Contents

SOFTWARE LICENSE AND SERVICES AGREEMENT BETWEEN SNOHOMISH COUNTY AND HIGH LINE CORPORATION

THIS SOFTWARE LICENSE AND SERVICES AGREEMENT is made this _____ day of _____, 2017, by and between Snohomish County, a home rule charter county and a political subdivision of the State of Washington (the "County") and High Line Corporation incorporated under the laws of the Province of Ontario, Canada, and duly licensed to conduct business in Washington State (the "Contractor").

1. **Recitals**

Whereas,

> **A.   The County is currently licensed to use the Contractor Human Resource Information System (HRIS) installed at the County; and**

> **B.   The County wishes to maintain the integrity of the HRIS system and so desires to upgrade the HRIS to Contractor's NextGen (NG) System and migrate the on-site premise based system to the Contractor's hosted facility.**

> Now therefore, in consideration for the mutual covenants and agreements herein, the parties agree as follows:

2. **Definitions**

> A.   **Acceptance** shall be based on the method and criteria defined in Section 6 (Acceptance Testing – Hosted Environment) and Section 7 (Acceptance Testing – Personality NextGen Upgrade).

> B.   **Active Employee** means employees, former employees or retirees of the County in respect of which the County currently uses the Licensed Software to track timesheets, calculate pay and/or benefits (i.e. with the payroll calculation program supplied or via benefit enrollment being used to calculate benefits and/or supply benefit amounts to a 3rd-party program), based on the largest processing period (i.e. payroll) of the year. "Active Employees" does not include former employees or retirees of the County where a record exists in connection with the Licensed Software for historic reference only.

> C.   **Critical Defect** means any Defect that (1) prevents or severely impacts the County's ability to use the Production version of the System. In the case of the NextGen Upgrade, a Critical Defect also means a program feature that was available in the prior release and does not exist in the NextGen version. Critical defects do not include defects for which an alternative temporary solution or workaround has been provided that is acceptable as a short-term solution to the County.

> D.   **Defect** means (1) any failure of the Software to operate in accordance with the Documentation, Functional Specifications, or Performance Standards; and/or (2) any failure of the Contractor to perform the Services in accordance with the Service Level Standards.

> E.   **Deliverable** means the Software, Documentation, and Services to be delivered under this Agreement.

F.   **"Derivative Works"** means any software and copies thereof which are developed by any person and which are based on or incorporate any part or version of the Licensed Software, including, and without limitation, any revision, modification, translation (including compilation or recapitulation by computer), abridgment, condensation, expansion or any other form in which the Licensed Software may be recast, transformed or adapted, and that if prepared without the Contractor's authorization would constitute a copyright or trade secret infringement of the Licensed Software.

G.   **Documentation** means collectively: (a) all of the written, printed, electronic, or other format materials published or otherwise made available by the Contractor that relate to the functional, operational, and/or performance capabilities of the System and/or any Software; (b) all user, operator, system administration, technical, support, and other manuals and all other written, printed electronic, or other format materials published or otherwise made available by the Contractor that describe the functional, operational, and/or performance capabilities of the System and/or any Software, including but not limited to the Functional Specifications and Software Acceptance Plan. Documentation shall not include Source Code.

H.   Functional Specifications shall mean those specifications to which the Software and the System shall conform as set forth Exhibit [A].

I.   **License(s)** shall mean any license or licenses granted by the Contractor to the County under this Agreement.

J.   **Licensed Software** means, collectively, Contractor's Personality software modules identified in Exhibit [A], all Documentation, all Software Updates to the Licensed Software hereinafter furnished to the County by the Contractor, and any Derivative Works developed by or on behalf of the County, but not including any Third Party Software (except as otherwise specified in Section 4 (Licenses and Intellectual Property).

K.   **Material Defect** means Critical Defect and/or Medium Defects.

L.   **Medium Defect** means any Defect that adversely affects the County's ability to use the Software or the System or the Contractor's ability to provide services.

M.   **Object Code** shall mean the binary machine-readable version of the Software.

N.   **Performance Standards** means, collectively the warranties and performance standards set forth in Section [11.C] and Exhibit [B].

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 Agreement.

P.   **Service Level Standards** means the service level standards set forth in Section [11.C] and Exhibit [B].

Q.   **Site** shall mean the County's facilities in Snohomish County, Washington.

R.   **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.

S.   **System** means the Deliverables to be installed and integrated so as to be operational at the County Site.

T.   **Third Party Software** means the software products of a third party identified in Exhibit A.

U.   **Warranty Period** means the period commencing upon Acceptance and continuing for one (1) year.

3.   Scope of This Agreement

A.   **Scope.** This agreement defines the terms and conditions, under which the Contractor will design, develop, integrate, deliver, install, train, and support the Software and other Deliverables.

4.   Licenses and Intellectual Property

A.   Grant of Software License

i.   Contractor hereby grants to the County and the County hereby accepts, a perpetual, non-transferable (except as contemplated in Section 18 Assignment and Transfer) and non-exclusive license for the County to Use the Licensed Software on the terms and conditions defined in this Agreement.

ii.   The term "**Licensed Software**" as used in this Section 4 shall be deemed to include any third party software sublicensed by the Contractor to the County under Exhibit A and for the benefit of the Contractor and its licensors.

