Master Agreement and shall prescribe and control the means and

methods of performing such Services by providing adequate and proper supervision. The Contractor shall be solely responsible for compliance with all rules, laws, and regulations relating to employment of labor, hours of Social Security, and other payroll taxes including applicable contributions from such persons when required by law.

D. Acceptance and Removal of Contractor Personnel and Subcontractors. All Contractor personnel, representatives, agents and subcontractors assigned to perform Services hereunder will be subject to acceptance by the County in the County's sole discretion. On-site Services will be performed at a location specified by the County. The County in its discretion may request removal of any Contractor personnel, representative, agents or subcontractor providing Services hereunder, and Contractor will remove said personnel or subcontractor in accordance with each such request. The County may immediately remove any Contractor personnel, representative, agents or subcontractor in the County's sole discretion. Contractor will manage the transition of replacement personnel or subcontractor to minimize impact on any given project. Contractor may not subcontract the Services or any portion of the Services under this Master Agreement to any third party (including any independent contractor) without the prior written consent of the County, which consent may be withheld in the County's sole discretion. If the County consents to the use of a subcontractor, then (1) Contractor guarantees the subcontractor's performance, (2) Contractor remains obligated under this Master Agreement for the performance of the subcontracted Services, (3) Contractor must enter into a written agreement with the subcontractor obligating the subcontractor to comply with Contractor's obligations under this Master Agreement, and (4) the County has no obligations under this Master Agreement to the subcontractor and the subcontractor has no rights or remedies against the County under this Master Agreement or otherwise. Contractor may not impose on the County a surcharge for any subcontractor fees.

E. Compliance with Laws. In the performance of their respective obligations under this Master Agreement the parties shall each comply with all material applicable federal, state, and local laws, ordinances, rules and regulations.

F. Non-Discrimination. It is the policy of the County to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability as provided in Washington's Law against Discrimination, Chapter 49.60 RCW, and the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC. These laws protect against specific forms of discrimination in employment, credit transactions, public accommodation, housing, county facilities and services, and county contracts.

The Contractor shall comply with Chapter 2.460 SCC, which is incorporated herein by this reference. Execution of this contract constitutes a certification by the Contractor of the Contractor's compliance with the requirements of Chapter 2.460 SCC. If the Contractor is found to have violated this provision, or furnished false or misleading information in an investigation or proceeding conducted pursuant to Chapter 2.460 SCC, this contract may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect the Contractor's obligations under other federal, state, or local laws against discrimination

- G. Federal Non- Discrimination.** The County assures that no persons shall on the grounds of race, color, national origin, or sex as provided by Title VI of the Civil Rights Act of 1964 (Pub. L. No. 88-352), as amended, and the Civil Rights Restoration Act of 1987 (Pub. L. No. 100-259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any County sponsored program or activity. Snohomish County further assures that every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.
- H. Security, Access, and Safety Requirements.** The Contractor shall instruct its employees, agents, and subcontractors that they shall comply with the County's security, access, and safety requirements for the protection of the County's facilities and employees while on the County's premises.
- I. Governing Law and Venue.** This Master Agreement shall be governed by and enforced in accordance with the laws of the State of Washington. The venue of any action arising out of this Agreement shall be in the Superior Court of the State of Washington in and for Snohomish County. Any and all disputes arising out of this Master Agreement shall be subject to good faith negotiations between the parties before initiation of any legal proceedings. The non-prevailing party in any legal dispute shall pay all costs and expenses, including expert witness fees and attorney fees, incurred by the prevailing party in resolving such legal dispute.
- J. Applicability of Uniform Commercial Code.** To the extent this Master Agreement entails the delivery of Software or Software Products, such Software or Software Products, shall be deemed "goods" within the meaning of Article 2 of the Uniform Commercial Code, Title 62A RCW, except when deeming services as "goods" would cause an unreasonable result. This Master Agreement shall control where there is a conflict with the UCC.
- K. No Waiver.** No action or failure to act by the County shall constitute a waiver of any right or duty afforded to the County under the Master Agreement, nor shall any such action or failure to act by the County constitute an approval of, or acquiescence in, any breach hereunder, except as may be specifically provided in writing and signed by and authorized representative of the County.
- L. Computation of Time; Force Majeure.** Except as may be expressly provided to the contrary elsewhere in this Master Agreement, the word "day" shall mean "calendar day," and the computation of time shall include all Saturdays, Sundays and holidays for purposes of determining time periods specified in this Master Agreement. If the final date of any period of time set out in any provision of this Master Agreement falls upon a Saturday or a Sunday or a legal holiday, then in such event, the time of such period shall be extended to the next day which is not a Saturday, Sunday or a legal holiday. The time periods for either party's performance under any provisions of this Master Agreement shall be extended for periods of time during which that party's performance is prevented due to circumstances beyond that party's control, including without limitation, force majeure, strikes, embargoes, shortages of labor or materials, governmental regulations, acts of God, war or other strife.
- M. Covenant of Good Faith.** Each party agrees that, in its respective dealings with the other party under or in connection with this Master Agreement, it shall act in good faith.

- N. Third Party Beneficiaries.** The provisions of this Master Agreement are for the exclusive benefit of the County and PSI. This Master Agreement shall not be deemed to have conferred any rights, express or implied, upon any third person.
- O. No Construction against Drafter.** The parties agree that any principle of construction or rule of law that provides that an agreement shall be construed against the drafter of the agreement in the event of any inconsistency or ambiguity in such agreement shall not apply to the terms and conditions of this Master Agreement.
- P. Access to Books and Records.** The Contractor agrees that an authorized representative of the County shall, upon reasonable notice, have access to and the right to examine any pertinent books and records of the Contractor related to the performance of this Master Agreement. The Contractor shall maintain such books and records for this purpose for no less than six (6) years after the termination or expiration of this Master Agreement.
- Q. Severability.** If any provision of this Master Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be found invalid or unenforceable, the remainder of this Master Agreement and the application of that provision to other persons or circumstances shall not be affected thereby, but shall instead continue in full force and effect, to the extent permitted by law.
- R. Execution in Counterparts.** This Master Agreement may be signed in several counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties have executed this Master Agreement as of the day of the year first written above.

COUNTY OF SNOHOMISH:	CONTRACTOR:
<i>for</i> By: <u><i>Aaron Heardon</i></u> <i>1/11/13</i> GARY HAAKENSON Snohomish County Executive Deputy County Executive	<u><i>Alan R. Vedhaug</i></u> By: _____ Title: <i>PRESIDENT</i> <i>1/11/12</i>
Approved as to Snohomish County Code Section 2.350: <u><i>Gage Andrews</i></u> By: Gage Andrews Director of Information Services	
Approved as to insurance provisions: <u><i>Keith Mitchell</i></u> By: Keith Mitchell Risk Manager	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: auto;"> <p style="text-align: center; margin: 0;">COUNCIL USE ONLY</p> <p>Approved: <u><i>1-9-13</i></u></p> <p>Docfile: <u><i>D-6</i></u></p> </div>

AM

Approved as to form:

Lyndsey M. Downs 11/6/12
By: Lyndsey Downs
Deputy Prosecuting Attorney

SW

EXHIBIT A
Requirements Analysis Report

[See attached.]



Exhibit A – Requirements Analysis Report

1.0 Overview:

The following implementation plan outlines the tasks to be completed by Progressive Solutions, Inc. and Snohomish County (Department of Information Services and/or the Office of the Auditor) to provide Snohomish County with the Pet Licensing solution proposed in PSI's response to RFP 11-11: Automated Pet Licensing System Replacement.

2.0 Project Team:

Name	Responsibility	Contact
Glenn Vodhanel President, PSI	<ul style="list-style-type: none"> • Review of RAR Document • Cashiering integration API 	glennv@progressivesolutions.com (714-671-1597)
Steve LeVan Project/Support Manager, PSI	<ul style="list-style-type: none"> • Primary point of contact • Project task implementation • Data migration • Software installation • Software training 	steve@progressivesolutions.com (714 671-1597)
Vicki Lubrin Div. Mgr. - License & Animal Control Div., Auditor's Office (Snohomish County)	<ul style="list-style-type: none"> • Business process owner • Primary business process contact 	Vicki.lubrin@snoco.org 425-388-3505
David Stroble Business Analyst, Information Services (Snohomish County)	<ul style="list-style-type: none"> • Primary technology contact 	david.stroble@snoco.org 425-388-7020
M.E. Kalsen Business Analyst, Information Services (Snohomish County)	<ul style="list-style-type: none"> • Primary technology contact – Implementation forward (replacing Dave Stroble) 	m.e.kalsen@snoco.org 425-388-3225

3.0 Project Communication

- PSI will provide project progress reports to the County Project team on a monthly basis, along with calculations of the percent completed on each task within the project.
- Conference calls, initiated by PSI, will take place on a regular basis, usually bi-weekly, but may occur more frequently in order to keep all project stakeholders aware of project status.
- The primary contacts for business and technical functions are listed in section 2.0 – Project Team.

4.0 Scope of the Project

4.1 Items Outside the Defined Scope:

These features/options identified in PSI's responses to Form 9 and 12 of the RFP 11-11 *shall not* be pursued, implemented or billed:

- Item 8.21: Implementation of Time-Out Feature
- Item 8.51: Custom Numbering shall not be required as the year may be printed as notational item without cost
- Item 8.60: SQL replication and configuration to enable recording of data off-line
- Item 12.10: Ability to exchange data bi-directionally securely with other systems is not provided intrinsically – the capability is provided via PetTrack API.

4.2 Items Inside the Defined Scope:

These software applications and feature options identified in PSI's responses to the RFP *shall be* implemented:

- PetTrack software application (4 admin, 12 read/write users, unlimited read only)
- PetTrack API (2 licenses) interfaces to
 - INovah Cashiering System
 - a. Additional integration services will be purchased from INovah
 - County CallXpress IVR System
 - a. The IVR integration provides lost pet Information including pet name breed, age, owner name & owner phone (primary and secondary) to the caller (pet finder).
 - b. The PSI API is the integration link to retrieve/return information with the existing IVR hardware/software
- Web Pages
 - Complaint Submission web page(s)
 - Pet License Renewal web page(s)
 - Lost/Found pet web page(s)

5.0 Implementation Plan

Notes:

- All tasks listed must be in compliance with the County Information Architecture standards, provided in Appendix D.
 - If any conflicts with proposed hardware/software or task items are encountered, they will be noted in Appendix D – Applicable County Architectural Standards
- The vendor agrees to abide by the published Snohomish County remote vendor access policy that will be delivered prior to execution of this agreement
 - See Appendix E – County Remote Vendor Access Policy
- The standard Snohomish County Change Control process is in force during the implementation of this software application
- As the project progresses, some tasks may require more time than has been allocated, while others will require less. PSI considers this to be a pool of hours from which time can be re-allocated as needed by joint agreement between the County and the PSI Project Manager
 - See Appendix C – Summary Cost Sheet & Payment Schedule. The project will be conducted in phases. PSI will work with County staff to:
 - Verify County server environment post setup/configuration
 - Configure the demonstrated PetTrack system according to the parameters accepted as a result of the Fit Analysis
 - Migrate all provided County data and present it back to the County for review (Initial migration)
 - Any required modifications will be made by PSI
 - All aspects of the application will be tested by Snohomish County staff and, if the results of the testing successfully meet the requirements outlined in the acceptance criteria of each phase, it will be accepted for final implementation.
 - PSI will migrate the final/current Snohomish County data (Approximately 6 tables of data) to the new PetTrack data schema as defined in the fit analysis
 - The County will provide the final data set (MS Access format) at an agreed-upon date and then cease all activity in that database. The converted database and accompanying software will go live in production subsequently, on an agreed-upon date. The go-live date is usually 2-3 days later.

Phase: 5.1 Establish County Server Environment (SQL & Web)

Responsibilities: County

Overview: Establish and configure the SQL environment within Snohomish County.
Establish and configure vendor access permissions

Task List	Deliverables	Acceptance Criteria
1. Create virtualized Microsoft 2008 R2 database space (County DIS)	8. Functional and configured MS SQL Server (County DIS)	1. Fully functional SQL Server host environment
2. Install Microsoft SQL 2008 R2 (including all applicable patches & enterprise maintenance software using Mixed Mode authentication) (County DIS)	9. Identified web server (IIS installed)	2. Functional Web hosting environment
3. Configure necessary credentials & permissions (County DIS)	10. PSI access process completed by virtue of vendor complying with the Vendor Access Policy Request forms	3. Validated ability for vendor to access the necessary components of the environment, as defined by Snohomish County Vendor Access Policy
4. Identify remote access procedure for vendor (software installs) (County DIS)	11. SSL certificate for secure payment acceptance	
5. Create/identify web server location that will house the renewal web pages (County DIS)		
6. Verify that servers are properly configured (County DIS & PSI)		
7. Acquisition of SSL certificate for secure payment acceptance		

Payment Schedule: No payments are due to the vendor at the completion of Phase 5.1

Phase: 5.2 Initial Migration Phase

Responsibilities: Mixed Vendor & County responsibilities

Overview: County will deliver the existing County pet licensing database to PSI. PSI will convert the entire Snohomish County pet licensing data to the PetTrack schema for the first time and deliver converted data and accompanying PetTrack database & application package (via remote installation) to the County.

PSI will install the client install software package on the Application Server. Additionally, PSI will assist with the installation of client software on the identified workstations. The software package referenced in this section consists of: SQL database, reports, mailer (zip + 4) info, workstation install package, and other software as needed.

Software installation: PSI will deliver, license and install the following software applications as part of the PetTrack implementation project (number of seats in parentheses).

