

**AMENDMENT 9 TO INTEGRATED FINANCIAL MANAGEMENT SYSTEM CONTRACT:
UPGRADE AND ADDITION OF IBM COGNOS (“AMENDMENT 9”)**

This Amendment 9 dated effective October 1, 2021 (the “**Effective Date**”), to the Contract for Integrated Financial Management System between Snohomish County and SFG Technologies (U.S.) Inc., executed on February 20, 1996 (the “**Original Contract**”), as subsequently amended by Amendment 1, on May 11, 2000, Amendment 3, on January 15, 2005, Amendment 4, on March 12, 2011, Amendment 5, on February 21, 2012, Amendment 6, on October 2, 2014, Change Order to Amendment 6 on May 6, 2015, Amendment 7, on December 21, 2017, and Amendment 8 on April 7, 2020 (together hereafter “the **Master Contract**”), is made by and between Snohomish County, a political subdivision of the State of Washington (the “**County**”) and Cayenta, a division of N. Harris Computer Corporation, an Ontario, Canada corporation, hereafter (the “**Contractor**”), formerly SFG Technologies (U.S.) Inc.

RECITALS

WHEREAS, the Master Contract has been amended over time to allow for upgrades and continued software support services; and

WHEREAS, the parties have agreed that the County shall license or subscribe to, as applicable, the Contractor software products set forth in Exhibit B 2021 of this Amendment 9 (“**Additional Software**”) on the terms and conditions set forth in this Amendment 9 and in accordance with the terms and conditions of the Master Contract; and

WHEREAS the parties will execute an Agreement for Professional Services contemporaneously with this Amendment 9 for the upgrade of the Contractor software, (referenced as “Standard Software” in the Original Contract) to the most current version; and

WHEREAS, the County desires to receive Support from the Contractor for the Additional Software as set forth in this Amendment 9 (“**Additional Support**”).

NOW THEREFORE, in consideration of the covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Contractor agree as follows:

1. **Licensed Additional Software**. The Contractor hereby licenses to the County the Additional Software described in Table I of the attached Exhibit B 2021 (the “**Licensed Additional Software**”), in accordance with the terms and conditions of the Master Contract. The Licensed Additional Software shall form part of the “Standard Software”, as defined in Section 2.14.4.3 of the Original Contract.
2. **Amendment to Exhibit B**. Section 2.14.43 “Exhibit B Contractor License and Support” is amended to add Exhibit B 2021 Licensed Additional Software for Version 9 Upgrade, attached hereto and by this reference incorporated herein.
3. **Software Subscription**. The County shall subscribe to the Additional Software described in Table II of the attached Exhibit B 2021 (the “**Software-By-Subscription**”), in accordance with the terms and conditions of this Amendment 9. County receives no rights to the Software-By-Subscription other than those specifically granted by this Amendment 9. The term of the Software-By-Subscription shall be for a period of twelve months following the Effective Date and shall thereafter renew on each anniversary of the Effective Date, unless the County provides Contractor with written notice of non-renewal at least ninety (90) days prior to the applicable anniversary of the Effective Date.