B.   License and Property Rights

i.   The Licensed Software and all copies thereof are the property of the Contractor and title thereto remains with the Contractor. The County shall retain all right, title and interest in and to the County's Active Employee data and information and any other data and

information of the County used in connection with the Licensed Software, including all data and information relating to any the County configuration of the Licensed Software.

ii. All applicable rights in patents, copyrights, trade-marks and trade secrets in the Licensed Software are and shall remain with the Contractor.

iii. The County shall not remove any the Contractor trademarks or ownership notices imbedded in any of the Licensed Software.

iv. Except as permitted in this Agreement, the County shall not sell, transfer, publish, disclose, display, disseminate or otherwise make available any Licensed Software or copies thereof to others without the Contractor's prior written consent.

v. The County agrees to use reasonable commercial efforts to secure and protect any Licensed Software and any copies thereof that come into its possession from Use by unauthorized persons, and agrees to use reasonable commercial efforts to take appropriate action through instruction to its employees who are permitted access to each Licensed Software or copies thereof to satisfy its obligations under this Agreement.

vi. The County agrees that it shall take appropriate action by instruction, agreement, or otherwise with its employees or other persons permitted access to Licensed Software to satisfy its obligations under this Agreement with respect to Use, copying, modification, protection and security of Licensed Software.

vii. Except as permitted under this Agreement, the County agrees not to provide or otherwise make available, without the prior written consent from the Contractor, any Licensed Software, in any form, to any person other than (a) the County, its Affiliates and their respective Representatives, and (b) the County's or the Contractor's Representatives during the period that any such Representative is working on the County's software and/or hardware with the County's permission for purposes specifically related to the County's Use of the Licensed Software.

viii. Except in cases of SaaS Services, the County may generate, develop and Use Derivative Works, provided:
   (a) The County shall be deemed to have the right to Use the Derivative Works for the term of the License herein granted;
   (b) All such Derivative Works shall be owned by, and shall be the exclusive property, of the Contractor;
   (c) The Contractor shall not have any obligation to maintain or support Derivative Works, unless otherwise agreed to in writing, or unless the Contractor incorporates such Derivative Works into one or more Releases and delivers same to the County as part of an authorized fix, change or upgrade; and
   (d) The County shall notify the Contractor of the creation of any Derivative Works, and shall immediately on request from the Contractor provide the Contractor with source code and supporting documentation for Derivative Works.

ix. The County shall not disassemble, de-compile, translate or reverse engineer the Licensed Software without the Contractor's prior written consent.

C. Copies

i. The County shall be entitled to Use copies of the Licensed Software for backup, training and system development purposes. The original and all copies of Licensed Software, in

whole or in part, which are made by the County or come into the County's possession, shall be the property of the Contractor. The County agrees to reproduce and include the applicable copyright notice on any copies, in whole or in part, in any form, including partial copies and modifications to Licensed Software. The County shall maintain records identifying the location of any copy of the Licensed Software that comes into its possession and shall make such records available to the Contractor during regular business hours upon reasonable notice for purposes of enforcement of the terms and conditions of this Agreement.

D.   Outsourcing

i.   Except in cases of SaaS Services, the County may provide access to and operation of the Licensed Software by a third party facility manager, service bureau, outsourcer or other service provider (an "**Outsourcer**") under a then current data processing services agreement between the Outsourcer and the County for the processing of the County's data for the County's exclusive benefit; provided that (a) the County shall provide prior written notice thereof to the Contractor (including the identity of such Outsourcer), (b) the County shall not outsource the operation of the Licensed Software to any Outsourcer engaged in a Competitive Business unless otherwise approved by the Contractor in writing, such approval not to be unreasonably withheld, and (c) it is the responsibility of the County to ensure that the Outsourcer complies with the Use as defined within this Agreement and the standards set forth in Exhibit A, Section 5 (County Obligations; Use of a Hosting Facility) of this Agreement.

ii.   For the purposes of the foregoing, "**Competitive Business**" means any business anywhere in the world which is engaged in the design, research, development, marketing, sale, licensing, or provision as an application service provider or otherwise, of any product or development services that are competitive with the Licensed Software; provided that (a) an Outsourcer engaged in the foregoing shall not be considered a "Competitive Business" where such Outsourcer provides its outsourcing services through a separate division, business unit or subsidiary that is not otherwise a Competitive Business and (b) sufficient separation is maintained between such division, business unit or subsidiary and other divisions, business units or subsidiaries of the Outsourcer that engage in a Competitive Business protecting against the transmission of the Contractor's intellectual property rights in the Licensed Software, as determined by the County acting reasonably.

E.   **Service Level Standards.** The Contractor shall provide the Software and Services according to the performance criteria and Service Level Standards set forth in Exhibit [B].

F.   **Service Level Credits.** In the event that the vendor does not meet the Service Level Agreement Performance Standards (as defined in Exhibit C: Support Severity, Response and Resolution Table), Licensee may request a credit of $125.00 per month, per Customer Care 'Case', where any calculation of the 'month' will be reduced by the amount of time where the Case status is defined as "Customer" (waiting for Customer response, information or decision), and assuming the Conditions for Providing Support listed in Exhibit C are met. The County shall have the right to set off any undisputed amounts owed to the Contractor against any Service Level Credits assessed by the County against the Contractor.

G.   **Independence from License**

i. Except as expressly set out in this Section 4, any Professional Services, Hosting or other services acquired by the County from the Contractor pursuant to any other Section of this Agreement are deemed to have been bid on and acquired separately from the License granted under this Section 4.

5. **Term of Agreement**

A. **Term of Agreement.** The initial term of the Agreement shall commence upon execution and continue for five (5) year(s) from the date of Acceptance of the System, and may be extended by the County for five (5) additional one (1) year option terms by providing written notice subject to termination as provided in this Agreement.

   i. The Warranty Period begins at Acceptance for period of one (1) year, and thereafter ongoing Support and Maintenance Services shall continue throughout the term of the Agreement.