Task List	Deliverables	Acceptance Criteria
1. Provide County pet licensing data to PSI in the Microsoft Access format via FTP (County Auditor)	1. Permissions and access confirmed for PSI to remotely access all servers, based on the Snohomish County Vendor Access Policy	1. Successful initial migration and testing of County data set to the SQL environment
2. Provide well-defined field names (County Auditor)	2. Database installed and configured with converted pet license dataset	2. Successful training session for County Auditor staff
3. Install converted County data & PetTrack database/software package on County servers & workstations (PSI)	3. One remote training session completed with specified Auditor - Licensing staff member who will be primary on-site support for Auditor - Licensing staff	3. Receipt of all applicable documentation and training materials
4. Install PetTrack client software on designated workstations using administrator rights (County Auditor & PSI)	4. Applicable County Auditor business information transmitted to PSI (forms, rate schedules, etc.)	4. Successful installation of PetTrack Client software on user workstation(s)
5. Schedule meeting(s) with designated staff (PSI)		
6. Remote training typically occurs with one individual (when data is almost approved more staff)	5. Set of custom reports (standardized default reports) accepted by the County Auditor	

<p>members are allowed access to data for further review) (PSI)</p> <p>7. Provide logos, letters, forms (Renewal, Delinquent) etc. (County Auditor)</p> <p>8. Customization of standard reports (PSI)</p> <p>9. Provide rates/penalties for PSI implementation of rates (County Auditor)</p> <p>10. Access to designated PSI IP address for zip + 4 updates and licensed software validations for each machine intended to execute software</p>	<p>6. PSI shall provide API documentation for review. After 30 days without receipt of county comments, documentation shall be deemed accepted per the PSI Software License Agreement.</p> <p>7. Client (PetTrack) software installed on all workstations</p> <p>8. Delivery of all applicable system documentation</p> <p>9. Access to designated PSI IP address for zip + 4 updates and licensed software validations for each machine intended to execute software</p>	
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Payment Schedule: Payment of \$38,000 (plus applicable local sales tax) from Snohomish County will be due at the completion of this task list and acceptance by the County. PSI will submit a properly completed invoice showing tasks completed. The County will pay Net Thirty (30) Days from receipt of invoice.

PetTrack Licenses:

- Administrator licenses (4)
- Read/write licenses (12)
- Unlimited PetTrack Approval/Read-Only Licenses
- PetTrack API licenses (1)

Phase: 5.3 Final Migrations & On-Site Training

Responsibilities: Mixed Vendor & County responsibilities

Overview: Ready all hardware/software/procedures for production use. The full County pet licensing data set (MS Access tables) will be converted (second time) to the PetTrack schema.

Task List	Deliverables	Acceptance Criteria
<ol style="list-style-type: none"> 1. Completes final data migration & installs data on County server (PSI) 2. Provide training staff on-site to answer all questions (PSI) 3. Work on transferring/copying IIS applications to public-facing destination (County DIS & PSI) 4. Review Complaint Module Customization progress (County Auditor & PSI) 5. Obtain "Card Not Present" Merchant Account & transmit merchant ID, terminal ID and other gateway required values (County Auditor) 6. Submit completed paper gateway application form to PSI (Visa/MasterCard) (County Auditor) 7. Implement base PetTrack Web Renewals for testing & production us (PSI) 8. Provide training to Evaluate Internet Web Renewal and Complaint Project (Remote/Onsite Services) 	<ol style="list-style-type: none"> 1. Validated & tested (fully functional) PetTrack pet licensing system 2. Validated & tested web environment (complaint module) 3. Validated & tested web payment portal 4. All software All software purchased under this contract delivered to the County and installed/configured to create a fully functional environment 5. Applicable training delivered to County staff 6. API delivered 7. Full System in production at the County 	<ol style="list-style-type: none"> 1. Testing of system functionality per Auditor business process yields no non-repairable anomalies

(PSI) 9. Provide approval of Design and Workflow (County Auditor) 10. Provide API and test program for staff review (with PSI hands on instruction)		
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Payment Schedule: Payment of \$27,000 (plus applicable local sales tax) from Snohomish County due at the completion of this task list and acceptance by the County. PSI will submit a properly completed invoice showing tasks completed. The County will pay Net Thirty (30) Days from receipt of invoice.

Phase: 5.4 Final Acceptance Testing

Responsibilities: Mixed Vendor & County responsibilities

Overview: At the point of the final migration (application into Production), all applicable components will be thoroughly tested to the satisfaction of the County.

Task List	Deliverables	Acceptance Criteria
<p>Each of the following scenarios will be tested by the County Auditor & PSI:</p> <ol style="list-style-type: none"> 1. Workflow of Minor Transactions <ul style="list-style-type: none"> • Split Tender Payment • Combination • Charge Transactions 2. Workflow of Major Transactions <ul style="list-style-type: none"> • Issue Pet Renewal Notice 3. Accept Renewals via mail 4. Enter Payments 5. Merge Payments 6. Integration API 7. Use of account number to determine rates due by pet 8. Testing of underpayment letters 9. Tasks are successfully pulled by PSI's batch process and the following data elements are populated: <ul style="list-style-type: none"> • Online Complaint Module • Test home address retrieval lookup from Pet Tag 	<ol style="list-style-type: none"> 1. Completion of all final user acceptances testing by County staff per their business process requirements 2. Acceptance of final production Pet Licensing system 	<ol style="list-style-type: none"> 1. All tests listed in the <i>Task List</i> of this Phase will be successfully passed to the satisfaction of the County

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Document Scanning:

- PSI document scanning integration capability was not purchased under this contract.
- PSI will demonstrate document scanning functionality using a County workstation and scanner

Payment Schedule: Payment of \$28,000 (plus applicable local sales tax) from Snohomish County due at the completion of this task list and acceptance by the County. PSI will submit a properly completed invoice showing tasks completed. The County will pay Net Thirty (30) Days from receipt of invoice.



Phase: 5.5 Staff Training

Responsibilities: Mixed Vendor & County responsibilities

Overview: Provide Snohomish County end-users, managers and administrators of the software with a comprehensive knowledge transfer

Note: Duration of (8 hours) is equal to One (1) business day

Task List	Deliverables	Acceptance Criteria
1. PetTrack Setup/Training (16 hours) (PSI)	1. 8 hours of on-site setup	1. Evaluation of training session effectiveness
2. Based on the internal business practices of the Auditor's Office this session will focus on the integrated PetTrack workflow (PSI & County Auditor)	2. 8 hours of on-site training	2. Comfort level of staff
	3. Up to 64 total hours of remote training in support of the County staff	3. Ability to perform maintenance tasks unassisted
	4. Documented exercises that are used in the training sessions	4. Completion of successful continuing use of the software for the period from go live as described in the Software License and Services Agreement
	5. Training syllabus documents	

Expenses associated with on-site training are subject to the County's travel reimbursement policy attached as Appendix F.

Phase: 5.7 API Integration

Responsibilities: Mixed Vendor & County responsibilities

Overview: Integration of the Application Programming Interface (API) is centered on two areas:

- INovah Cashiering Integration
- CallXpress IVR system

PSI will install, configure and test their applications programming interface (API) for integrating workflows between cashiering and PSI.

PSI's .net 4.0 API allows 3rd party vendors to request via the API the balance owed on the specified account(s). In addition, the API may be used to mark accounts as paid and to print underpayment letters. It can also help to identify owner information to facilitate return of missing pets.

Task List	Deliverables	Acceptance Criteria
<ol style="list-style-type: none"> 1. PSI will spend up to one (1) day remotely installing, configuring, and testing the PetTrack API. (PSI) 2. Install, configure, & test the applications programming interface (API) for integrating workflows between cashiering, and PSI. PSI will make available technical support staff to provide additional communication to the developers/maintenance staff of your Cashiering vendor to facilitate successful integration. 3. All PSI's services to validate ALL functions of the API using the PSI provided test program are included in this implementation plan (PSI) 	<ol style="list-style-type: none"> 1. Installed, configured, and tested PetTrack API module 2. Document containing programming parameters required to utilize all PetTrack API capabilities for Cashiering integration 3. Up to one day (8 hours) of remote training 	<ol style="list-style-type: none"> 1. Successful testing of the PetTrack API by county staff 2. All data elements are properly passed per PSI test program

Payment Schedule: Payment of \$15,500 (plus applicable local sales tax) for maintenance from Snohomish County will be due at the completion of the Acceptance Phase.

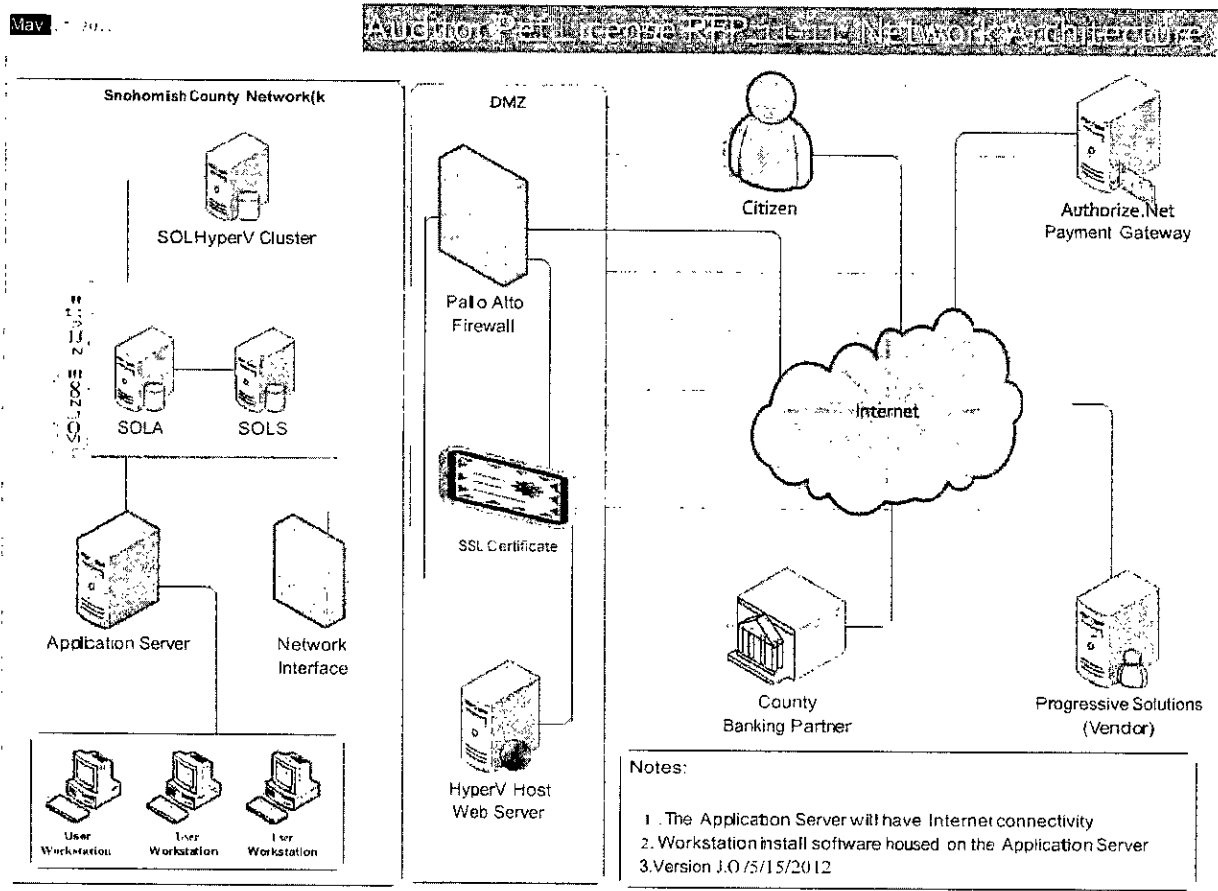
Please note: The Vendor (PSI, Inc.) is first-line-of-support for this application. The County is responsible for maintaining the infrastructure supporting the system (including the network, server & PC hardware, related backups, and access rights to that infrastructure).



Appendix A: Proposed Timeline

WEEKS	1	2	3	4	5	6	7	8	9	0	1	1	1	1	1	1	1	1
											1	1	1	1	1	1	1	1
Initial Migration	█	█	█	█														
PetTrack Implementation				█	█	█	█	█										
User Training & Final Migration								█	█	█	█	█	█	█				
Final Implementation									█	█	█	█	█	█	█	█	█	

Appendix B: Architectural Diagram



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Appendix C: Cost Summary Sheet & Payment Schedule

Application Software Costs	Description	Costs
PetTrack Application Licenses	Admin Users: 4 Read/Write: 12 External Web Users: Unlimited	\$53,000
	PetTrack Web Renewals	\$10,000
	API Integration: IVR System	\$15,000
	API Integration: Cashiering	\$15,000
	Total:	\$93,000

Labor Costs	Total Hours (PSI estimates)	Costs
Fit Analysis	8	Included
Modifications	0	\$0
Tailoring	0	\$0
Test Planning & Execution	0	\$0
System Installation	8	Included
Training	16 hours onsite (up to 64 hours remote training)	Subject to County travel reimbursement policy attached as Appendix F and in RFP 11-11 Included
System Roll-out	0	\$0
Stabilization	0	\$0
Other	0	\$0
	Total	-Estimated \$945

Other Implementation Costs	Descriptions	Costs
	Travel & Accommodations	Subject to County travel reimbursement policy attached as Appendix F and in RFP 11-11
	Per Diem	Subject to County travel reimbursement policy attached as Appendix F and in RFP 11-11
	Travel Time	Subject to County travel reimbursement policy attached as Appendix F and in RFP 11-11
	Programming	\$175.00 per hour

	Total	Subject to County travel reimbursement policy attached as Appendix F and in RFP 11-11
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Note: Estimated travel costs for two-day onsite visit by one PSI staff member:

Airline: \$300
Travel Time: \$195
Hotel: \$300
Per Diem: \$150
Total: \$945

Maintenance & Support Costs	First Payment Due	Costs
PetTrack	Acceptance Phase	\$8,500
PetTrack API	Acceptance Phase	\$3,000
IVR	Acceptance Phase	\$2,000
Web Renewals	Acceptance Phase	\$2,000
	Total:	\$15,500

Total Bid Costs:	
Item	Costs
Application Software	\$93,000
Desktop Software	\$0
Labor	\$0
Maintenance (1 year)	\$15,500
Total (year 1)	\$108,500

Payment Schedule:

Completion of Phase: 5.2 Initial Migration	Payment: \$38,000
Completion of Phase: 5.3 Final Migration/On-Site Training:	Payment: \$27,000
Onsite training (estimated)	\$945 expenses (estimated)
Completion of Phase: 5.4 Final Acceptance Testing	Payment of \$28,000
Completion of Phase: 5.7 API Integration	Payment of \$15,500
Total Estimated Payments:	\$ 109,445

Appendix D: Applicable County Architectural Standards

The Snohomish County Architectural Standards that apply to this project include:

- SQL Server
 - No conflicts noted

- Web Server
 - No conflicts noted

- Application Server
 - No conflicts noted

- Desktop Client Workstation
 - No conflicts noted



Appendix E: County Remote Vendor Access Policy

See attached DIS-R-0011 Vendor Access Procedure

A handwritten signature in black ink, located in the bottom right corner of the page.