4. **Access and Use.** Subject to and conditional upon the County’s payment of the annual subscription fees set out in Table II of Exhibit B 2021 (the “**Annual Subscription Fees**”) and being in compliance with all other terms and conditions of the Master Contract and of this Amendment 9, Contractor hereby grants the County a revocable, non-exclusive, non-transferable, limited right to access and use the Software-By-Subscription solely for use by authorized users in accordance with the terms and conditions of the Master Contract and with this Amendment 9. Such use is limited to County’s normal business operations.
5. **Third-Party Components.** County acknowledges that the Additional Software contains Third-Party Components. “**Third-Party Components**” means any products, content, software, services, information (in any form or medium), websites, or other materials that are not proprietary to Contractor, but owned by third parties and are incorporated into or accessible through the Additional Software.
6. **Third-Party Terms.** The use of and access to the Third-Party Components are governed by the third-party terms, some of which are included in the main body of this Amendment 9 and some of which are attached as Schedule B, which are incorporated into and form part of the Master Contract (“**Third-Party Terms**”). The County is hereby bound by the Third-Party Terms, and to any amendments made to such Third-Party Terms from time to time.
7. **Additional Support.** The County acknowledges that The Contractor shall provide the Additional Support as set forth in Exhibit B 2021.
8. **Fees.** The County shall pay the following to Contractor in accordance with Exhibit B 2021:
 - a. The license fees associated with the Licensed Additional Software (the “**License Fees**”);
 - b. The fees associated with the Additional Support (the “**Support Fees**”); and
 - c. The Annual Subscription Fees.
9. **Third-Party Components.** The County acknowledges that the availability of the Third-Party Components is based solely on the best information available to Contractor as of the Effective Date (including third party representations and government regulations) and is subject to change during with little or no advance notice. If the Third-Party Components are determined by Contractor to be unavailable as a result of changes to any third party availability, governmental regulations or other condition or circumstance outside of Contractor’s control, then (a) Contractor shall not be in breach hereof or otherwise liable for any failure or inability to provide the Third-Party Components as a result of such unavailability of the Third-Party Components; and (b) Contractor may in its sole discretion modify, change or replace the applicable Third-Party Components and otherwise attempt to mitigate the impact of such unavailability of Third-Party Components, including the right to revise fees. If Third-Party Terms are modified by the service provider or licensor of the Third-Party Components, Harris may modify the terms and conditions of the Amendment 9 effective immediately upon written notice to the County.
10. **Use Restrictions.** Without limiting the generality of the foregoing, County shall not reverse engineer, decompile, disassemble, or otherwise attempt to derive source code or other trade secrets from the Additional Software; or use the Additional Software to provide software-as-a-service, or act as a service bureau or use the Additional Software for any time-sharing purposes, or in any other way allow third parties to exploit the Additional Software.
11. **WARRANTY DISCLAIMER.** COUNTY ACCEPTS THE ADDITIONAL SOFTWARE, INCLUDING THE THIRD-PARTY COMPONENTS, AND THE SUPPORT “AS IS”, WITH NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED,

INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, OR ANY IMPLIED WARRANTY ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING: (A) NEITHER CONTRACTOR NOR ITS SERVICE PROVIDERS, LICENSORS, OR SUPPLIERS (TOGETHER "SERVICE PROVIDERS" FOR THE PURPOSES OF THIS SECTION 10 REPRESENT OR WARRANT THAT THE ADDITIONAL SOFTWARE OR THE THIRD-PARTY COMPONENTS WILL PERFORM WITHOUT INTERRUPTION OR ERROR OR THAT ALL ERRORS OR DEFECTS CAN BE FOUND OR CORRECTED; (B) NEITHER CONTRACTOR NOR ITS SERVICE PROVIDERS MAKES ANY WARRANTY OF ANY KIND THAT THE ADDITIONAL SOFTWARE OR THE ADDITIONAL SUPPORT SHALL MEET ANY OR ALL OF THE COUNTY'S OR ANY OTHER PERSON'S REQUIREMENTS, EXCEPT TO THE EXTENT SET OUT IN THIS AMENDMENT 9, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICE, OR BE ACCURATE, COMPLETE, OR FREE OF HARMFUL CODE; AND (C) NEITHER CONTRACTOR NOR ITS SERVICE PROVIDERS REPRESENT OR WARRANT THAT ANY ASPECT OF THE ADDITIONAL SOFTWARE, THE ADDITIONAL SUPPORT OR THE THIRD-PARTY COMPONENTS IS SECURE FROM HACKING OR OTHER UNAUTHORIZED INTRUSION OR THAT COUNTY DATA WILL REMAIN PRIVATE OR SECURE OR REMAIN UNALTERED.