B. **Termination.**

   i. Termination for Default. This Agreement may be terminated by a Party (a) upon sixty (60) days' written notice if the other Party is in breach or default, in any material respect, of this Agreement, unless such breach or default is cured before the end of such sixty (60) day period or (b) immediately upon notice to the other Party if the other Party becomes (i) insolvent; (ii) subject to a voluntary petition in bankruptcy or a voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors; or (iii) subject to an involuntary petition in bankruptcy or any involuntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, if such petition or proceeding is not dismissed within sixty (60) days of its filing. If the Agreement is terminated due to default by the Contractor, the County may obtain performance of the work elsewhere, and the Contractor shall not be entitled to receive any further payments under the Agreement until all work called for has been fully performed. The Contractor shall only be paid for work delivered and accepted, or work performed in accordance with the manner of performance set for the in the Agreement less any extra cost or damages to the County caused by or arising from such default(s), which shall be deducted from any money due or coming due to the Contractor. If a notice of termination for default has been issued by a Party and it is later determined for any reason that the other Party 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.

   ii. Termination for Convenience. The County for its convenience may terminate this Agreement, in whole or in part, at any time by providing sixty (60) days' written notice to the Contractor. After 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 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 Agreement, applicable laws and regulations.

    iii.   Termination for Non-Appropriation. In the event that sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the County may terminate this contract 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 14 days after the end of the fiscal period.

    iv.   Effect of Termination. The termination of this Agreement shall not affect the accrued rights of the County under any other section or paragraph of this Agreement or limit the rights and remedies of the County hereunder in any manner.

6. **Acceptance Testing – Hosted Environment.**

A.   Acceptance Criteria for the Hosted environment is defined in Exhibit (B) SLA, Appendix I, System Response Time Metrics. Within fifteen (15) days of the Contractor providing notice to the County that the Test System has been installed and County personnel have been trained in accordance with the Agreement, the County shall begin the acceptance testing process at the County Site.

B.   If the County Accepts the work, the County will send a notice of Acceptance to the Contractor.

C.   If County determines that the work is not acceptable, the County shall notify the Contractor in writing, describing the deficiencies.

D.   The Contractor shall either provide a detailed, written plan to achieve Acceptance or to make corrections or replacements within a mutually agreed upon time with no charge to the County. The parties shall mutually agree on a start date for beginning another Acceptance testing period.

E.   Another fifteen (15) day successful operation period shall follow any corrections or replacements.

F.   If the County Accepts the System following a second or subsequent Acceptance testing period, the County will send a notice of Acceptance to the Contractor.

G.   If the Contractor does not correct or replace the unacceptable aspects of the System, the County may declare a breach of the Agreement.

7. **Price and Payment.**

A.   The County shall pay the Contractor for the Deliverables required to be provided by the Contractor through the end of the Warranty Period as stated in the schedule of payments described in Exhibit [A]. Annual recurring charges for Support and Maintenance Services in year 1 shall not exceed $51,834 (not including applicable taxes). Rate increases in years 2 through 5

shall not exceed 2% or High Line's standard increase, whichever is lower.

B.   Where the Contractor requires payments by Snohomish County, payment shall be based upon billings, supported by documentation of units of work actually performed and amounts earned, including where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested. Unless specifically stated in Exhibit (A), or approved in writing in advance by the official executing this Agreement for Snohomish County, (hereinafter referred to as the "Contracting Officer"), the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract.

C.   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. Balances are subject to late charges thereafter, calculated at the rate of eighteen (12) per cent per annum, (1.0% per month).

D.   **Dispute.** Should the County dispute any of the charges on its monthly invoice, it shall notify Contractor of such disputed charges in writing. The notice shall set forth all details concerning the disputed charges and reasons for the dispute. The Contractor and the County shall attempt in good faith to resolve any objection to the invoiced amount prior to the payment due date, 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 the Contractor, the Contractor 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 the Contractor within (30) days of the date of the reissued invoice.

8.   **Support Services.**

   A.   **Training Services see Exhibit A**

   B.   **Installation services see Exhibit A**

   C.   **Hardware and Software Support and Maintenance Services: see Exhibit A.** All Hardware required to meet the Contractor's responsibilities as included in the SLA (Exhibit B) to be provided by the Contractor. Software Support and Maintenance Services in accordance with Exhibit A.

9.   **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 RCW Chapter 42.56 (the Public Disclosure 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 Agreement; (2) not to disclose or disseminate such confidential data to any third party not affiliated with this Agreement or for any purpose not required by the 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, chapter 42.56 RCW. 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.

10. Reproduction of Documentation and Object Code

A. **Documentation.** 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 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 provide access to the online documentation available in the "Wiki" help system. All documentation shall be in the English Language.

11. 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 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 that become part of the standard Licensed Software (i.e. does not include Customizations provided for the County for which there is not an active Support Agreement in place).

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 set forth in Exhibit [B], 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 for the in this Section by providing all additional software, equipment, 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, an Event of 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 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 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.   **Professional Services.** The Contractor shall not be obligated to maintain or support the Professional Services or the Deliverables set out in the Planning Report Document except:

    (i)   to the extent of any warranties with respect to the Professional Services as expressly set out in this Section 12 D or the Planning Report Document in writing; and

    (ii)   as may be set out in a separate agreement between the Contractor and the County; provided that the Contractor will not be responsible for deficiencies attributable to Third Party Software, defects in the County's data, modifications made to the Deliverables by anyone other than the Contractor, or any other manner of thing which is not directly related to work done by the Contractor in accordance with the Professional Services and Deliverables.

F.   **Documentation.** The Contractor represents and warrants to the County that it has made available to the County, via the online Wiki service provided by the Contractor, all known standard Documentation for the Software and the System and that such Documentation is detailed 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 as it becomes available when it provides updates and other required Maintenance Services and that all such updated Documentation. The warranty and commitments contained in this Section shall remain in full force and effect for as long as Company continues to receive Support and Maintenance Services for the Contractor.