Vendor Access Procedure

Procedure Number: DIS-R-0011
Effective Date: 2/3/2012
Last Revised: 2/3/2012

Purpose

This procedure defines how vendors can gain access to production and test systems on Snohomish County's network. The procedure works in conjunction with Information Services' (IS) change management process to prevent unauthorized changes to systems, and manage changes to our systems more effectively. It should not interfere with any contractual support obligations.

Scope

This procedure applies to all vendors, whether working on site or remotely. A vendor is a contracted service provider who may be connected to a network that is not managed by the Snohomish County Department of Information Services. This procedure does not apply to passive remote monitoring of systems by external vendors.

This procedure applies to all Information Services employees, vendors with access to Snohomish County network, and system business owners (departments/offices). Information Services also has an internal procedure that details our full internal process.

The term "business owner" is used to refer to the department director or elected official of the primary department/office using the system, or designee.

Policy

SCC 2.350.020, DIS-002 Communications Systems Usage Policy

Procedure

Create an Account

An account may be requested during system installation, or at a later time.

1. When IS Business Analyst (BA) determines vendor access is needed, send request to IS Network Administrator (NA) using Remote Access (Citrix) Request Form at G:\Forms\DIS\Remote Access Request.dot.
2. IS Network Administrator (NA) contacts vendor for signatures.
3. Vendor completes their processing
 - a. Collect signature from each vendor staff person whose name is listed on the Remote Access (Citrix) Request Form.
 - b. Return the Remote Access (Citrix) Request Form, with signatures, to NA.
4. Upon receipt of vendor's signatures, IS processes, and NA coordinates with vendor via email, followed by a phone call to the vendor's main contact, conveying the password over the phone.



Vendor Access

Vendors Gain Access

Vendor account may be activated for three types of changes to production or test systems.

- **Planned Changes (Default)** – When 24 hours access should be adequate (MOC required, RFC may be advisable)
- **Planned Changes (Extended Access)** – When more than 24 hours access is needed (RFC required, access during non-business hours if possible)
- **Emergency Changes** – When delaying the change would cause unscheduled system outage or data corruption (IS manager or supervisor approval required)

These planned changes may extend beyond 24 hours, into a weekend or holiday, if the requested 24 hour period is contiguous with the weekend or holiday.

Change Type	Access Period	Request Window	Requirements	Approver
Planned Changes (Default)	<24 hours	At least 4 hours, and up to 6 months in advance	<ul style="list-style-type: none"> • Permission from business owner • Approved MOC or RFC <ul style="list-style-type: none"> ◦ Authorizes Service Desk to open/close account ◦ Contains specific open/close dates and times 	IS Supervisor
Planned Changes (Extended Access)	>24 hours		<ul style="list-style-type: none"> • Permission from business owner • Approved RFC <ul style="list-style-type: none"> ◦ Authorizes Service Desk to open/close account ◦ Contains specific open/close dates and times ◦ Contains reasons justifying extended access period 	CCB (Change Control Board)
Emergency Changes		At any time	<ul style="list-style-type: none"> • Incident • Provided soon after the incident: <ul style="list-style-type: none"> ◦ MOC ◦ Notification to CCB 	Service Desk

Key

CCB = Change Control Board, meets regularly and in special sessions as needed, to review requests

MOC = Memorandum of Change, which must be approved by a IS manager or supervisor, occurs after service is restored to inform the team of the event and repair

RFC = Request for Change, must be approved by the CCB, occurs before the change



Vendor Access

Planned Changes (Default)

(When 24 Hours Should be Adequate)

1. System's business owner, vendor, or BA initiates the request
 - a. At least 4 hours (optimally), and up to six months in advance of the proposed change window start time, vendor or business owner requests access from Service Desk at 425-388-3378, or from the assigned BA.
 - b. Provides the following to the BA:
 - i. Description of the issue to be addressed
 - ii. What will be modified
 - iii. Date and time work will start and end
 - iv. Impact of the change
 - v. Risk involved in the change
 - vi. Effect on application users during the change
 - vii. Back out plan should the change have negative consequences
 2. BA processes the request
 - a. Evaluate the proposed change for relevance and necessity
 - b. Produce an MOC or RFC.
 - c. When MOC/RFC is approved, contact the vendor and provide the MOC/RFC number.
- NOTE: The MOC/RFC number is the key that the vendor will be asked to provide to obtain access.***
3. Vendor requests the access by calling the IS Service Desk at 425-388-3378 **and providing MOC/RFC number.**
 4. The IS Service Desk processes
 5. Vendor tests access, and calls Service Desk if there are any problems.
 6. IS, after the required access period has passed, deactivates the vendor's user ID.

Planned Changes (Extended Access)

(When More Than 24 Hours Is Needed)

Follow procedure under Planned Changes (Default), but always using an RFC.

Emergency Changes

(When Delaying Would Cause Unscheduled System Outage or Data Corruption)

1. Incident becomes apparent.
2. Business owner, vendor, or BA (or supervisor or manager) initiates the request
 - a. Call the IS Service Desk at 425-388-3378.
 - b. Provide the following to the Service Desk as available:
 - i. Vendor contact information
 1. Person's name
 2. Phone number
 3. Email Address
 - ii. Other information



Vendor Access

1. Description of the issue to be addressed
 2. What will be modified
 3. Date and time work will start and end
 4. Impact of the change
 5. Risk involved in the change
 6. Effect on application users during the change
 7. Back out plan should the change have negative consequences
3. Service Desk processes
 - a. If the business owner is not the requestor, notify business owner's network administrator of emergency change.
 - b. If the BA is not the requestor, notify BA of emergency change.
 - c. Activates the vendor's user ID.
 - d. If vendor does not have the user ID or password, ask him/her to talk to the main contact person to obtain information. (*As a last resort, reset the password, and ask vendor to change password immediately.*)
 4. Vendor accesses the system. If there are problems with access, call the IS Service Desk at 425-388-3378.
 5. BA documents change.
 - a. Contact vendor using the contact information provided (see above) and collect information.
 - b. Produce MOC.
 - c. Send an email to the Change Control Board at SIS-Change Control Board notifying them of the change.
 6. IS, after the required access period has passed, deactivates the vendor's user ID.

Appendix F: County Travel Reimbursement Policy

See attached: TRAVEL POLICY-1211



FINANCE POLICY STATEMENT

POLICY -1211

TRAVEL EXPENSES

APPROVED BY: Roger Neumaier

EFFECTIVE: 07/24/1995

REVISED: 12/01/2006

This policy governs the payment of county employees, elected officials, vendors, contractors and others, for travel expenses incurred in connection with official county business.

IMPORTANT INFORMATION FOR USING THIS DOCUMENT:

Travel reimbursement is an intricate issue, particularly meal reimbursement. The County's policy must comply with IRS regulations, State laws and Snohomish County Code. Adding to that complexity, the policy must provide for application of those rules and regulations on a consistent basis in very diverse circumstances.

To simplify navigation of this document, be certain to use the tools provided:

- Table of Contents
- Glossary of definitions (at the back of the document)
- Examples (throughout)
- Electronic links.

When appropriate, substitute the Legislative or Judicial authorizing authority when the policy calls for Executive approval. Approval from the Legislative branch must be a majority.

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A. General Travel Policies (including last minute alterations of pre-approved events)

1. The County will reimburse county employees and elected officials for expenses incurred in conjunction with travel on official county business when properly documented and authorized.
2. All employees shall exercise prudent judgment in planning trips and incurring expenses. Unnecessary or excessive expenses will not be reimbursed. Each employee should eliminate unnecessary travel in the performance of work assignments. When feasible, two or more employees should travel on official business in one vehicle.
3. Authorization of certain travel requires the use of Finance Department's Travel and Business Expense Authorization form, see section B for authorization requirements. Reimbursement of travel and expenses requires the use of Finance Department's Expense Reimbursement form. Forms are located at G:\Forms\FINANCE\Accounts Payable.
4. Travel to destination and back is work time when it falls into the employee's regular work day, excluding meal times. This would include corresponding hours on non-working days, such as weekends. If the traveler's work schedule includes shifts, such as Sheriff Deputies or Correctional Officers, the work schedule will be based on an 8:00-5:00 work day.
5. Each employee or elected official is responsible for the timely claim (15 business days or less after return) of his or her own reimbursements. When claiming reimbursement of expenses incurred on behalf of another see section J. Per diem cannot be claimed for another individual.
6. **Alteration of Pre-Approved Events:** Health and safety of travelers is a top priority in the conduct of travel-related activities. It is considered advantageous to the County for travel plans and itineraries to be established and altered with consideration of hazardous inclement weather, situations that could threaten the health and safety of county personnel and other unplanned situations.
 - a. **When Severe Inclement Weather Is Not Involved** – Alteration of travel plans and itineraries for health, safety or work emergency, when severe inclement weather is not involved, which will result in extra travel expenses, including meal and/or lodging costs, must generally be pre-approved by the traveler's supervisor. In emergency situations, such as sudden on-set of incapacitating illness or delay of travel due to interruption of transportation, the supervisor should be contacted as soon as possible. The condition must also be noted on the traveler's travel expense reimbursement form. The notation on/or attached to the travel expense form must include an explanation of the health or safety issue, the name of the supervisor who approved the alteration, and the date and time of approval.
 - b. **When Severe Inclement Weather Is Involved** – Travel plans and itinerary alteration because of severe inclement weather which may cause additional costs to be incurred, require prompt notification to the traveler's supervisor. The condition must also be noted on the traveler's travel expense authorization form. The notation on the travel expense authorization form must include a short description of the severe inclement weather, the name of the supervisor who was notified and the date and time of notification.

B. Authorization of Expenses (See Section "G" for county boards, commissions and non employees and section "J" for documentation requirements.)

When appropriate, substitute the Legislative or Judicial authorizing authority when the policy calls for Executive approval. Approval from the Legislative branch must be a majority.

1. In-State Day Travel:
 - a. In-state day travel does not require use of Finance's "Travel and Business Expense Authorization" form. However, departments may choose to require use of this form for day travel.
 - b. Reimbursement for day travel requires completion of Finance's "Expense Reimbursement" form and authorization from the department head or designee.
2. In-State Overnight Travel:
 - a. County employees, other than elected officials and department heads, must obtain prior authorization from the department head or designee, and,
 - b. Where four (4) or more employees from one department attend the same conference prior authorization must be obtained from the County Executive or designee.
 - c. Elected officials and department heads do not require prior authorization from the Executive.
3. Out-of-state travel, including out-of-state day trips:
 - a. County employees must obtain prior authorization from both the department head or designee and the County Executive or designee.
 - b. Elected officials must obtain prior authorization from the County Executive or designee.
4. All travel expenses of persons who are not county employees, elected officials, nor members of boards or commissions must be authorized in advance by the County Executive or designee, except in cases of prior approval such as contracts, grants and budgets.
5. Actual expenses that exceed by 10% those previously authorized by the Executive must be re-authorized by the department head and Executive before payment or reimbursement of expenses will be made.

C. Travel Expenses - Meals

1. General Meal Expenses

- a. Annually, the Finance Director or designee will issue a memorandum to notify all department heads and elected officials of the new per diem rate tables.
- b. The employee, elected official or other will receive payment based upon per diem and will be in-lieu of the actual cost of the meal, tip and incidentals. Actual expenses will be reimbursed only in special circumstances. Those circumstances will be defined and approved by the department head or designee. This process is not to be used to circumvent the per diem reimbursement process.
- c. Per diem will, to the extent sufficient available resources exist, equal the Meals and Incidental Expense Allowance of the U.S. Federal Government, per Internal

Revenue Service Publication 1542, Per Diem rates (for travel within the Continental United States). Per diem for travel to non contiguous U.S. locations and foreign travel will be reimbursed based on rates attached to the GSA website (US General Services Administration). Visit: US General Services Administration Per Diem Rates for the most up-to-date per diem rates. Rates for the continental United States can also be found at: G:\FINANCE\Accounts Payable\Per Diem.

- d. Per Diem: What types of costs are included in per diem?
 - The basic cost of the meal,
 - Any incidental expenses,
 - Any applicable sales tax, and
 - Any customary tip or gratuity (not to exceed 15% when reimbursement/payment is made by **original detailed receipts**)
- e. Reimbursement for meal expenses is **not** to be authorized when an employee does not incur expenses for meals because they are furnished.
 - Regular per diem reimbursement is not given when meals are provided by the host facility visited or when included in the registration fee for a meeting, conference, workshop, seminar or convention.
 - Meal reimbursements are not required to be reduced or eliminated due to meals served on airlines. Similarly, meal reimbursements are not required to be reduced for continental breakfast included in the registration fee of a meeting, conference, workshop, seminar or convention.
- f. Each employee or elected official is responsible for the timely claim (15 business days or less after return) of his or her own reimbursement and cannot claim per diem/reimbursement of another; see section J of this policy. For others, such as a contractor or vendor, timely claims should be submitted within 30 days.
- g. Advances for travel related expenses, including per diem, can be requested by using Finances Travel and Business Expense Authorization form and completing the advance travel section. For additional information on Advance Travel please see the travel advance policy located at: G:\FINANCE\POLICY\1212 POLICY - TRAVEL ADVANCES.doc. The Travel and Business Expense Authorization form is located at G:\Forms\FINANCE\Accounts Payable.
- h. See Section J of this policy, Documentation of All Expenses Required, for documentation required for travel and reimbursements

2. Meals - Day Travel

- a. The County will reimburse county employees and elected officials for meal expenses incurred in conjunction with official county business when in appropriate travel status (away from both the official residence and the official work station) and the three hour rule is met (number of travel hours before and/or after regularly scheduled working hours of any one day total three or more, see item 2d and 2e in this section for more information and examples).
- b. On any qualified day when full per diem is not being claimed the per diem will be apportioned into separate amounts for breakfast, lunch and dinner based on the "Meals and Incidental Expense Breakdown" at the GSA website. Incidentals, which are a part of per diem, will not be apportioned. The full incidental amount is still allowed.
- c. On any qualified day when no per diem is reimbursed the full incidental amount is still allowed.
- d. Meals reimbursed while in travel status and meeting the three hour rule which do not involve an overnight stay are taxable per IRS rules. ***These meal reimbursements will be processed through payroll and will be reported on W-2s for both employees and elected officials.***