WITHOUT LIMITING THE FOREGOING, NEITHER CONTRACTOR NOR ITS SERVICE PROVIDERS OR LICENSORS, OR SUPPLIERS MAKE ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH REGARD TO PRODUCTS OR SERVICES FROM THIRD PARTIES (INCLUDING WITHOUT LIMITATION THE THIRD-PARTY COMPONENTS, THE HARDWARE, THE OPERATION OF THE INTERNET, NETWORK OR OTHER COMMUNICATION SERVICE) NOR ASSUMES ANY RESPONSIBILITY OR LIABILITY WITH RESPECT TO THE FOREGOING OR THE APPROPRIATENESS OF COUNTY'S DATA MANAGEMENT SYSTEM OR THE ACCURACY OF DATA CONTAINED IN SUCH SYSTEM.

NO AGREEMENTS VARYING OR EXTENDING ANY EXPRESS WARRANTIES SET FORTH IN THIS AMENDMENT 9 SHALL BE BINDING ON EITHER PARTY UNLESS IN WRITING AND SIGNED BY AN AUTHORIZED SIGNING OFFICER OF CONTRACTOR.

12. **LIMITATIONS ON LIABILITY.** TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, COUNTY AGREES THAT THE ENTIRE AND COLLECTIVE LIABILITIES OF CONTRACTOR AND OF ITS AFFILIATES AND EACH OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES AND SHAREHOLDERS AND OF ITS SERVICE PROVIDERS, LICENSORS AND SUPPLIERS (TOGETHER "SERVICE PROVIDERS" FOR THE PURPOSES OF THIS SECTION 11) AND COUNTY'S EXCLUSIVE REMEDY WITH RESPECT TO THE ADDITIONAL SOFTWARE AND THE ADDITIONAL SUPPORT AND ANY OTHER PRODUCTS, MATERIALS OR SERVICES SUPPLIED BY CONTRACTOR OR BY ITS AFFILIATES OR BY ITS SERVICE PROVIDERS IN CONNECTION WITH THIS AMENDMENT 9 FOR DAMAGES FOR ANY CAUSE AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING FUNDAMENTAL BREACH OR NEGLIGENCE, SHALL BE LIMITED TO ACTUAL DIRECT AND PROVEN DAMAGES AND SHALL NOT EXCEED IN THE AGGREGATE, THE FOLLOWING: (I) IN THE CASE OF LICENSED ADDITIONAL

SOFTWARE, THE LICENSE FEES PAID BY COUNTY TO CONTRACTOR UNDER THIS AMENDMENT 9; (II) IN THE CASE OF SOFTWARE-BY-SUBSCRIPTION, THE ANNUAL SUBSCRIPTION FEES PAID BY COUNTY TO CONTRACTOR DURING THE THEN-CURRENT SOFTWARE-BY-SUBSCRIPTION TERM (AND IN NO EVENT BEING GREATER THAN 12 MONTHS); AND (III) IN RESPECT OF THE ADDITIONAL SUPPORT, THE SUPPORT FEES PAID BY COUNTY TO CONTRACTOR DURING THE THEN-CURRENT SUPPORT TERM (AND IN NO EVENT BEING GREATER THAN 12 MONTHS). THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY IN THE EVENT OF CONTRACTOR' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

COUNTY FURTHER AGREES THAT IN NO EVENT SHALL CONTRACTOR, OR ITS AFFILIATES OR EACH OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES AND SHAREHOLDERS OR ITS SERVICE PROVIDERS BE LIABLE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING FUNDAMENTAL BREACH OR NEGLIGENCE, FOR ANY INDIRECT, PUNITIVE, CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION FOR LOST PROFITS, LOSS OF REVENUE, FAILURE TO REALIZE ANTICIPATED SAVINGS, LOST OR DAMAGED DATA, LOSS OF GOODWILL, BUSINESS OPPORTUNITIES OR REPUTATION, OR ECONOMIC LOSS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGES, OR SUCH LOSSES OR DAMAGES ARE FORESEEABLE.

IN THE EVENT OF CONFLICT OR INCONSISTENCY BETWEEN THIS SECTION 12 AND ANY OTHER PROVISION IN THE MASTER AGREEMENT, THIS SECTION 12 SHALL PREVAIL.