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 Agreement, as far as is reasonably possible, 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, unless circumstances prevent Contractor from providing backward compatibility. Without limiting the foregoing, Contractor further warrants that future Support, Maintenance and other Services will not cause a breach of

this Warranty or require the County to purchase new or additional High Line software modules.

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 at a later date. 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; the Contractor reserves the right to obsolete versions of the software as new technologies/advances occur.

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, filmware, 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. This warranty shall survive the expiration or termination of this Agreement.

K.   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. This warranty shall survive the expiration or termination of this Agreement.

L.   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 as are provided by the sub-license and third party provider. 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. This warranty shall survive the expiration or termination of this Agreement.

M.   Authority. Each Party represents and warrants to the other that it has the right to enter into this 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 Agreement and the rights granted or transferred herein. This warranty shall survive the expiration or termination of this Agreement.

N.   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 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.

12.   Indemnification

i.   The Contractor agrees to indemnify and hold the County and its Representatives harmless from all charges, losses, damages and expenses (including reasonable legal fees and disbursements) incurred in connection with any claims, demands, complaints, investigations, enquiries, suits or actions incurred by any of them as a result of (a) any breach by the Contractor of the terms of this Agreement or any negligent acts or omissions in connection with this Agreement and (b) any claim that the County's Use of the Licensed Software or receipt or Use of any Services infringes a third party's intellectual property rights or other rights; provided that the County notifies the Contractor promptly in writing of the action (and all prior claims relating to such action) after the County becomes aware of same, and the Contractor has sole control of the defense and all negotiations for its settlement or compromise (provided that the Contractor conducts such defense and negotiations on a timely and reasonable basis).

ii.   If the Licensed Software becomes, or in the Contractor's opinion is likely to become, the subject of a claim for which the Contractor is required to indemnify pursuant to this Section 13, Indemnification (an "**IP Claim**"), the Contractor shall, at its option and expense in a timely manner elect to (a) obtain for the County, at no additional cost to the County, the right to continue using such Licensed Software (the "Affected Software") under this Agreement; (b) modify or replace the Affected Software or part of the Affected Software, at no additional cost to the County, to avoid such IP Claim, provided that material functionality of the Affected Software shall not be impaired, or (c) if the Contractor, having diligently defended any such IP Claim and after consultation with the the County, determines that neither (a) or (b) is commercially practicable, terminate the License to Use the Affected Software and refund all amounts paid for the Affected Software under this Agreement; provided that the Contractor may only so terminate such License only if the Contractor also terminates the licenses for the Affected Software for all other users of the Affected Software.

iii.   The Contractor shall have no liability for any IP Claim based on (a) Use of a version of the Licensed Software other than a Supported Release in circumstances where such infringement would have been avoided by the Use of a Supported Release supplied by the Contractor at no cost to the County (including the cost of implementing such Supported Release) and the Contractor has advised the County in writing at the time of supplying such Supported Release that the Use of such Supported Release is required to avoid such

infringement; (b) Use or combination of the Licensed Software with modifications, improvements or other Software not supplied by the Contractor (other than the Third Party Software); (c) an intentional tortious act or negligence of the County or (d) Use by the County of the Licensed Software in conjunction with software or hardware for which the Licensed Software was not designed or contemplated.

    iv.   THE FOREGOING STATES THE ENTIRE LIABILITY OF the Contractor WITH RESPECT TO INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT BY THE LICENSED SOFTWARE, THE SERVICES OR ANY PARTS THEREOF.

13. Exclusion of Liability

    i.   IN NO EVENT WILL HIGH LINE BE LIABLE FOR PUNITIVE OR CONSEQUENTIAL DAMAGES, OR LOSS OF REVENUES OR LOSS OF PROFITS, EVEN IF HIGH LINE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES WERE REASONABLY FORESEEABLE.

14. Insurance.

A.   **No Limitation.** Contractor's maintenance of insurance as required by this 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 Agreement, and for three years following termination, the following insurance:

    i.   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.

    ii.   Worker's Compensation Coverage as required by the industrial Insurance laws of the State of Washington. 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 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 Washington State Industrial Insurance laws.

    iii.   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 Agreement, and the Contractor shall maintain coverage for the duration of the Agreement and for three years following termination of the Agreement.

C.   **Other Insurance Provisions.** The required Commercial General Liability Insurance and Professional Technical Liability Policies shall meet the following requirements:

i. 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.

ii. 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.

iii. The Contractor's insurance shall be endorsed to state that the insurer shall provide at least thirty (30) days prior written notice by certified mail, return receipt requested, of any impending cancellation, non-renewal, expiration, or reduction in coverage.

iv. 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.

15. Obligations that Survive Termination.

A.   In addition to any other specific provisions that so state, the parties recognize and agree that their obligations under Sections 7 (Price and Payment), 9 (Confidentiality and Public Disclosure), 12 (Indemnification), 17 (Assignment and Transfer), 18 (Independent Contractor), 19 (Compliance with Laws), 21 (Governing Law and Venue), 22 (Applicability of Uniform Commercial Code), 23 (No Waiver), 26 (Covenant of Good Faith), and 27 (Third Party Beneficiaries), of this Agreement survive the cancellation, termination, or expiration of this Agreement.

16. Amendments.

A.   No modification or amendment to this Agreement will be valid or binding unless reduced to writing and duly executed by authorized representatives of both parties.