- e. To qualify for meal reimbursement during day travel the traveler must be in travel status for the entire County determined meal time(s) **and** meet the three hour rule. See below for meal time definitions and three hour rule examples:
- *County's determined meal times:* If the traveler's work schedule includes shifts, such as Sheriff Deputies or Correctional Officers, the meal periods will be based on an 8:00-5:00 work day.
 - The breakfast meal period starts 1 ½ hours prior to your regularly scheduled working hours and ends at the start of your regularly scheduled work day. To qualify for breakfast, an employee must be in travel status for at least 1 ½ hours before official starting time and meet the three-hour rule (see examples of three-hour rule below in item c).
 - The lunch meal period is your regularly scheduled lunch meal period. To be reimbursed for lunch, the traveler must be in travel status during their entire regularly scheduled lunch time and meet the three-hour rule.
 - The dinner meal period is the 1 ½ hour period directly following the end of your regularly scheduled work day. To qualify for dinner, an employee must be in travel status at least 1 ½ hours after the regularly scheduled quitting time and meet the three-hour rule.
 - For weekends and holidays, determine the County established meal times by using the traveler's regular work schedule.
 - *Three-hour rule examples:* Assume an 8:00 a.m. to 5:00 p.m. Monday-Friday workday with a 12:00 noon to 1:00 p.m. lunch period.
 - At 6:00 a.m. travel begins. At 3:00 p.m. travel ends. No meals are reimbursed since the only hours outside the normal workday schedule are from 6:00 a.m. to 8:00 a.m. Therefore, even though travel started more than 1 ½ hours before 8:00 a.m., neither breakfast nor lunch can be reimbursed because the three hour rule is not met.
 - At 5:00 a.m. travel begins. At 11:30 a.m. travel ends. Breakfast is reimbursed since the three hour rule is met (5:00 a.m. to 8:00 a.m. is exactly three hours more than the normally scheduled workday) and travel began at least 1 ½ hours before the scheduled workday beginning at 8:00 a.m.
 - At 5:00 a.m. travel begins. At 4:30 p.m. travel ends. Breakfast and lunch are reimbursed. The three hour rule is met (5:00 a.m. to 8:00 a.m.). Travel status began at least 1 ½ hours before 8:00 a.m. and continued through the lunch period.
 - At 7:00 a.m. travel begins. At 6:30 p.m. travel ends. No meal reimbursement is allowed since the three hour rule is not met. The number of hours outside the regularly scheduled workday total only 2 ½ (7:00 a.m. to 8:00 a.m., and 5:00 p.m. to 6:30 p.m.).
 - At 6:30 a.m. travel begins. At 6:30 p.m. travel ends. Breakfast, lunch and dinner are reimbursed as the three-hour rule is met. The number of hours outside the regularly scheduled workday is exactly three hours (6:30 a.m. to 8:00 a.m. and 5:00 p.m. to 6:30 p.m.). Breakfast is paid because travel began 1 ½ hours before 8:00 a.m. Lunch is paid because travel status continues through the lunch period, and dinner is paid because travel ended 1 ½ hours after 5:00 p.m.
 - At 7:00 a.m. travel begins. At 9:30 p.m. travel ends. Lunch and dinner are reimbursed since the three-hour rule is met. The number of hours outside the regularly scheduled workday is 5 ½ (7:00 a.m. to 8:00 a.m. and 5:00 p.m. to 9:30 p.m.). However, breakfast cannot be reimbursed because travel did not begin at least 1 ½ hours before 8:00 a.m. Lunch is

paid because travel status is through the entire lunch period. Dinner is paid because travel ended at least 1 ½ hours after 5:00 p.m.

3. Meals - Overnight Travel

- a. Per diem for the first day of overnight travel and last day of overnight travel will be reimbursed at 75%. The seventy five percent per diem rates can be found by visiting US General Services Administration Per Diem Rates (GSA) website.
- b. When a meal or meals are provided at no cost in conjunction with travel events the full meals per diem reimbursement rate is reduced by the full amount of the appropriate meal(s). The full incidental amount is still allowed.
- c. When meals are provided on a travel departure or return day, the full meal per diem reimbursement rate is reduced by the full amount of the appropriate meal(s) followed by a 75% prorating of the balance. A meal breakdown, "Meals and Incidental Expense Breakdown" of breakfast, lunch, dinner and incidentals can be found on the GSA website or at G:\FINANCE\Accounts Payable\Per Diem.
- d. Below is an *example of per diem being paid for an overnight trip*:
 - A traveler went to a conference in San Francisco, California. The traveler left on Monday @ 8:00 am and returned on Thursday @ 4:00 pm. Lunch on Tuesday and Wednesday were included in the registration fees. The traveler is entitled to all meals for Monday and Thursday, entitled to breakfast and dinner on Tuesday and Wednesday and entitled to incidentals for all four days.
 - The GSA website states that per diem for San Francisco is \$64.00 a day (includes incidental amount of \$3.00).
 - Monday the Traveler is entitled to all meals but is only entitled to 75% of the total meals per diem rate (first day of travel). Reimbursement for Monday is $(\$61.00 \times 75\%) + \3.00 (Incidentals) = \$48.75.
 - Tuesday and Wednesday the Traveler is entitled to breakfast and dinner. The total meals per diem rate for the two days must be reduced by the lunch per diem. The per diem must be apportioned based on the "Meals and Incidental expense Breakdown" on the GSA website. The table states lunch is \$18.00. Total reimbursement for Tuesday and Wednesday is $(\$64.00 - \$18.00) \times 2 = \$92.00$
 - Thursday the Traveler is returning (last day of overnight travel) and is entitled to meals but the total meals per diem rate must be prorated by 75%. The total reimbursement for Thursday is $(\$61.00 \times 75\%) + \3.00 (incidentals) = \$48.75
 - The Traveler is entitled to a total reimbursement of \$189.50 for this trip.

D. Travel Expenses - Lodging

1. The County will reimburse county employees and elected officials for qualified lodging expenses incurred while on official county business trips based on **original detailed receipts** for actual expenses. Per diem will not be paid for lodging.
2. Reimbursement for lodging expenses incurred within or equaling fifty (50) miles (most direct road miles measured from the lodging facility) of the closer of either the employee's official residence or official work station is **not allowed** except under one of the following three conditions:
 - a. An overnight stay in commercial lodging to avoid having an employee drive back and forth for back-to-back late night/early morning official county business (late night/early morning defined as total time, including travel, is beyond your normal work day plus three hours).

- b. When a work emergency or the health and safety of travelers is of concern as provided in Section A, item 4.
- c. When the department determines that staying overnight is more efficient and/or effective.

When any of the above conditions are used refer to Section B for required authorizations.

E. Travel Expenses - Transportation

1. The County will reimburse county employees and elected officials for transportation expenses, such as taxi fare or train fare, other than vehicle mileage incurred while on official county business trips based on **original detailed receipts** for actual expenses.
2. Employees and elected officials are encouraged to use the least cost method of transportation. Where possible, they are also encouraged to carpool.
3. Personal vehicle mileage will be reimbursed at the rate established pursuant to SCC 3.36.020(2), except as otherwise provided by law.
4. Vehicle mileage for reimbursement will be computed as the lower of: (1) the estimated distance from the employee's official work station to the destination, or (2) the actual distance from the employee's official residence to the destination. Also included is the return trip.
5. County will reimburse employees and elected officials for mileage when required to travel to an off-site work location other than their normal work station. Reimbursement will only be for mileage which exceeds that of their regular daily commute.

F. Other Travel Expenses

1. The County will reimburse county employees, elected officials or others for other job related travel expenses (e.g. parking, business telephone calls) incurred while on official county business based on **original detailed receipts** for actual expenses. For business expenses see policy 1209 for additional information and requirements.
2. Expenses under \$10 or less per day for which no receipt is issued (such as parking, tolls, etc.) will be considered for reimbursement provided the department head or designee deems the expense reasonable and not excessive in total. An explanation of what the expense was for, date and cost must be submitted with reimbursement form.

G. County Boards, Commissions and Quasi-Employees

1. The county will reimburse members of county boards and commissions for mileage to and from meetings and for other expenses approved by the applicable department head or designee to the extent authorized by SCC 2.03.070.
2. The County will reimburse County Boards, Commissions and persons who are neither county employees nor elected officials for travel and expenses where the payment can be reasonably construed to be in consideration for a service performed or other substantial benefit received by the County of commensurate value. In addition to other requirements, this type of reimbursement requires prior authorization and documentation as provided in this policy. For additional requirements please see sections B, F and J of this policy. For business expenses see policy 1209 for additional information.

3. Departments may request to reimburse prospective management level employees for travel expenses incurred in connection with interviews or examinations that take place 50 miles or more away from their residence.
 - a. Finance Department's Travel and Business Authorization form must be completed.
 - b. Prior approval from the department head or designee and County Executive or designee is required.
 - c. Transportation expenses allowed may not exceed the equivalent of round trip economy air fare and are limited to the time required to travel by the most expeditious means.
 - d. The County reimburses expenses for traveling by taxi, bus or rental car between the common carrier terminal (usually airport) and lodging as required for the interview or examination.
 - e. Lodging expenses should be reasonable and relative to the lodging per diem on the GSA website for the Everett area. GSA website is US General Services Administration Per Diem Rates

H. Disallowed Expenses

1. The county will not provide reimbursement for the following:
 - a. Fines, penalties, and/or forfeitures;
 - b. Tobacco, alcoholic beverages, entertainment, personal clothing, sundries, personal telephone calls or telegrams, or other like personal services or items;
 - c. Meals or lodging in lieu of other meals and/or lodging expense which are included in a convention or other registration fee, see section C, 2e for exceptions;
 - b. First-class travel accommodations, unless pre-authorized by the Executive or designee.
 - c. Expenses in excess of per diem which are deemed excessive by the appropriate approving authority.

I. County Employees/Elected Officials May Claim Reimbursement For Travel Expenses Incurred On Behalf of Others

1. County employees and elected officials may claim reimbursement based on **original detailed receipts** for transportation, lodging, and meals when incurred by them on behalf of others, except for disallowed expenses itemized in section H, as described in this policy.

J. Documentation of All Expenses Required

1. All requests for reimbursement must be submitted on a travel expense form adopted by the Finance Department.
2. Finances Travel and Business Expense Authorization form and Expense Reimbursement form are located at G:\Forms\FINANCE\Accounts Payable. Departments that do not require pre-authorization of day travel are not required to complete the Travel and Business Expense Authorization form, but must still complete the Expense Reimbursement form.
3. **Original detailed receipts** must be attached to the expense payment voucher for lodging, transportation and other travel expenses claimed, other than mileage, except when receipts are not issued (see section F). If a receipt is lost a "Missing Receipt" form must be completed. The form is located at G:\Forms\FINANCE\Accounts Payable.
4. When an employee or elected official claims reimbursement for travel expenses incurred on behalf of another (except for per diems which cannot be claimed on behalf of

another), in addition to other requirements, a detailed accounting must be attached to the expense payment which includes at least the following:

- a. Name, department, and title, if any, of the person on whose behalf expenses were incurred;
 - b. Whether the person is a county employee and, if not, the nature of his or her connection with county business;
 - c. Who provided the lodging, meals, or other services;
 - d. A statement of the county business that was being carried out when the expenses were incurred.
5. In addition to other requirements of this section, payment vouchers submitted by or on behalf of a person who is neither a county employee, elected official, nor a member of a board or commission must include a description of the service performed or other substantial benefit of commensurate value received by the County.

K. Expenses Related to Official County Business May Be Charged to County Charge Cards

1. In accordance to RCW 42.24.115, department heads and elected officials may receive a charge card from the Finance Department for the purpose of covering expenses incident to authorized travel.
2. Authorization is contingent upon acceptance in writing by the department head or designee, elected official or employee of the terms and conditions of charge card use.
3. Departments must complete and submit to the Finance Department a Travel Credit Card Application and Credit Card Agreement (Individual or Group). This also requires card users to read the Credit Card Policy #1210 located at: G:\Finance\POLICY. Forms are located at: G:\Forms\FINANCE\Accounts Payable. Completed applications must be signed off by the Finance Director or designee.
4. Department heads, their designees and elected officials may authorize employees or their staff to use the charge card for authorized travel.
5. When the travel credit card is not specifically issued in an individual name but in a department name, such as Human Resources, the person assigned to be responsible for the card must complete the Travel Credit Card Application and a group Credit Card Agreement.
6. If there is no alternate authorized county credit card available, such as the purchase card, under certain circumstances and with written approval from the Finance Department, a department may use its travel credit card for the purchase of on-line goods and services or other special circumstances. Special circumstances to be defined by the Finance Department.
7. Travel charge cards shall not be used for cash advancements, personal expenses, capital expenses or for the purchase of alcohol. Funds required during travel must be provided either from advance travel or personal funds; see Advance Travel Policy 1212.
8. Within 10 business days after receipt of the travel charge card billing statement, the department head, elected official or employee using a charge card shall submit a fully itemized travel expense reconciliation. Requests to make payments on the travel credit cards shall be submitted and audited by the Finance Department. The cost of disallowed

items or items not properly identified shall be paid to the County by check, cash (United States currency), or salary deduction, as determined by the County.

9. If, for any reason, disallowed charges are not repaid before the charge card billing is due and payable, Snohomish County shall have a prior lien against and a right to withdraw any and all funds payable or to become payable to the department head, elected official or employee up to the amount of the disallowed charges plus interest at the same rate as charged by the company which issued the charge card.
10. Any department head, elected official or employee who has been issued a travel charge card shall not use the card if any disallowed charge is outstanding and shall surrender the travel charge card upon demand of the Finance Director.

GLOSSARY

APPORTIONED – To divide, separate from the whole.

CONTINENTAL BREAKFAST – A breakfast generally consisting of juice, bread and a hot beverage (typically coffee or tea). Fruit is sometimes included as part of the price or as a priced option.

CONTINENTAL UNITED STATES – As used in this policy, all areas in the 48 contiguous states and the District of Columbia.

DE MINIMIS – Too insignificant to be worthy of concern, too small to be taken seriously, being of small size.

DETAILED RECEIPTS – Receipts that itemize (list) items purchased including their cost and method of payment. A receipt showing only the total of the purchase does not qualify for a detailed receipt.

FOREIGN TRAVEL – Travel in all areas of the world outside of the United States of America and its possessions.

IMMATERIAL – Inconsequential, of no substantial consequence, unimportant.

INCIDENTALS – Examples of incidentals include fees and tips given to porters, baggage carriers, hotel maids, stewards or stewardesses. Incidentals also include transportation between places of lodging or business and places where meals are taken, if suitable meals can be obtained at the temporary duty site.

NON-CONTIGUOUS UNITED STATES – As used in this policy, all areas in Alaska, Hawaii, Commonwealth of Puerto Rico and all areas in possession of the United States of America throughout the world.