13. Except as expressly provided in this Amendment 9, all of the terms and conditions of the Master Contract (which include Amendment 1, Amendment 3, Amendment 4, Amendment 5, Amendment 6, Amendment 7, and Amendment 8, including exhibits thereto) are ratified and affirmed and remain in full force and effect. This Amendment 9 is incorporated into the Master Contract by this reference. If there is a conflict between any of the terms and conditions contained in the Master Contract and any of the terms and conditions expressly set forth in this Amendment 9, the terms and conditions expressly set forth in this Amendment 9 shall control, except in the case of Amendment 8, Section 2 – (limitation of liability replacing Section 2.14.18 of the Original Contract - Defense & Indemnity Agreement) which shall prevail over all other documents comprising the Master Contract with respect to the Standard Software.
14. All capitalized terms not defined in this Amendment 9 have the meanings given to them by the Master Contract.
15. This Amendment 9 may be executed in counterparts (whether by facsimile signature, PDF via email, or otherwise) and each of which when so executed shall constitute an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment 9 to be duly executed to take effect as of the Effective Date, notwithstanding the date of execution.

Signature page follows.

N. HARRIS COMPUTER CORPORATION, acting through its Cayenta Division

By: _____
Printed Name: Jeff Bender
Title: CEO
Date: 9/07/2021

SNOHOMISH COUNTY

By: _____
Printed Name: _____
Title: _____
Date: _____

COUNCIL USE ONLY	
Approved	<u>9/29/2021</u>
ECAF #	<u>2021-0635</u>
MOT/ORD	<u>Motion 21-315</u>

Exhibit B 2021
Licensed Additional Software for Version 9 Upgrade

TABLE I: Licensed Additional Software

The County shall license the following Licensed Additional Software from Contractor and shall pay the corresponding License Fees and Support Fees:

LICENSED ADDITIONAL SOFTWARE		
Description of Additional Software	Initial License Fees	Annual Support Fees
Cayenta Analytics – General Ledger	\$15,000.00	\$3,750.00
Cayenta Dashboard	\$15,000.00	\$3,750.00
Cayenta Budget Preparation (embedded Cognos TM1 Planning Analytics with 10 User Licenses)	\$48,000.00	\$12,000.00
Cayenta Contract Management	\$5,000.00	\$1,250.00
Cayenta Miscellaneous Receivables & Payment Processing (includes Cognos Annual Support))	\$10,000.00	\$5,000.00
otal	\$93,000.00	\$25,750.00

Additional Budget Prep – Cognos TM1 user cost:

\$1,300 Per additional user, plus 25% annual maintenance (for 1-year from contract signing, otherwise Current Cognos third-party rates will apply).

TABLE II: Software Subscription

The County subscribes to the following Additional Software and shall pay the corresponding Annual Subscription Fees:

SOFTWARE SUBSCRIPTION		
Description of Additional Software included in Software Subscription		Annual Subscription Fees
Cayenta Link Using Excel (CLUE) – 4 subscriptions @ \$500 annual charge per named user (one Named User can be substituted for another Named User at any point during the year)	-	\$2,000.00
Cayenta Connect Finance (100 Concurrent Financial Users)	-	\$10,020.00
Cayenta Connect Finance (100 Unique Expense Entry Users)*	-	\$5,004.00
Total	-	\$17,024.00

*Contractor will audit yearly (for the previous twelve months) unique Expense Entry Users per month, and then average the twelve months. If the ‘averaged Unique User count’ is greater than 100, then additional subscriptions will be purchased for the number over 100.

Additional Cayenta CLUE subscription cost:

\$500 Per additional user (subject to an annual increase that is equivalent to the annual increase applicable to the Support Fees under the Master Contract).

Additional Cayenta Connect Finance subscription cost:

Pricing below is per additional user (subject to an annual increase that is equivalent to the annual increase applicable to the Support Fees under the Master Contract).

CONNECT FINANCE FINANCIAL USERS	
Number of Users	Annual Cost Per User
101 to 200	\$90.24
201 to 300	\$80.16
301 to 400	\$70.20
401 to unlimited	\$60.12

Additional Cayenta Connect Expense Entry subscription cost:

Pricing below is per additional user (subject to an annual increase that is equivalent to the annual increase applicable to the Support Fees under the Master Contract).