17. Assignment and Transfer

i. This Agreement shall inure to the benefit of, and be binding upon, the Parties' respective successors and permitted assignees.

ii. The County shall not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the Contractor (such consent not to be unreasonably withheld or delayed) and any such attempted assignment without such prior written consent shall be void; provided that the County may assign this Agreement, or any of its rights or obligations hereunder, upon prior written notice to the Contractor, to any of its subsidiaries or affiliated companies, or to a surviving corporation in a merger or consolidation to which the County is a party, or to any person that acquires all or substantially all of the County's capital stock or assets, without the consent of the Contractor as long as such assignee does not compete with the Contractor in the development and sale of licensed software competitive with the Licensed Software forming the subject matter of this Agreement.

iii. Subject to Exhibit A, Part IV – Terms and Conditions item 2: Sub-Contract, the Contractor shall not assign this Agreement or any of its rights or obligations hereunder

without the prior written consent of the County (such consent not to be unreasonably withheld or delayed) and any attempted assignment without such prior written consent shall be void. If the County consents to any such assignment, unless otherwise agreed by the County, any such assignment shall not relieve the Contractor from its obligations under this Agreement.

iv.   Except as specified in Exhibit A in connection with the Hosting Facilities Provider, the Contractor shall not subcontract or delegate the performance of all or any portion of the Services to any other person or entity (including any Affiliate of the Contractor) without the prior written consent of the County and any attempted delegation or subcontract without such prior written consent shall be void. The use by the Contractor of any subcontractors shall not relieve the Contractor of any obligations hereunder, and the Contractor shall be liable for the acts or omissions of its subcontractors in the same manner as if they were acts or omissions of the Contractor. The Contractor shall be solely responsible for any payments required to be made to any of its subcontractors.

v.   In the event that Contractor assigns, or otherwise transfers this 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 Agreement, the County shall have the right to terminate this Agreement for convenience and transition to a new vendor.

18.   Independent Contractor.

A.   All work performed by the Contractor in connection with the Software and/or Services described in this 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 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.

19.   Compliance with Laws.

A.   The Contractor each shall comply with all applicable federal, state, county and local laws, ordinances, regulations, and codes including, but not limited to, its obligations as an employer with regard to health, safety, and payment of its employees, and identification and procurement of required permits, certificates, approvals, and inspections in the Contractor's performance of this Agreement.

20.   Security, Access, and Safety Requirements.

A.   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.

21. Governing Law and Venue.

A.   The validity, construction, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the domestic laws of the State of Washington, except as to its principals of conflicts of laws, and the parties hereto irrevocably submit to the exclusive venue of the Superior Court, Snohomish County, Washington to resolve any disputes arising hereunder or related hereto, except that the County may waive the exclusive venue provision and submit a dispute to any state superior court or federal district court of competent jurisdiction in the State of Washington.

22. Applicability of Uniform Commercial Code.

A.   To the extent this 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 Agreement shall control where there is a conflict with the UCC.

23. No Waiver.

A.   No action or failure to act by the County shall constitute a waiver of any right or duty afforded to the County under the 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.

24. Force Majeure.

A.   Neither party shall be responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay or failure is caused by fire, flood, explosion, war, embargo, civil or military authority, act of God, or other similar causes beyond its control. If any party is rendered unable, wholly or in part by such a force majeure event to perform or comply with any obligation or condition of this Agreement, upon giving notice and reasonably full particulars to the other party, such obligation or condition shall be suspended only for the time and to the extent commercially practicable to restore normal operations. In the event the Contractor ceases to be excused pursuant to this provision, then the County shall be entitled to exercise any remedies otherwise provided for in this Agreement, including Termination for Default. Whenever a force majeure event causes the Contractor to allocate limited resources between or among the Contractor's customers, the County shall receive no less priority in respect to such allocation than any of the Contractor's other customers.

25. Disaster Recovery.

A.   Contractor represents and warrants to the County that the Contractor has a County specific disaster and recovery plan ("Disaster and Recovery Plan") designed to safeguard the County's Customer's data and a data processing capabilities and the Contractor's ongoing ability to perform its obligations under this Agreement in the event of a disaster affecting: (1) Contractor's Host Site. Hosting Services including backup: see Exhibit A (Services and Fees); Disaster Recovery – see Exhibit B (Service Level Matrix).

26. Covenant of Good Faith.

A. Each party agrees that, in its respective dealings with the other party under or in connection with this Agreement, it shall act in good faith.

27. Third Party Beneficiaries.

A. This Agreement is entered into solely for the benefit of the County and the Contractor. No third party shall have the right to make any claim or assert any right under it, and no third party shall be deemed a beneficiary of this Agreement.

28. Notices.

A. All notices, demands, or other communications herein provided to be given or that may be given by any party to the other under this Agreement shall be deemed to have been duly given when made in writing and delivered in person or upon the date of recorded receipt if deposited in the United States mail, postage prepaid, certified mail, return receipt requested, as follows:

Snohomish County:

> Alan Jones
> Snohomish County Department of Information Technology
> 3000 Rockefeller MS /709
> Everett, WA 98201

High Line:
> Administration
> High Line Corporation
> 145 Renfrew Drive, Suite 210,
> Markham Ontario L3R 9R6

Or, to such address as the parties may provide by notice to each other from time to time.

29. Access to Books and Records.

A. 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 Agreement. The Contractor shall maintain such books and records for this purpose for no less than seven (7) years after the termination or expiration of this Agreement.

B. The Contractor shall have the right to audit, at its own expense, the County's records, facilities and premises to the extent necessary to ensure that the County is complying with this Agreement (i.e. the number of Active employees in a hosted environment, or compliance with third party licensing if on premise). The County shall reasonably comply with an audit under this section.

30. Non-Solicitation

(a) At all times while an employee or independent contractor of a Party is engaged in providing or receiving Services or otherwise engaged in connection with this Agreement and for a period of at least one (1) year after such employee or independent contractor ceases to be so engaged, the other

Party shall not directly or indirectly solicit or attempt to solicit (other than pursuant to general solicitations for employment published or otherwise made available in newspapers and/or other media) any such employee or independent contractor for the purpose of employment or independent contract with such other Party.