OFFICIAL RESIDENCE – The city, town or other location where an elected official or employee maintains a residence that is used as their primary domicile.

OFFICIAL WORKSTATION – The city, town or other location where the elected official or employee's office is located, or the city, town or location where the elected official or employee's work is performed on a permanent basis.

PER DIEM – Daily travel costs covering meal and incidental expenses while in travel status.

QUALIFIED LODGING EXPENSES – Traveling 50 miles or more from the closer of either the employee's official residence or official work station.

REGULAR WORK SCHEDULE – Hours a person normally works, assigned hours of work.

SEPARATE BRANCH – There are three branches of government: Legislative Branch, Executive Branch and Judicial Branch.

THREE-HOUR RULE – Travel for three hours or more in a day away from your home or normal work site.

TRAVEL STATUS – The official status of a traveler when the traveler is away from both the official residence and the official workstation, exclusive of commuting between the traveler's official workstation and official residence, on county-related business.



EXHIBIT B Software
License Agreement

[See attached.]



I. INTRODUCTION

Progressive Solutions®, Incorporated, a California corporation herein after referred to as 'Licensor' and Snohomish County, a political subdivision of Washington State, herein after referred to as 'Licensee' agree to the following terms and conditions.

'Specifications' refers to Exhibit A - RAR and the approved parts of RFP11-11 which are incorporated by reference herein.

'Requirements' refers to those requirements identified in Exhibit B1 - Appendix 1 (Requirements) which is incorporated by reference herein.

'Software Maintenance' refers to Exhibit C: (Software Maintenance Agreement) which is incorporated by reference herein also referred to as 'Software Support'.

II. NATURE AND DURATION OF LICENSE

- a. Licensor hereby grants and Licensee accepts a non-exclusive and non-transferable license to use Licensor's database structure and corresponding software for the product(s) listed in Section IX. All Licensed database structures are designed for and require Microsoft® SQL Server®. Licenses for SQL software are not included in this agreement unless listed as 3rd party deliverables in Section IX. The Licensed data structures and software (and any upgrades provided by Licensor) shall be installed on the designated server (*Licensee shall provide the designated machine name and mac address prior to implementation*). Prospective users of the Licensed software will be setup to obtain and shall be required to obtain the Licensed software exclusively from the designated server. The Licensed software shall only function when the Licensed software and data are obtained from the designated server. Only authorized Sub-agencies as specified in Section IX and Licensee's employees are authorized to use the Licensed software, data structures & documentation on Licensee's premises for the purpose of supporting the internal business practices. No other right or use is permitted under this Agreement.
- b. Except as otherwise provided in Section XI(d), the term of this License commences upon the date on which Licensor first delivers Licensed software to Licensee, and ends upon expiration of the attached Software Maintenance Agreement or subsequent renewals of the Software Maintenance Agreement which are incorporated by reference herein. Subsequent to the purchase/payment of 5 years of software maintenance support without any default this license shall become a perpetual license. Licensee understands and accepts the fact that in the event Software Maintenance Support expires or is terminated, so too will the right to receive software updates, Software Support as well as automated zip plus 4 (& address) validations.
- c. Licensor agrees that Licensee may install the Licensed software or any part or module thereof, on any number of computers; however, Licensee agrees that no more than the number of users specified in Section IX will concurrently access said software. Licensee acknowledges that in order to use Licensed software products for day to day operations by more than the number of users specified in Section IX, Licensee must obtain additional user Licenses from Licensor. Licensee further acknowledges that technical assistance may be required for the Licensed software to function as a result of hardware changes/migration.
- d. This license does not create a "technology transfer" agreement, as defined by applicable law because (a) the technology (including any software) made available under this license is not an integrated part of a technology chain for production or management purposes and (b) the technology (including any software) will have its own technology license. You will not hold yourself out as our technology recipient and will not attempt to identify us as a technology provider under this license.
- e. Scope of Use: Except for use of Licensed web modules designed for public access or designated sub-agency employee access, any other use of Licensed Software by a third party who is not an employee of Licensee, shall require notification & written approval of Licensor. Upon Licensor

approval, Licensee at its sole discretion may require such third party to execute appropriate licensing agreements as Licensor deems necessary.

III. OWNERSHIP AND TITLE

- a. Title, including but not limited to all rights in Licensor's patents, copyrights, trademarks, proprietary information and trade secrets shall remain vested in Licensor. **No title to or ownership of the object code, reference material, or any of its parts, is hereby transferred to Licensee.** Licensee's rights shall at all times be subject to the patents, copyrights, trademarks, proprietary information, trade secrets and use restrictions contained in this Agreement. Any additions, modifications or enhancements made by Licensee or by a third party on Licensee's behalf shall not create any rights to the Licensed software and shall not relieve Licensee of its obligation to protect the proprietary nature of the Licensed software.
- b. Licensee agrees that additions, modifications or enhancements to the Licensed software which may be developed for Licensee through the reimbursed or unreimbursed efforts of Licensor's employees or agents, whether or not in conjunction with Licensee's employees or agents, shall be the exclusive property of Licensor. **Licensee shall have no title, ownership, right to royalty or income or any other ownership rights in such additions, modifications and/or enhancements.**
- c. Access to, management and control of Licensee's data shall be the responsibility of Licensee.

IV. LIMITED WARRANTY

- a. Licensor warrants that it has developed, owns, and/or possesses all rights and interests in the Licensed software necessary to enter into this Agreement.
- b. For 90 days from delivery of the software ("Warranty Period") and subsequently while Licensee maintains a current Software Maintenance Agreement, Licensor warrants: 1) the Licensed software shall conform to the specifications as described in (Specifications), any options specifically authorized as part of this implementation and materially conform to the accompanying written materials pertaining to the released/installed software version & 2) Licensed software will execute under those Microsoft operating systems specified in the (Requirements) document in effect at the time of the initial software installation and subsequent updates. Licensee agrees and understands that: 1) the (Requirements) document will be revised periodically to accommodate changes in the marketplace. & 2) Subsequent software updates of the Licensed software may necessitate update of computer hardware and/or operating system software. Delivery of the software shall be deemed to have occurred upon email transmission by Licensor to Licensee of instructions to access the Licensed software and may be further evidenced by logs of Licensee's access to the Licensed software.

V. EXCLUSION OF WARRANTIES & LIMITATION OF LIABILITY

- a. RESTRICTIONS ON WARRANTY: Licensee acknowledges that the Licensed software is of such complexity that it may have inherent defects and agrees that as Licensor's sole liability and as Licensee's sole remedy, Licensor will provide, while Licensee maintains Software Maintenance, all reasonable software support services to correct documented programming or documentation errors reported by Licensee which Licensor's diagnosis indicates are caused by a defect in an unaltered version of the delivered Licensed software. Licensee assumes any and all responsibility and liability for 1) any modification to the Licensed software and/or database structure not made by Licensor (i.e. changes to Crystal reports, additions or deletions of data base tables, fields etc.) and 2) any modification to the Licensee's data which is not made by Licensor or via the Licensed software. If, after providing corrective maintenance, Licensor determines that an error condition is not a Licensed software error or that the error condition results from either condition 1 or 2 above, Licensee agrees to pay Licensor for the reasonable services so provided at the rates in effect at the time of service plus reasonable

expenses. However, Licensor shall have no obligation to repair or replace products (hardware or software) damaged by accident or other external cause or through the fault or negligence of any party other than Licensor.

- b. **FUTURE REQUIREMENTS & INTERRUPTION:** Licensee does not warrant that any products or services provided hereunder will meet future requirements of Licensee or that the operation of products provided hereunder will be free from interruption or errors. Licensee agrees that Licensor shall not be responsible for any loss or damage to Licensee, its customers, or any third parties caused by failure of the products furnished hereunder to function.
- c. **EXCLUSION OF OTHER WARRANTIES:** The express warranties set forth in this agreement are in lieu of all other warranties and there are no other warranties, representations, conditions or guarantees of any kind whatsoever applicable either express or implied by law (in contract or tort or otherwise) or custom, including, but not limited to those regarding merchantability, fitness for purpose, durability, correspondence to sample, title, design, condition or quality without limiting the above.
- d. **LINKS TO THIRD PARTY SITES:** Licensee may link to third party sites through the use of the Licensed software. The third party sites are not under the control of Licensor, and Licensor is not responsible for the contents of any third party sites, any links contained in third party sites, or any changes or updates to third party sites. Licensor is not responsible for webcasting or any other form of transmission received from any third party sites. As a convenience, Licensor may inform Licensee of potentially beneficial links to third party sites. The transmission to Licensee of such links and their inclusion of any link does not imply an endorsement by Licensor of the third party site.
- e. **NO INDIRECT DAMAGES:** In no event shall Licensor be liable for any special, indirect, incidental or consequential damages to the full extent such may be disclaimed by law, arising out of or relating to this Agreement or the Licensed software, whether or not Licensor has knowledge of the circumstances surrounding such damages.
- f. **LIMITATION OF LIABILITY:** If for any reason, Licensor becomes liable to Licensee or any other party for direct or any other damages, other than property damage, bodily injury and/or personal injury, for any cause whatsoever, and regardless of the form of action (in contract or tort or otherwise), then:
 - a. Licensor's aggregate liability to Licensee and all other parties arising out of or relating to this Agreement or the Licensed software shall in no event exceed the amounts actually paid by Licensee and be filed within the statute of limitations for such claims
- g. **SEPARATE ENFORCEABILITY:** Sections V paragraphs a through f are construed as separate provisions and shall each be individually enforceable.

VI. SECTION INTENTIONALLY OMITTED

VII. LICENSEE'S RIGHTS, OBLIGATIONS & REPRESENTATIONS

- a. All material comprising the Licensed software furnished to Licensee may carry notices of Licensor's proprietary, trade secrets, copyrights or intellectual property printed on reports, letters, documents and reference material supplied. Licensee agrees not to obliterate, alter, remove or obscure such notices in any production or reproduction whether in physical or electronic form.
- b. To the extent permitted by any transparency law such as a Public Records Act, Licensee will preserve the confidential nature of the Licensed software and related media and will not transfer or make copies, including partial copies or updated versions thereof, except for internal reference, archive or backup purposes. Licensee is solely responsible for backup of its data and agrees to conscientiously ensure the existence of functional daily backups for at least the last 10 business days.
- c. Because of the confidential nature of the software and any accompanying documentation supplied under this Agreement, it is agreed that the Licensee will not sell, give, or lease the

software or relate information (to the extent permitted by the Public Records Act) about any of the confidential information or capabilities of the provided software to any other firm or person or group without the express written approval of Licensor or make any use thereof other than as expressly permitted under this Agreement. Licensee will further use its best efforts to maintain the security thereof and agrees not to reverse engineer, disassemble or decompile any Licensed Software or prepare derivative works thereof. In addition Licensee agrees not to contest or do or aid others in contesting or doing anything which impairs the validity of any proprietary & intellectual property rights, title or interest of Licensor in and to any software.

- d. It is agreed, however, that such information and capabilities which Licensee can show to be in its possession prior to receipt of any disclosure by Licensor shall not be subject to the provisions of this paragraph. Should Licensee anticipate termination of software maintenance (and use of a Licensed application), Licensee shall either extract all required Licensee data from Licensor's data structures via any readily available tools prior to expiration of the relevant application's software maintenance or authorize specific data extraction services from Licensor for a nominal fee (these services reduce the chances of confidentiality breaches). Licensee agrees that the software/components furnished by Licensor and all copies and versions thereof made by the Licensee are and shall remain the sole property of Licensor.
- e. Customization of the Licensed software shall be limited to modifications and enhancements that will not limit Licensor's ability to support the product through standard releases.
- f. Training for users, managers and other personnel prior to going live is essential for efficient operation of the Licensed software. Licensee will designate one employee as a primary contact for each Licensed software application. The designee must have been trained on the Licensed software. This primary support contact should be one who both uses the system and is responsible for the results of the system. This person shall also provide the initial interface with Licensor's support personnel and shall test/verify all configurations including but not limited to: general ledger accounts, rates, rate types billing & charge groups. In addition, the designee will accept software updates and arrange for software update installation. Should additional training services be required, they may be scheduled at the rates in effect at the time of service.
- g. Neither Licensee & Licensor wish to incur additional time, effort &/or costs for Licensor to get staff back up to speed with Licensee's migration. Should Licensee purchase data migration services for any product, Licensee acknowledges that migrations are a cooperative effort and that without committed & conscientious cooperation, any migration will be needlessly delayed & additional costs incurred. Licensee accepts full responsibility to provide:
 - 1) For each Licensed software product a designated contact who has been directed by management to devote time to this project as a high priority, is intimately familiar with the existing data/software/operations and has been empowered to make decisions regarding implementation, configuration and forms design.
 - 2) Licensor with one balance calculation (or one balance due amount) for all accounts with non-zero balances that Licensee desires to migrate.
 - 3) Complete migration data to Licensor in a consistent computer readable format (with understandable field labels which clearly identify the field contents). Unless otherwise mutually agreed in writing, data will be transferred as is without manipulation or alteration.
 - 4) Notification to Licensor that Licensee's migrated data is either available or has been transmitted to Licensor.
 - 5) Functional remote desktop sharing as described in the "Most Cost Effective Access" below which may be initiated by Licensee's designated staff members at their workstation at least until the go live date and for the duration of any approved customization projects. This functionality is essential to facilitate efficient review of the

data by Licensee and to provide instruction on the Licensed software by Licensor.

- 6) Review of the migrated data and notification to Licensor in writing of any data/configuration issues relating to each 1st data migration no later than either: 1) 30 days from the day Licensor has notified Licensee that the 1st migrated data became available for Licensee review or 2) Licensee prior to the go live date provides Licensor with a written acknowledgment that Licensee has completed their review and accepted the data as migrated by Licensor.
- 7) Prompt verification that requested corrections have been completed to Licensee's satisfaction or automatic acceptance of any corrections absent written documentation to the contrary 7 days from the date Licensee was notified of the availability of any specific correction.

If after the 30 day review period (or receipt of written acceptance by Licensor) Licensee requests program or data changes that could have been requested during review of the 1st migrated data, upon mutual written agreement Licensor shall respond and correct such issues on a time and materials basis. Licensee agrees that addition of calculations (especially balance), form revisions, migration data (such as additional records or tables not originally provided) or changes to the format of the migration data may result in a delay of product implementation and shall result in additional time and materials charges. In the unlikely event any previously reported issues resurface, such reoccurrence(s) shall be corrected without additional charge.