CONNECT FINANCE EXPENSE ENTRY USERS	
Number of Users	Annual Cost Per User
101 to 250	\$50.04
251 to 500	\$45.12
501 to 1,000	\$40.08
1,001 to 2,000	\$35.16
2,001 to unlimited	\$30.12

PAYMENT TERMS

(i) **ADDITIONAL LICENSED SOFTWARE.** The County shall pay 100% of the License Fees set out in Table I above upon execution of this Amendment 9.

(ii) **ANNUAL SUBSCRIPTION FEES - ANNUAL INCREASES.** The Annual Subscription Fees set forth in Table II are subject to an annual increase that is equivalent to the annual increase applicable to the Support Fees under the Master Contract.

(iii) **SUPPORT FEES.** The Support Fees are subject to annual increases in accordance with the Master Contract.

(iv) **NET 30.** Support Fees and Annual Subscription Fees shall be paid within thirty (30) days after County receipt of invoice.

(v) **FEES EXCLUSIVE OF TAXES.** The License Fees, Support Fees and/or Annual Subscription Fees are each exclusive of taxes and the County shall pay all applicable taxes, unless a tax exemption certificate is provided to Contractor on or before the Effective Date.

(vi) **OVERDUE ACCOUNTS.** Past due amounts shall bear interest in accordance with the Master Contract. The County shall reimburse Contractor for all reasonable costs incurred (including reasonable attorneys' fees) in collecting past due amounts owed by the County under this Exhibit B 2021.

PAYMENT SCHEDULE	
Licenses - Due on contract signing	Amount Due
Cayenta Licenses	\$93,000.00
Total	\$93,000.00

PAYMENT SCHEDULE	
Annual Subscriptions Fees - Due on contract signing and thereafter, 30 days after receipt of annual invoice	Amount Due
Cayenta Link Using Excel (CLUE)	\$2,000.00
Cayenta Connect Finance (100 Finance Users)	\$10,020.00
Cayenta Connect Finance (100 Expense Entry Users)	\$5,004.00
Total	\$17,024.00

PAYMENT SCHEDULE	
Support Fees with respect to Third-Party Components - Due on installation and thereafter, 30 days after receipt of annual invoice (prorated based on installation date)	Amount Due
IBM Cognos Base License for reports	\$2,500.00
IBM Cognos TM1 Annual Maintenance	\$7,000.00
Total	\$9,500.00

PAYMENT SCHEDULE	
Balance of Support Fees – Due on Final Acceptance and thereafter, 30 days after receipt of annual invoice (prorated for first year based on Final Acceptance)	Amount Due
Cayenta Analytics – General Ledger	\$3,750.00
Cayenta Dashboard	\$3,750.00
Cayenta Budget Preparation	\$5,000.00
Cayenta Contract Management	\$1,250.00
Cayenta Miscellaneous Receivables and Payment Processing	\$2,500.00
Total	\$16,250.00

Schedule B

THIRD-PARTY TERMS

The Third-Party Components are licensed to Contractor by IBM Canada Ltd. and are embedded into the Additional Software. Certain of the Third-Party Terms are included in the main body of this Amendment 9. The Third-Party Terms that are not included in the main body of this Amendment 9 are set out below.

1. The County is not authorized to use The Third-Party Components separately from the Additional Software.
2. The County is responsible for all damages that result from misuse, modification, or damage caused by the County to the Third-Party Components.
3. The County warrants to Contractor that it will comply with applicable import, export and economic sanction laws and regulations that prohibit or restrict the export, re-export, or transfer of products, technology, services or data, directly or indirectly, to or for certain countries, end uses or end users.
4. The licensors of the Third-Party Components may process and store business contact information of end users' personnel in connection with the performance of its agreement with Contractor wherever in the world they do business. The licensor of the Third-Party Components may use personnel and resources in locations worldwide and third-party suppliers to support the delivery of the Third-Party Components