31. Source Code Escrow.

A.   The Contractor will file with the trustee under the Contractor's source code escrow agreement with Lincoln-Parry Associates Inc. dated December 10, 1993 (the "Source Code Escrow Agreement") a notification in the prescribed form designating the County as a beneficiary under the Source Code Escrow Agreement pursuant to Section 2 of the Source Code Escrow Agreement. The Contractor shall update these copies within ninety (90) calendar days of each major product release. The County may access the Escrowed Material upon the occurrence of any one of the following instances of default:

   i.   Contractor ceases its ongoing business operations:

   ii.   Contractor suffers any act of insolvency or bankruptcy:

B.   the Contractor shall not be obligated to place the source code of Derivative Works in escrow.

C.   Any Contractor software purchased and included in the escrowed material furnished under this provision shall be considered licensed under this Agreement.

32. 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 .2460 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.

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.

33. **Severability.**

A.   Whenever possible, each provision of this Agreement shall be interpreted to be effective and valid under applicable law. If any provision is found to be invalid, illegal or unenforceable, then such provision or portion thereof shall be modified to the extent necessary to render it legal, valid and enforceable and have the intent and economic effect as close as possible to the invalid, illegal and unenforceable provision. If it is not possible to modify the provision to render it legal, valid and enforceable, then the provision shall be severed from the rest of this Agreement. The invalidity, illegality or unenforceability of any provision shall not affect the validity, legality or enforceability of any other provision of this Agreement, which shall remain valid and binding.

34. **Incorporation of Exhibits.**

A.   Exhibits [list] referred to in this Agreement and attached hereto are integral parts of this Agreement and are incorporated herein by this reference.

35. **Entire Agreement and Order of Precedence.**

A.   This written Agreement and its corresponding Exhibits constitutes the entire agreement between the parties with respect to the subject matter contained herein, superseding all previous agreements, statements or understandings pertaining to such subject matter. In the event of any conflict between this Master Document and any of the attached Exhibits, the precedence of Documents shall be as follows:

i.   Master Document

ii.   Exhibit A Software and Hosting, Services and Fees

iii.   Exhibit B Service Level Agreement

iv.   HLC-Support Services Policy

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

COUNTY OF SNOHOMISH:	CONTRACTOR:
KEN KLEIN **Executive Director**	
By: Dave Somers Snohomish County Executive	By: MEGAN ROGISTER Title: PRESIDENT
Approved as to Form: Rebecca Wendling 4/4/2017 Subject to memo 4/4/2017 Deputy Prosecuting Attorney	

COUNCIL USE ONLY
Approved: 5-3-17
Docfile: D-3

EXHIBIT A
SOFTWARE AND HOSTING: SERVICES AND FEES

1. Applications Software Fees

To provide the County with Contractor's NextGen application as follows:

NextGen License	License Fees – Tier 4 (1 x time cost)	Maintenance Fees[1] (Annual recurring)
Upgrade to NextGen (for the modules listed in Exhibit A, Appendix I)	$36,000	$ -
Logi BI Dashboard	Included	$2,772
Total Fees	**$36,000**	**$2,772**

[1]2016 list shown; current rates will apply with next Annual Maintenance cycle.

A) License Fees
Snohomish County will pay to High Line Corporation the sum of $36,000 upon installation of software. The payment terms are Net 30 upon receipt of invoice.

B) Annual Maintenance Fees
Snohomish County will pay High Line Corporation the sum of $2,772 for annual maintenance of the license, upon installation of the software. The payment terms are Net 30 upon receipt of invoice. This annual fee shall be pro-rated from date of installation to coincide with the ending term of the current Support agreement May 1, 2016 – April 30, 2017. Subsequent years' fee shall be at the then-current Support Service rates or 2% increase per annum, whichever is less per Software License and Services Agreement, Section 7.A., for the Licensed Software and added to the County's Annual Support Service renewal invoice with Contractor. Support agreement inclusions listed in this Exhibit A, Appendix II.

2. Third Party Software

2.1. Logi Analytics Software
The County (Sublicensee) shall be deemed to have the right to Use the Logi Analytics™ Software as an authorized sublicensee of Contractor on the terms set out in this Agreement. Sublicensee agrees to the following terms and conditions for the right to use the Logi Analytics Software noted below (the "Logi Analytics Software"):

    i.   access to and use of the Logi Analytics Software is restricted to machine-readable, executable, object-code or bytecode form only;

    ii.   use of the Logi Analytics Software by any third party other than the Sublicensee for the Sublicensee's business purposes is prohibited;

    iii.   any other transfer or conveyance of the rights or licenses granted to the Sublicensee is prohibited;

    iv.   reverse engineering, disassembly or decompilation of the Logi Analytics Software is prohibited; and

    v.   Logi Analytics is not a third party beneficiary of Contractor's rights under such Sublicensee Agreement with respect to the Sublicensee's use of, or obligations with respect to, the Logi

Analytics Software, with full authority to enforce such rights against the Sublicensee. This Sublicensee Agreement shall further disclaim any and all warranties of Logi Analytics to the Sublicensee and liabilities of Logi Analytics to the Sublicensee for any losses or damages, whether direct or indirect, including incidental or consequential damages, arising from the use of the Logi Analytics Software.

<u>List of Logi Analytics Software</u>
The Logi Analytics Software products to which this Part 2 Section 2.1 applies are as follows: LogiDashboard – Includes LOGI INFO for Production and Test servers & includes standard reports created by Contractor.