- h. Software corrections are defined as: Licensor software updates as well as specified operating system patches. Licensee agrees to implement software corrections that have been identified as necessary by Licensor and to ensure that the requirements identified in (Requirements) are met by all machines intended to execute the Licensed software. Failure to implement those identified software corrections or to maintain the specified requirements shall relieve Licensor from any and all 'Software Maintenance' responsibilities relating to any Licensee reported issue(s) that the Licensor correction(s) was/were offered to address. In the event Licensee fails to implement identified software corrections, any subsequent services relating to the Licensee reported issue(s) will only be provided on an emergency time and materials basis. Unlike the business models of other providers where products become obsolete, Licensor continually improves the software and offers upgrades which are included with software maintenance. It is highly recommended that staff receive additional training at least every 5 years and attend PSI user groups so staff may benefit from and be able to take full advantage of the accumulated new features.

- i. Other than for one initial remote access attempt, Licensee understands & acknowledges that Licensor in the interest of providing the most cost effective offering has **not** included costs in this agreement for further testing of any remote access method(s) to be provided to Licensor. Licensee agrees to provide Licensor with access to the Licensed software and data for the sole purpose of providing technical support & services in one of these ways:

A. Most Cost Effective Access: In the interest of security, Licensor strongly recommends providing Licensor with access via-terminal services, virtual private network (VPN), remote desktop connection (RDC) and/or Licensee provided connectivity such as Citrix Remote Access. Licensee is expected to provide prompt & efficient distribution of security requirements, user-names, access rights and passwords. **All access rights listed below shall be tested by Licensee's designee prior to distribution of any security configurations/requirements, usernames & passwords to Licensor and such access rights shall be maintained at least until the go live date and for the duration of any approved customization projects. Such projects are subject to Licensee's review and approval. After such initial implementation(s), any Licensee transmission of remote**

The features described below are enabled by default to

access information to Licensor shall also be tested by Licensee's designee as described above prior to distribution to Licensor. Licensor expects that under no circumstances should any Licensee site connectivity attempts require more than 15 minutes of Licensor's staff time. Licensor requires access rights solely for maintenance of software and data structures. **These access rights must be provided by Licensee:**

- Connection to Licensee designated Application/File Server via a mutually agreed Connection
- Connection to Licensee designated SQL Server
- Access to functional SQL tools (with Local administrative rights) for data flow, backing up, adding & deleting users, restoring & configuring of Licensor's data structures.
- IIS management rights for any web implementations
- Web implementations must allow SQL connectivity to source data
- Creation of subfolders within the PSI directory
- Saving of files in the PSI folder & all subdirectories
- Transferring and saving FTP files from www.progressivesolutions.com to Licensee Server(s)
- Transferring and saving files from: <http://www.progressivesolutions.com/downloads> to Licensee Server(s)

- j. In order to be able to meet the above requirements, Licensee agrees a) to maintain a working connection to the internet, b) to permit Terminal Services, Virtual Private Network-VPN or similar access to Licensor's network through any router/firewall and c) to permit Licensor access to a technical support requestor's workstation via Licensor's "Share desktop facility", Microsoft's Remote Desktop, Microsoft's Netmeeting, Gotomeeting.com or Citrix as specified in the Software Maintenance Agreement. In addition, Licensee agrees that all designated workstations shall meet at least the minimum requirements as specified in (Requirements) at the time of the initial implementation in order to accommodate the software version initially installed. Licensee further agrees to have completed installation of the licensed software, the Microsoft SQL tools and other mutually agreed requirements such as: Microsoft's Terminal Services, VPN, Citrix, Remote Desktop, Netmeeting or other similar functionality.

The features described below are enabled by default to connect via the Internet to Licensor's computer systems automatically, without separate notice to Licensee. Licensee consents to the operation of these features, unless Licensee chooses to switch them off or not use them. To minimize Licensee costs, to eliminate any requirement for manual update of validation and/or zip +4 codes, to allow for other on line validations (such as pet owner information retrieval etc.) and to maximize uptime of zip +4 & Licensed software validations, machines intended to execute the Licensed software should optimally be configured for internet access to the Licensor designated secure internet (IP) address. Consequently users of the Licensed software may periodically obtain the latest zip +4 data and validation codes. Absent this configuration, to obtain automated zip +4 functionality, Licensee must purchase a zip +4 data subscription and designate staff to install such zip +4 updates every two (2) months. Failure to promptly update zip +4 data will cause disruption of the zip +4 functionality. Furthermore absent internet access or maintenance of a current data subscription from Licensor, the automated validations provided at the time of installation shall cease and all such validations will need to be performed manually.

- k. SECTION INTENTIONALLY OMITTED

- l. Licensee has no obligation to give Licensor any suggestions, comments or other feedback ("Feedback") relating to the Licensed software. However, any Feedback Licensee voluntarily provides may be used in Licensor Products, marketing, related specifications and/or other documentation (collectively, "Licensor Offerings") which in turn may be relied upon by other third parties to develop their own products, services or technology ("Third Party Products"). Accordingly, if

Licensee gives Licensor Feedback on any version of Materials or Licensor Offerings to which they apply, **Licensee agrees:** (a) Licensor may freely use, reproduce, license, distribute, and otherwise commercialize Your Feedback in any Licensor Offering; (b) You also grant third parties, without charge, only those patent rights necessary to enable Third Party Products to use, implement or interface with any specific parts of a Licensor Product that incorporate Licensee's Feedback; and (c) Licensee will not give Licensor any Feedback (i) that Licensee has reason to believe is subject to any patent, copyright or other intellectual property claim or right of any third party; or (ii) subject to license terms which seek to require any Licensor Offering incorporating or derived from such Feedback, or other Licensor intellectual property, to be licensed to or otherwise shared with any third party.

- m.. While Licensor's software payment processing solutions are designed according to our interpretation of CISP (Cardholder Information Security Program) & PCI (Payment Card Industry Data Security Standard) guidelines, Licensee acknowledges they are aware of published CISP/PCI requirements and accept ultimate responsibility for compliance as required by Visa, MasterCard, etc. Licensor accepts responsibility for facilitating such compliance by neither encouraging the storage of credit card data via non-secured methods nor configuring the system for the express purpose of retaining such information. It is Licensee's responsibility to assure that all other 3rd party partners/vendors as well as their own internal operations staff facilitate compliance in their specific areas of process control.
- n.. **Call Monitoring:** Licensor may monitor and record any calls between Licensee (including designated Sub-Agencies) and Licensor.
- o.. Upon expiration pursuant to section II or demand by Licensor made pursuant to section X hereof, Licensee shall discontinue

use of Licensor's database/structure, software & related electronic forms.

VIII. LICENSOR'S RIGHTS, OBLIGATIONS & REPRESENTATIONS

- a. While Licensee maintains 'Software Support', Licensor shall provide Licensee with any updates and minor enhancements to Licensed software, data or data structures which may become available from Licensor as provided for in the corresponding Support Maintenance Agreement. In the course of Licensor providing Licensee with 'Software Support', Licensor may install updates and minor enhancements to Licensed software, data or data structures.
- b. While Licensee maintains 'Software Support', Licensor shall provide the Licensee with voice, facsimile, and mail communications as provided for in the corresponding Support Maintenance Agreement.
- c. Nothing contained in this Agreement shall be construed to obligate Licensor to provide any services whatsoever to any Licensee who fails to maintain 'Software Support'.
- d. **U.S. GOVERNMENT RESTRICTED RIGHTS:** The licensed software and documentation are "commercial items" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the software and documentation with only those rights set forth herein. Contractor/manufacture is the Licensor of the software.
- e. **SECTION INTENTIONALLY OMITTED**

IX. LICENSE FEES AND PAYMENTS

Payment of the License fee authorizes use of the Licensed software by no more than the number of users specified below:

Software (Utilizes/Requires Microsoft SQL licenses)	Designated Caller(s)	Concurrent Licenses	License Fee
PetTrack™ PetTrack™ Web Renewals IVR-Module (Requires PetTrack API) PetTrack™ API		4 admin Users, 12 read/write (unlimited read only users)	\$53,000 \$10,000 \$15,000 \$15,000 93,000
Read only Users		Unlimited	Included
Professional Services (For notational purposes only. Refer to Consultant Services Agreement)			Units
PetTrack™	Fit analysis Modifications System installation Training	8 hours 16 hours 8 hours 16 hour	Included \$2,800 Included Included
Requested Modifications			
PetTrack™	None.		None
Forms & Letters to be Customized*			
PetTrack™	Renewal, Delinquent, Underpayment & License		Included
Total Professional Services (For notational purposes only. Refer to Consultant Services Agreement)			\$2,800
Project Grand Total (No travel expenses are anticipated as implementation and training will be performed remotely.)			\$95,800

* Whenever form or letter customization is quoted, unless otherwise specified, Licensee may expect Licensor to modify Licensor's standard forms/formats to accommodate Licensee's names, addresses, phone numbers, text, emblems, logos, and bank account numbers, etc. (List price \$600) Deviations from Licensor's standard formats (such as creation of one or more entirely new forms and/or specifications requiring complex calculations) require additional effort and will be billed at Licensor's standard hourly rates.

**Initial Software Maintenance will be billed at least 30 days prior to warranty expiration. Subsequent Maintenance will be billed in May and due July 1st.

***Travel expenses will be billed at our actual cost and limited to customary reasonable travel, ground transportation or auto rental fees, lodging and meal per diem expenses plus staff transportation time per section IX-a.

PSI's understanding of written specifications for potential data export to a mail outsourcing service is that generation of Acrobat™ portable document format (PDF) files is the most standard, replicable, consistent, preferred and elected data export format. This format typically reduces or eliminates duplicate effort(s) and cost(s) for form replication.

3rd Party Deliverables: Any required or desired hardware, software, and communications products not specifically included in the following table are Licensee's responsibility. This configuration represents Licensor's recommended products, and the cost is an estimate only, as the prices of the third-party vendors are subject to change without Licensor's approval. Also, Licensee understands that Licensor may decide to change this recommendation if

Licensor believes a new solution is better suited for the proposed installation. Should this recommendation change, Licensor will notify Licensee as soon as practical. Licensor makes no warranty, whether expressed or implied, regarding the components listed below and shall not be responsible for servicing such components. The components shall be subject only to manufacturers' warranties, if any. Progressive Solutions' software products may be configured to utilize barcode components licensed from IDAutomation Inc. These barcode components may only be used on the number of workstations authorized as part of and in connection with Progressive's Software & Services.

3rd Party Products (Prices do not include sales tax)	Cost
CrystalReports(run-time)	\$0

Sub-Agencies:

Application(s) authorized for use by specified sub-agency	Sub-Agency
PetTrack™	Animal Shelter Partners

- a. All Licensor service is billed portal to portal and subject to such minimum response charges as may then be in effect.
- b. Charges for additional remotely provided support services will be invoiced to Licensee in one hour increments at the hourly rate in effect at the time of service. Support services resulting from mutually approved parallel operations that exceed 2 calendar months shall be invoiced on an hourly basis until completion of the approved parallel project. Charges for additional on-site support services will be invoiced to Licensee portal to portal (minimum four {4} hours) at the hourly rate in effect at the time of service. Invoices shall be payable thirty (30) working days after receipt of invoice. Licensor will submit invoices which reflect the date of service, staff-hours expended and a description of the services rendered.
- c. Licensee understands and agrees that timely completion of a Project is contingent upon timely performance by Licensee of all of Licensee's obligations described in this Agreement via the *Project Task Matrix (Exhibit B2), which is incorporated herein*. In the event progress on a Project is slowed or halted due to delay by Licensee, all deadlines and milestone dates will be moved forward in time by the number of days Licensee delays in meeting its obligation(s). Licensor will have no liability to Licensee for delay or damage caused directly or indirectly by Licensee nor will Licensor be held liable for failure to perform the Project in accordance with the *Project Task Matrix* if the delay was caused directly or indirectly by Licensee. Such delay will not constitute a breach of this Agreement. In the event Licensee delays performance hereunder for twelve (12) or more months from the execution of this agreement without a completed implementation, Licensor shall transmit to Licensee, an invoice for any remaining balance(s) to ensure that the original implementation price shall be retained and at such time as Licensee is ready, the most recent version of the software shall be installed. Additionally, should Licensee delay the project for twelve (12) months or more, Licensor may elect to remove Licensee's project from Licensor's development/installation schedule. In such event, when Licensee anticipates it will be able to complete their obligations per the *Project Task Matrix* and will be ready to continue, Licensee shall contact Licensor so Licensee's project may be rescheduled for development/installation on Licensor's Master Calendar. In the event Licensee changes the scope of this project, Licensor shall also be entitled to send Licensee a quotation reflecting Licensee's requested changes to the scope.

Licensee shall have five (5) days following deemed receipt of a quotation for changes to accept or reject, in writing, a quotation. Failure by Licensee to notify Licensor of its acceptance or rejection of a quotation within this period shall be deemed final and unconditional acceptance of a tendered quotation. Upon Licensee's acceptance of a quotation generated pursuant to this section, such quotation shall become incorporated herein by reference without further action on the part of the parties hereto. Upon Licensee's rejection of a quotation generated pursuant to this section, this Agreement shall automatically terminate without further liability on the part of Licensor, and in the event of such termination, except pursuant to the surviving provisions of this Agreement, Licensee's entire financial obligation to Licensor shall be for then accrued payments due, plus payment for any items being worked on up to the date of termination. Payment for partially completed items shall be a pro-rated portion of the next payment specified in a quotation. In exchange for such payment, Licensee shall provide Licensee with any project work and materials in its possession as of the termination date.
- d. In the event that subsequent to the execution of this Agreement additional software is desired, the notice referencing this Agreement from Licensee to Licensor will serve as an addendum to this Agreement and all provisions of this Agreement will apply for the requested products or services. To avoid conflicting terms arising out of the integration of this Agreement, resulting purchase orders, letters and confirmation, the parties agree that the terms agreed to herein shall not be subject to change by either party unless both parties consent to the proposed change in writing. Should any conflict arise with any other unilateral writings of either party, this Agreement will govern.

All documentation, programming and/or modifications shall be delivered via remote telecommunications from Licensor's place of business, to or through the Licensee's computer. Licensor shall not provide Licensee with possession of any tangible personal property such as storage media. Unless otherwise stated, all fees are exclusive of state and local use, sales, property (ad valorem) and similar taxes. Such taxes, when applicable, will appear as separate items on Licensor's invoice. In addition, Licensee shall reimburse Licensor for any state or local requirements which Licensor must obtain to provide services (i.e. additional insured certificates, etc.). Licensor shall obtain any necessary City business tax certificate prior to commencement of any work authorized by this Agreement at Licensor's expense, and shall maintain such certificate through the term of the Software Maintenance Agreement.
- e. **SECTION INTENTIONALLY OMITTED**
- f. Invoice & Payment Milestones:
 - shall be as described in Exhibit A (RAR) payment schedule.
 - Hardware components of this Agreement will be invoiced upon delivery and payment will be due on a 15-day net basis after date of invoice or delivery whichever is later.
 - Upon go live, an invoice for all remaining balances shall be generated which shall be due on acceptance (per paragraph d above) or 30 days after the invoice date, whichever date is later.
 - To retain the costs mutually agreed to in this agreement, any remaining balances for Licensed software and/or modules listed for purchase in this agreement that have not been installed despite repeated requests by Licensor to install/configure said software prior to one year following execution of this agreement, shall be invoiced with payment due 30 days thereafter. So that Licensee remains eligible for all subsequent software improvements, each application/module shall be added to Software Maintenance and billed accordingly. When Licensee becomes ready for implementation, Licensor will schedule said implementation at no additional charge.

where one or more staff members utilize Licensor's software, Licensee shall pay Licensor liquidated damages of \$50,000. Payment shall be due 30 days from date of invoice.

X. EXPIRATION

a. SECTION INTENTIONALLY OMITTED

b. Upon expiration pursuant to section II or 30 days from demand by Licensor made pursuant to Section 7, Default and Termination in the Master Agreement, Licensee shall discontinue use of Licensor's database/structure, software & related electronic forms. In addition, Licensee shall provide Licensor with written confirmation that: 1) all previously licensed components have been erased and copies no longer reside on any computer system maintained or operated by:

Licensee, Licensee's staff members, or Licensee authorized 3rd party vendors 2) all backup tapes which contain a copy of Licensor's proprietary property shall be securely maintained with the same care as other confidential data and overwritten within 90 days from execution of the transmitted PSI statement of destruction 3) no attempt shall be made to restore Licensor's proprietary property from backup tapes and 4) no breach of confidentiality relating to Licensor's intellectual property has occurred. Licensee agrees to complete and transmit Licensor's 'Statement of Destruction' to Licensor within 30 days from expiration of the licensed software unless an alternative written agreement has been executed Should any representation provided via a transmitted 'Statement of Destruction' subsequently be found not to be true, the weekly penalty provision shall apply as if the statement had not been provided until the date subsequent proof has been tendered which verifies that any misrepresentation (intentional or unintentional) has been rectified.

c. Suspension of Obligations: If either party should default in the performance or observance of any of its obligations hereunder, then in addition to all other rights & remedies available to the non-defaulting party, the non-defaulting party may suspend performance & observance of any or all its obligations under this Agreement, without liability, until the other party's default is remedied, but this section shall not permit Licensee to suspend its obligation to make payments for Software Maintenance and other Services.

XI. GENERAL PROVISIONS

a. The obligations set forth under: Sections III, V, VI:a-d, X & XI shall survive termination/expiration of this Agreement.

b. SECTION INTENTIONALLY OMITTED

c. SECTION INTENTIONALLY OMITTED

d. SECTION INTENTIONALLY OMITTED

e. SECTION INTENTIONALLY OMITTED

f. SECTION INTENTIONALLY OMITTED

g. SECTION INTENTIONALLY OMITTED

h. Any controversy or claim arising out of or relating to this Agreement or the breach thereof, may be settled by arbitration, if agreeable to both parties, in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

i. SECTION INTENTIONALLY OMITTED

j. SECTION INTENTIONALLY OMITTED

k. SECTION INTENTIONALLY OMITTED

l. During the term of the relationship between Licensee and Licensor ("Services Period"), and for a consecutive one (1) year period following termination of Services for any reason, whether voluntary or involuntary (the "Post Services Period"), should Licensee directly or indirectly, or by action in concert with others, induce or influence, or seek to induce or influence, any employee, agent, independent consultant, or other business affiliate of Licensor ("Consultant Associate") to terminate his/her relationship with Licensor, Licensee shall compensate Licensor to defray their training investment in said Consultant Associate (as that term is defined above) and the resulting costs associated to recruit, hire and train a replacement Consultant Associate.

m. Licensee agrees that for every Consultant Associate who Licensee retains (hires or contracts with) as either an employee or consultant (prior to expiration of the Post Services Period) and either works in or under the direction of any department

Exhibit B1: Progressive Solutions' Requirements (Server & Workstation)

	Recommended	Minimum
Network Server Operating System	Microsoft® Windows® 2003 Server or 2008 Server	Microsoft® Windows® 2003, Advanced Server & Novell® Web Server Applications require: Windows® 2003 Server
Network Server Equipment	<ul style="list-style-type: none"> • Pentium® Zeon Dual or Quad Core (3 Ghz or faster) • 6 GB or more available RAM w 64bit OS • 30 GB SAS Hard-Drives • 1440 x 900 / 75 Hz 19-inch Widescreen LCD Monitor 850:1 Contrast & 5 ms Response Time • 100 mbit Ethernet Network Card • 100 mbit Ethernet Switch • DVD/CD-RW Drive 	<ul style="list-style-type: none"> • Pentium® IV (1 Ghz) • 2 GB of available RAM • 10 GB SCSI Hard-Disk Space • Color SVGA .28 Monitor • 10 mbit Ethernet Network Card • 10 mbit Ethernet Hub • CD-ROM Drive
	/ ® certified (request printed certification documents).	
Database Server Equipment	Use any recommended Network Server.	<ul style="list-style-type: none"> • Microsoft® Windows® 2003 (Non Web Servers) • If Novell® Netware is the Network Operating System, install a separate Database Server.
Software	SQL Server 2008 or any listed in required.	Microsoft® SQL Server 2000 or 2005 Standard or Enterprise Edition with .NET 2.0 installed. Web Server requires .NET 3.5
Network Server & Database Server Power Protection	Same as required. Explanation: Using a surge protector will only address 1% of the potential power problems. On-Line protection will protect against an additional 80% of the potential power problems. When commercial power fails, the UPS monitoring card will close all open files and shutdown the file server safely. Some SPS (Switching Power Supply) vendors refer to their SPS products as UPS products. An SPS will NOT provide sufficient protection against sags, brownouts, etc.	True On-Line UPS, 600 Volt amps minimum with UPS Monitoring card, cable, and software.
Workstation Computer	<ul style="list-style-type: none"> • Pentium® D, Dual or Quad Core (2 Ghz or faster) • 2GB of available RAM • 80 GB Hard-Disk Space • 1440 x 900 / 75 Hz 19-inch Widescreen LCD Monitor 850:1 Contrast & 5 ms Response Time • DVD/CD-RW Drive 	<ul style="list-style-type: none"> • Pentium® II (500 Mhz) • 512 MB of available RAM (2 GB for workstations with document imaging) • 4 GB Hard-Disk Space (< 10MB required per application) • Color SVGA .28 Monitor • CD-ROM Drive
Workstation Operating System	Microsoft® Windows® 7 or XP Professional with latest .NET framework.	Microsoft® Windows® XP Professional with latest .NET framework
Workstation Power Protection	Same as required.	Combination On-Line conditioner and surge protector.
Backup System	Same as required.	Network-quality system to backup SQL & fileserver hard drive(s) & perform read after write verification.
Data File Transfer	Same as required.	CDR/CDRW Drive
Receipt Printer	USB Connectivity	Serial Connectivity
Report Printer	Hewlett Packard® 5, 6, or 7 series About Dot Matrix Printers: In Microsoft® Windows® dot matrix printers print slowly. Often dot matrix printers DO NOT have adequate graphic drivers.	Laser Printer with HPCL or PostScript fonts
Fingerprint Reader	Windows 7 using XP compatibility mode.	Windows XP via USB
Internet Access	Same as required. Explanation: Progressive Solutions® applications require Internet access to obtain program updates. Using an Internet connection slower than 256 Kbps will take significantly longer to download data.	FIOS, CABLE, DSL, ISDN, or T1
E-mail	Same as required.	Microsoft® Outlook®
Network Installer	Same as required.	Microsoft® or Novel® Authorized and Certified I
Report Modification	Crystal Reports Version 8.5	Crystal Reports Version 8.5
Redundancy	RAID for data and web operations	No redundancy

Exhibit B2: Progressive Solutions[®]

Requirements (Implementation)

Done	General Customer Implementation Tasks	Notes
	Payment for software licenses must be received by PSI prior to project start	
	An authorized representative of City staff must click through and accept the software license and maintenance agreements.	
	Send us your initial payment and signed: <ul style="list-style-type: none"> • Purchase Order (which references the terms of the software license, services & maintenance agreements) 	
	Designate the server that will host both SQL & application media. Have the SQL tools loaded. Create a share named 'PSI' on the designated server. <i>Provide us with the server name, IP address and access credentials.</i> (Be sure to provide our technician with write access and your users with the appropriate security to access this area.) We will use this share location to load & support our software.	
	Have IS contact us to demonstrate functional access to your designated server(s) via the internet (See A7: Access Verification).	
	Identify the designated contact(s) tasked with being available to PSI, who understand(s) the current system, can answer questions and make system implementation decisions throughout the conversion process.	
	Send us a digitized image(s) of your city logo(s)	
	Credit Cards: 1) Email PSI with the name of your bank and the name/phone of the customer account representative. PSI will transmit a gateway application appropriate to your bank. Client to transmit completed gateway application to PSI so payment functionality may be configured & tested. (Card Present & Card Not Present)	
Done	PetTrack Tasks	Notes
	Send us current city forms so that our staff may begin to recreate your forms on the new system.	
	Review proposed forms and provide comments for implementation.	
	Send us a copy of your Municipal Code relating to pet licenses for our review.	
	Print out a rate table(s) from the existing system.	
	Identify all financial accounts to be posted to and fax to us.	
	Print out a register of all renewal messages or Develop renewal messages by business type.	
	Acknowledge that all data will be migrated from existing system	
	Consider when which weekend would be best to perform migration/installation and inform us of your requested dates.	
	Inform us that you are ready to schedule your kick off meeting.	
Done	Web PetTrack [™] Tasks	Notes
	Identify the designated contact(s) tasked with being available to PSI, who understand(s) the current system, can answer questions and make system implementation decisions.	
	Have IS contact us to verify access (remote desktop, access to PSI SQL database & DTS from the IIS server (identify required ports if necessary), IIS administration rights, & ability to transfer files to/from our servers) to your designated IIS server via the internet. Allow access by city staff to approve submitted transactions.	
	Promptly provide us with any existing approved secure URL or authorize us to obtain & implement the approved secure URL by obtaining the appropriate SSL certificates on your behalf.	
	Remote Configuration, Training & Internal Testing until approved	
	Promote new functionality to appropriate utility customers via renewal, newsletters etc.	

EXHIBIT C

Software Maintenance Agreement

[See attached.]

Handwritten mark

I. INTRODUCTION.

Progressive Solutions®, a California corporation is herein after referred to as "Licensor" and *Snohomish County*, a political subdivision of Washington State, is herein after referred to as "Licensee" agree to the following terms and conditions.

II. NATURE AND DURATION OF SUPPORT.

Licensor is in the business of providing software maintenance services (herein after referred to as "Software Maintenance"). Software Maintenance is intended to facilitate smooth & efficient ongoing operations of the Licensed software. Licensee desires to obtain Software Maintenance for the Licensed software specified in section V. This Agreement provides for services to be performed in Orange County, California, only during normal business hours (8am to 5pm PST) and shall expire at 5:00 PM Pacific Standard Time on **June 30, 2013** unless renewed as set forth below. Support outside of normal business hours is available for purchase. Requests for service for which the intended result is of negligible operational benefit are not available free of additional charge under this Software Maintenance Agreement. (i.e. Changing the name of a server (absent a hardware upgrade) which consequently results in the need to reinstall/verify the SQL data base software, the operating system, the Licensed software and to update every Licensee machine that runs the Licensed software.) Licensees that purchase after hours support will be provided with the appropriate contact information. Licensor reserves the right to prorate the software maintenance fee and provide more or less than one year of coverage so that subsequent Software Maintenance Agreements expire on June 30th. Unless written notice of termination has been provided by Licensee to Licensor no later than thirty (30) days prior to expiration of this Software Maintenance Agreement this Agreement shall automatically renew each year thereafter for an additional year at the Maintenance rate stipulated in RFP 11-11 and the Master Agreement. The Licensor shall submit a completed invoice to the Licensee no later than sixty (60) days prior to the Software Maintenance expiration date to prevent a lapse in coverage and services. If at any time after software acceptance, the customer's right to receive Software Maintenance or comparable services from Licensor under this agreement or a comparable agreement has lapsed for any reason whatsoever, voluntary or otherwise, and the Licensee wishes to receive Software Maintenance from Licensor, Licensee will pay Licensor prior to the reinstatement of Software Maintenance:

- All fees that would have been payable hereunder had the Software Maintenance agreement been in force during the time during which Software Maintenance rights had so lapsed, and
- An additional fee of forty per cent (40%) of the license fees which would be payable if the software subject to such Software Maintenance were licensed anew at Licensor's then standard license fees on the date of reinstatement of Software Maintenance rights.