2.2. Windward Report Writer

The County shall be deemed to have the right to Use Windward Report Writer (**"Windward"**) as an authorized sublicensee of Contractor on the terms set out in this Agreement. The County agrees not to decompile, reverse engineer or comprehensively copy Windward, or sell Windward or data therefrom independently from Windward.

2.3. Symmetry Tax Engine

The County shall be deemed to have the right to Use the Symmetry Tax Engine™ (the **"STE"**) as an authorized sublicensee of Contractor on the terms set out in this Agreement. The County agrees not to decompile, reverse engineer or comprehensively copy the STE, data from the STE, or sell the STE or data therefrom independently from the STE. When appropriate, Contractor will provide the County interim updates reflecting tax rate and formula changes.

2.4. Oracle Corporation Technology Programs - Terms and Conditions

(a) Contractor ("SUB-LICENSOR") has entered into a Value Added Relicensor Agreement to allow SUB-LICENSOR the right to market and grant sub-licenses, at discounted rates, to the County ("SUB-LICENSEE"). In accordance with the terms and conditions of the Value Added Relicensor Agreement entered into by SUB-LICENSOR, SUB-LICENSEE agrees to the following terms and conditions for the right to use the Application Programs noted in Section 2.4(e) (the "Oracle Corporation Application Programs"):

    i. Use of the Oracle Corporation Application Programs is restricted to object code form only, on a single Designated System, as described in Section 2.4(e), by a maximum number of Users for Sub-licensee's own internal data processing;

    ii. SUB-LICENSEE shall not transfer or duplicate of the Oracle Corporation Application Programs except for temporary transfer in the event of computer malfunctions. Only a single backup or archival copy is permitted;

    iii. SUB-LICENSEE shall not assign, give, transfer, timesharing, provide subscription service, hosting, outsourcing or rental service of the Oracle Corporation Application Programs;

    iv. Use of the Oracle Corporation Application Programs for any purpose outside the scope of the Agreement between the SUB-LICENSOR and SUB-LICENSEE is prohibited except as otherwise specified;

    v. SUB-LICENSEE shall not reverse engineer, disassemble or decompile the Oracle Corporation Application Programs except where SUB-LICENSOR has not provided SUB-LICENSEE, within a reasonable time and after written request, such information as is available to SUB-LICENSOR and is necessary by SUB-LICENSEE to create software programs which are interoperable with the Oracle Corporation Application Programs but do not infringe intellectual property rights;

    vi. Title to Oracle Corporation Application Programs shall not pass to SUB-LICENSEE and SUB-LICENSOR (or Oracle Corporation) retains all ownership and intellectual property rights to the Application Programs;

vii.   SUB-LICENSEE shall, at termination of this Sub-license Agreement, discontinue use and shall destroy or return to SUB-LICENSOR the Oracle Corporation Application Programs, documentation and all archival or other copies of the Application Programs;

viii.   Publication or disclosure to third parties of any results of benchmark tests run on the Oracle Corporation Application Programs is prohibited;

ix.   SUB-LICENSEE must comply fully with all relevant export laws and regulations of Canada and the United States to assure that neither the Oracle Corporation Application Programs nor any direct product thereof are exported, directly or indirectly, in violation of Canadian or United States laws;

x.   Oracle Corporation Application Programs are not specifically developed or licensed for use in any nuclear, aviation, mass transit, or medical application or in any other inherently dangerous applications. Any claims or damages arising from use of the Oracle Corporation Application Programs for such applications by SUB-LICENSEE are prohibited;

xi.   Third Party technology that may be appropriate or necessary for use with some Oracle programs is specified in the application package documentation or as otherwise notified by Sub-Licensor and that such third party technology is licensed to the Sub-licensee only for use with the application package under the terms of the third party license agreement specified in the application package documentation or as otherwise notified by Sub-licensor and not under the terms of the end user license agreement;

xii.   Oracle Corporation Application Programs are excluded from the Uniform Computer Information Transactions Act;

xiii.   SUB-LICENSEE shall direct any technical support issues directly to SUBLICENSOR; and

xiv.   Oracle Corporation is a Third-Party Beneficiary of the end-user license agreement but does not assume any obligations hereunder.

(b)   In accordance with the Business Alliance Programme Agreement number 3285 dated June 7, 1997 and the "Addendum" bearing an effective date June 1, 1999 in effect between SUB LICENSOR and Oracle Corporation Canada Inc. ("Oracle"), SUB-LICENSOR hereby grants to the SUB-LICENSEE a non-exclusive, non-transferable sub-license of the Oracle Corporation Application Programs set forth in- Section 2.4(e) below.

(c)   ORACLE SHALL NOT BE HELD LIABLE FOR ANY DAMAGES, WHETHER DIRECT OR INDIRECT, INCIDENTAL OR CONSEQUENTIAL ARISING FROM THE USE OF THE PROGRAMS. THIS SUB LICENSE DOES NOT INCLUDE WARRANTIES, EXPRESS OR IMPLIED, ON BEHALF OF ORACLE.

(d)   SUB-LICENSOR is permitted to audit the SUB-LICENSEE's Use of the Oracle Corporation Application Programs as licensed herein and requires the end user to provide reasonable assistance and access to information in the course of such audit and permit SUB-LICENSOR to report the audit results to Oracle or to assign SUB-LICENSOR's right to audit the SUB-LICENSEE's Use of the programs to Oracle. Where SUB LICENSOR assigns the right to audit to Oracle, then Oracle shall not be responsible for any of SUB-LICENSOR's or end user's costs incurred in cooperating with the audit.