III. LICENSEE'S RIGHTS, OBLIGATIONS & REPRESENTATIONS

a) Training for users, managers and other personnel is essential for efficient operation of the Licensed software. Licensee will designate no more than the number of callers specified in section V and authorize such designee(s) to serve as a point of contact for each Licensed software application. Each designee must have been trained on the Licensed software by Licensor. Each support contact should also be one who both uses the system and is responsible for the results of the system. Any of these contacts may provide the initial interface with Licensor's support personnel, accept software updates and arrange for software update installation. Should training services be required, they may be scheduled at the rates in effect at the time of service. Such training is neither available nor appropriate via customer support lines. Licensee acknowledges that updates/version releases/patches made available to Licensee from time to time are an integral part of the overall performance and value of the Licensed COTS software. Licensee shall make a good faith effort to 1) install all software updates/version releases/ operating system patches in a test environment for thorough evaluation and testing prior to deployment in a production environment. And 2) install the tested upgrades/version releases/ operating system patches promptly after completion of testing occurring no later than nine (9) months from the date such updates are made available by Licensor. If the corrective nature of software upgrades are not promptly reviewed and/or the software upgrade installed shortly after notification of availability from Licensor, Licensor staff shall **NOT** provide further support (i.e. *workarounds*) relating to any issues where Licensor has offered Licensee a recommended resolution that requires implementation of a software update.

b) Software corrections are defined as: Licensor software updates as well as specified operating system patches. Licensee agrees to implement software corrections that have been identified as necessary by Licensor and to ensure that the requirements identified in Exhibit B1: (Requirements) are met by all machines intended to execute the Licensed software. Failure to implement those identified software corrections or to maintain the specified requirements shall relieve Licensor from any and all Software Maintenance responsibilities relating to any Licensee reported issue(s) that the Licensor correction(s) was/were offered to address. In the event Licensee fails to implement identified software corrections, any subsequent services relating to the Licensee reported issue(s) will only be provided on an emergency time and materials basis. Unlike the business models of other providers where products become obsolete, Licensor continually improves the software and offers upgrades which are included with software maintenance. It is highly recommended that staff receive additional training at least every 3 years and regularly attend User Conference functions, so staff may benefit from and be able to take full advantage of the accumulated new features. Licensee representatives who insist on obtaining training via telephone support may result in Licensor passing on such training costs along via an additional increase in the Software Maintenance Agreement.

c) To the extent permitted under the Public Records Act, Licensee will preserve the confidential nature of the Licensed software and related media and will not make copies, including partial copies or updated versions thereof, except for internal reference, archive or backup purposes. Licensee is solely responsible for the backup of its data and agrees to conscientiously ensure the existence of functional daily backups for at least the last 10 business days.

d) Licensee agrees to provide Licensor with access to the licensed software and data for the sole purpose of providing technical support. As a result, Licensee agrees (1) to maintain a working connection to the internet, (2) to permit access through any router/firewall or to permit a Virtual Private Network-VPN connection to Licensee's network and (3) to allow access to a technical support requestor's workstation via Licensor's share desktop facility, Microsoft®'s Netmeeting®, Citrix or other similar functionality. In addition, Licensee agrees that all designated workstations shall meet at least the minimum requirements as specified in Exhibit B: (Requirements) at the time of the initial implementation in order to accommodate the software version initially installed. Licensee further agrees to have completed installation of the licensed software, the Microsoft® SQL tools and other mutually agreed requirements such as: Microsoft® Terminal Services, Citrix or other similar functionality. In the event Licensor deems such remote access necessary, Licensor shall request confirmation that required access (one of the options listed above) is available. Upon receipt of such confirmation, Licensor shall attempt remote access. If remote access is not functional despite Licensee's confirmation of functional remote access, Licensor shall provide remote access verification services free of charge for one time during each annual agreement. In the event remote access is not and will not be available in the course of Licensor's attempt(s) to provide Software Maintenance, Licensee understands that Licensor's ability to provide support will be severely limited and an additional service surcharge may be applied to the Software Maintenance Agreement to account for the additional costs incurred to provide such additional support. Should Licensee desire emergency support, on-site support services are available at Licensor's current support rate plus expenses for each partial or full day required to provide Software Maintenance.

e) To minimize Licensee costs, to eliminate any requirement for manual update of validation and/or zip plus four (4) codes, to allow for other on line validations (such as contractor's license, sales tax permit, pet microchip owner information retrieval, etc.) and to maximize uptime of zip plus four (4) & Licensed software validations, the Licensed software should optimally be configured for internet access to the Licensor designated secure internet address. Consequently users of the Licensed software may periodically obtain the latest zip plus four (4) data and validation codes. Absent this configuration, to obtain automated zip plus four (4) functionality, Licensee must purchase a zip plus four (4) data subscription and designate staff to install such zip plus four (4) updates every two (2) months. Failure to promptly update zip plus four (4) data will cause disruption of the zip plus four (4) functionality. Furthermore absent internet access, any other possible automated validations are reduced to manual processes.

f) **SECTION INTENTIONALLY OMITTED**

g) Licensee assumes any and all responsibility and liability for 1) any modification to the Licensed software and/or database structure not made by Licensor (i.e. changes to Crystal reports, additions or deletions of data base tables, fields, etc.) and 2) any modification to the Licensee's data which is not made by Licensor or the Licensed software. Licensee agrees to allow If, after providing corrective maintenance, Licensor determines that an error condition is not a Licensed software error or that the error condition results from either condition 1 or 2 above, Licensee agrees to pay Licensor for the reasonable services so provided at the rates in effect at the time of service plus reasonable expenses.

h) **Call Monitoring:** Licensee may monitor and record any calls between Licensee (including designated Sub-Agencies) and Licensor.

i) While Licensor's software payment processing solutions are designed according to our interpretation of CISP (Cardholder Information Security Program) & PCI (Payment Card Industry Data Security Standard) guidelines, Licensee acknowledges they are aware of published CISP/PCI requirements and accept ultimate responsibility for compliance as required by Visa, MasterCard, etc. Licensor accepts responsibility for facilitating such compliance by neither encouraging the storage of credit card data via non-secured methods nor knowingly configuring the system to retain such information. It is Licensee's responsibility to assure that all other 3rd party partners/vendors as well as their own internal operations staff facilitate compliance in their specific areas of process control.

Upon expiration pursuant to section II or 30 days from demand by Licensor made pursuant to the default provisions of the corresponding Software License Agreement, Licensee shall discontinue use of Licensor's database/structure, software & related electronic forms.

IV. LICENSOR'S RIGHTS, OBLIGATIONS & REPRESENTATIONS

a) **Support Services:** During the term of this Agreement, Licensor shall make available to Licensee without additional charge any updates and/or minor enhancements to Licensed software, data or data structures, which Licensor releases. In addition, Licensor shall provide Licensee with unlimited support services (via telephone, facsimile, remote internet connection, email and/or mail communications) for ongoing problem resolution to assist the person(s) designated by Licensee (or an alternate in the absence of the designated caller). It may include but is not limited to requests for service regarding operation (including requests for assistance with workstation accessory hardware purchased from Licensor), installation, updates, administration & general technical assistance requested by Licensee's designee(s). The designee(s) shall know the Licensed software, use the Licensed software and be responsible for the results of their efforts. In no event shall the number of designated callers requesting assistance at any given time exceed the number of callers specified in section V of this Agreement. Such support also includes "Limited Assistance" with the items listed below, provided such assistance may be provided in fifteen (15) minutes or less:

1. Training (especially of untrained personnel), assistance with report customization and searching of data within the Licensed software, and
2. Assistance to isolate the source of problems and/or to troubleshoot difficulties **resulting from sources other than Licensor's provided products or services**, such as:
 - Virtualization and/or Remote Access configuration & setup
 - Personal Computer setup, configuration & optimization
 - Basic Microsoft Windows™ functionality
 - Personal Computer & hardware troubleshooting
 - General network support (i.e. network access, printing, backup & restores)
 - Network operating system configuration & functionality
 - Data corruption due to lack of disk space or backup failure; and
 - Loss of supervisor or other password

But expressly excludes any services or assistance relating to database or 3rd party mail services issues, unless purchased via an addendum to this agreement. "Limited Assistance" in excess of fifteen (15) minutes per call will be billed at the rate in effect at the time of service. Prior to and as a condition of Licensor's right to bill for such "Limited Assistance", Licensor shall inform Licensee that the free support is over and that any additional support will be billable. Licensor reserves the rights to: A) limit the number and the duration of these communications and B) periodically transmit surveys to Licensee for evaluation of the software, support and other services.

b) **Maintenance Services:** Upon receipt of notification from Licensee's designated support representative(s) of an apparent error in any supported release of the Licensed software, Licensor will use commercially reasonable efforts to promptly investigate the issue and determine whether or not there is in fact an error and advise Licensee that either an error does not exist or confirm that one does exist and what if any work-around exists. Errors will be deemed to be any design or programming error in the Licensed software which prevents the Licensed software from substantially complying with the functionality as set out in the user documentation (on-line or hard-copy) delivered with the Licensed Software and which materially affects the use, function or performance of the Licensed Software. When errors are confirmed, Licensor will use commercially reasonable efforts to correct such errors and provide Licensee with a correction or service pack for the Licensed Software as soon as it is practical in Licensor's sole discretion.

c) **Assignment of Priorities for Support Issues:** New support incidents are assigned one of the following four priority levels, each with its respective standard completion target:

Call Priority	Description	Standard Completion
A - System Down	Fatal issues that result in Licensee's inability to fulfill critical business functions (i.e. those pertaining to core functionality such as billing and receipting) & that have no reasonable work-around.	Within 12 hours
B - Urgent	Serious issues significantly impacting use of Licensed software but do not prevent core functions (defined above) from being fulfilled.	Within 24 hours
C - Normal	All other issues, except those classified as D (low)	Within 36 hours
D - Low	Issues with minimal impact on operations requiring incommensurate support effort. (Work will be performed on a best efforts basis when requests with higher priorities do not take precedence.) Issues such as proposed elective configuration changes that are by nature not time-sensitive and may be undertaken as planned Licensee service initiatives outside the scope of this agreement	None

Licensee may request a ranking of the call priority when initially reporting the incident. Should there be any disagreement over the priority assigned to a particular incident, or any other aspect of its handling by Licensor's support staff, Licensee's designated representative is encouraged to speak directly to the support representative dealing with the issue in order to arrive at an acceptable solution. In cases where escalation is desired or necessary, please contact the Support Services Supervisor with any concerns you may have.

d) **Excluded Services:** Without limitation, the following services are excluded from Software Support:

1. Those required to remedy problems that stem from changes to or defects in system configuration upon which the Licensed Software was initially installed;
2. Those required to remedy problems which do not stem from any defect in the Licensed Software
3. Those required to remedy issues resulting from untrained or inadequately trained staff.
4. Those required remedying problems caused by improper use of the software.
5. Full report customization service
6. Any & all hardware support, maintenance or troubleshooting issues, except as described in section IV(a) regardless of the source of such hardware.

e) **Limited Warranty of Service:** Licensor warrants that all maintenance services provided hereunder will be performed in full conformity with this Software Maintenance Agreement, with the skill & care which would be exercised by those who perform similar services at the time the services are performed, and in accordance with accepted industry practice. The following actions shall void all maintenance and support obligations of this Software Maintenance Agreement:

- Use of any other application that modifies data in the database, whether created by Licensee or otherwise
- Use or creation of any application that competes with or replaces a module available from Progressive Solutions Inc. to work with either the application or the application's database

In the event of a breach of the express warranties contained herein and/or in the event of non-performance and/or failure of Licensor to perform the services in accordance with the Agreement, Licensor will, at

no cost to Licensee, re-perform or perform the services so that the services conform to the warranties.

f) Nothing contained in this Agreement shall be construed to obligate Licensor to provide any services whatsoever subsequent to the

expiration of this Agreement or any subsequent renewals of this Agreement. Upon expiration of this Agreement, Licensee may purchase continued Software Maintenance on an annual basis. The price(s) specified in section V is the current price(s) for Software Maintenance.

V. SUPPORT FEES AND PAYMENTS

Payment for 'Software Maintenance' services is due in advance. 'Software Maintenance' services will not be provided until such advance payment has been received. Annual software maintenance fees for the first three (3) years of support are fixed costs pursuant to the RFP 11-11 and the Master Agreement and Exhibit A. Subsequent years fees shall be increased by no more than three (3) percent per year or the lesser of the CPI change (calculated in June) plus two (2) percent. Licensor agrees to provide at least 60 days prior written notification (*via invoice*) prior to implementation of any fee change. Any fee change shall not be effective until the first day of any annual extension.

Licensed Software	Designated Caller(s)	1 st Year Support Fee	Prorated Fee
PetTrack™-4 admin Users, 12 read/write (unlimited read only users)		\$8,500	
PetTrack™ Web Renewals		\$2,000	
IVR-Module (Requires PetTrack API)		\$2,000	
PetTrack™ API		\$3,000	

VI. GENERAL PROVISIONS

(a) The Licensed software is subject to design and operational changes to allow for the use of new technologies and to correct known bugs as they are brought to the attention of the Licensor, either by the Licensor's own quality-control mechanisms or by the Licensee.

(b) Licensee acknowledges that the Licensed software is of such complexity that it may have inherent defects and agrees that as Licensor's sole liability for such inherent defects and as Licensee's sole remedy for such inherent defects, Licensor will provide, during the term of this Agreement, *all reasonable software maintenance services (arising from an unaltered version of the delivered Licensed software) to correct 1) documented programming or documentation errors reported by Licensee and 2) failure of the Licensed software to meet the specifications identified in the electronic documentation provided with each release of the software.*

(c) Licensee acknowledges that annual software maintenance is designed to ensure quality support for all users of both Licensed software and forms designed, created and/or maintained by Licensor as part of the released software. Licensor utilizes Seagate's Crystal Report Writer™ to create most reports and forms. To ensure maximum flexibility, customers are provided with the option to design, create and maintain additional forms, mailings, and/or reports. Licensor's annual software maintenance does not include the provision of technical support for user written customized Crystal Reports™. However, Licensor is pleased to offer support on a cost per incident basis.

All documentation, programming and/or modifications shall be delivered via remote telecommunications from Licensor's place of business, to or through the Licensee's computer. Licensor shall not provide Licensee with possession of any tangible personal property such as storage media. Licensee shall reimburse Licensor for any state and or local requirements, which Licensor must meet or obtain to provide services under this Agreement (e.g. business licenses, additional insured statements, sales tax, etc.).

(d) No action regarding services or deliverables, regardless of form, may be brought more than one (1) year after the first to occur of either (a) the conclusion of services and/or delivery of any deliverables arising from this or the Software License Agreement, or (b) such party's knowledge of the event giving rise to such cause of action. This limitation does not apply to confidentiality obligations or to software license rights.

(e) Notices: All notices and other communications required or permitted to be given or made pursuant to this Agreement shall be in writing and deemed delivered one (1) day after being sent by a nationally recognized overnight courier service or three (3) days after being sent certified U.S. mail, return receipt requested, postage prepaid. All notices will be given to the designated contact at the address indicated in this Agreement.

(f) Suspension of Obligations: If either party should default in the performance or observance of any of its obligations hereunder, then in addition to all other rights & remedies available to the non-defaulting party, the non-defaulting party may suspend performance & observance of any or all its obligations under this Agreement, without liability, until the other party's default is remedied, but this section shall not permit Licensee to suspend its obligation to make payments for Software Maintenance and other Services.

(g) Any controversy or claim arising out of or relating to this Agreement or the breach thereof, may be settled by arbitration, if agreeable to both parties at in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Any change or revision to the terms and conditions hereof shall be made by written amendment and shall be executed by persons authorized to do so by the respective parties. No changes in specifications, requested or suggested by either party, shall be made except by written agreement of both parties.