List of Oracle Products

(e)   The Oracle products to which this Section 2.4 applies are as follows:

i.   Oracle IDS

ii.   Oracle Internet Application Server – Enterprise Edition

3.   Implementation Services

Item	Days	Costs
NG Implementation:		
(Train the Trainer method; remote)		
Planning Session (remote session + report)	1.5	$1,950
Software Installation + Technical Assistance (remote)	5	$6,000
Training & Troubleshooting Assistance (remote, 1/2-day minimum sessions) (onsite assistance is available for an addn'l $1,500)	5	$6,000
Optional: Additional Troubleshooting Assistance (remote, 1/2-day minimum	3	$3,600
Total Fees (estimate to be confirmed at Planning)	**14.5**	**$17,550**

The fees set out in this Part III as per Table above, are billed as services are incurred, and are due 30 days after receipt of invoice. Travel expenses incurred as a result of performing on-site Services are not included in the above rates. Such expenses shall be limited to reasonable out-of-pocket expenses necessarily and actually incurred by Contractor in the performance of its services hereunder as per Contractor's Travel Policy. Costs due Net 30 upon receipt of invoice.

4. Hosting Services Agreement

The County will utilize Contractor's Infrastructure Hosting Services to host Contractor's Personality technology/infrastructure for the project implementation and for the operational production phases and thereafter for an initial term of five (5) years.

PART I - TERMS AND CONDITIONS

Contractor agrees to provide the Hosting Services to the County during the Hosting Services Term, conditional upon all Hosting Services Fees having been paid up to the date at which the service is to be provided.

1. **Rates**
In consideration of providing Hosting Services the County agrees to pay Contractor 1) a one-time Transition/Set-up fee of $6,000 USD and 2) $129,516 USD per year (year 1 fee) billed monthly in advance at $10,793 USD per month (the "**Hosting Services Fees**") for maximum 4,500 Active Employees. Invoice shall be due 30 days after receipt of invoice.

Renewals will be at Contractor's then current Annual rates for the Infrastructure Hosting Services, with increases not to exceed High Line's then-current pricing or 3% increase per annum, whichever is less (overrides the Software License and Services Agreement, Section 7.A.). If any part of the Hosting Services Term is greater or less than twelve (12) months, the Hosting Services Fees for that part of the term shall be adjusted pro rata for the period in question on a per diem basis.

In the event that the actual number of Active Employees exceeds the Maximum Active Employee Amount then in effect, the County shall pay supplemental hosting fees at current published

pricing in effect at the time ("**Supplemental Hosting Services Fees**"). For the purposes of this Agreement, the actual number of Active Employees will be calculated as the highest number of Active Employees at any time. For greater certainty, upon payment by the County of such Supplemental Hosting Services Fees, the County's right to receive the Hosting Services shall thereafter apply in respect of an actual number of Active Employees up to such greater Maximum Active Employee Amount.

2. **Sub-contract**

The Parties acknowledge that Contractor has subcontracted a portion of the Hosting Services to MindShift Technologies Inc. (the "**Hosting Facilities Provider**"). In the event that CONTRACTOR for any reason proposes to change such Hosting Facilities Provider, CONTRACTOR shall provide three (3) months' prior written notice thereof to the County and shall not make such change without the prior written consent of the County, such consent not to be unreasonably withheld; provided that, notwithstanding any such consent by the County, the County shall have the right, exercisable on thirty (30) days' prior written notice to Contractor, to terminate the then-current Hosting Services Term prior to or at any time after such change in Hosting Facilities Provider.

PART II – SUMMARY OF SOFTWARE AND INFRASTRUCTURE HOSTING SERVICES

1. Specific Software and Infrastructure Hosting

1.1 Contractor's services shall include:

    i.   Personality hosting for the environments identified in the Implementation Planning Report Document;

    ii.   Setup of all hardware and infrastructure (CPU/Hardware, Operating System, network, etc.);

    iii.   Configuration of hardware and infrastructure as required for Contractor's Personality solution;

    iv.   Initial software installation of required software at Contractor's hosting data center. Contractor will install and confirm proper installation;

    v.   Three Application Instances (Production, Pilot/Test, Demo/Training);

    vi.   Other application instances as agreed to (additional charges will apply);

    vii.   Additional disk, environments, memory or CPU requirements if additional modules or more than a fifty percent (50%) increase in number of users will occur. (additional charges may apply);

    viii.   Nightly Database Backups and offsite storage;

    ix.   Database Administration and backup/recovery;

    x.   Disaster Recovery (DR) within Twenty-four (24) hours of a declared disaster;

    xi.   the County will perform transaction processing;

    xii.   Report data and data files are kept for 90 days unless otherwise requested;

xiii. Contractor application updates and fixes after initial implementation of technical environment; and

xiv. Completion of annual SSAE-16 SOC 1 and SOC 2 Audit Report of controls and procedures;

xv. Contractor will provide all hosting hardware and infrastructure at Contractor's Hosting Facility;

The County will provide:

i. A network connection at the County location;
ii. Valid/compatible SSL Certificate (if SSL is desired); and
iii. Valid and subsisting Licenses for the Licensed Software.

The Software and Infrastructure Hosting Services include all hosting hardware and Infrastructure, which will be provided by Contractor at Contractor's hosting facility.

2. Technical Environment Setup

2.1   Network is assumed to exist at the County's site. The Contractor application is network design independent, but assumes current, industry-supported network topography is in use.

2.2   Network design and configuration services provided by Contractor include:

i. Advising the County of available the County connectivity options. The County must select from the available options. Contractor recommends the use of Site to Site VPN as it is secure, inherently redundant and cost effective;

ii. Connectivity through the Internet and/or VPN between the County's main network and Contractor's hosting center.

2.3   Server Configuration services provided by Contractor include:

i. Setup and configuration of all required servers and hosted network components;

ii. Providing servers for software application, employee self-service/reporting and database(s) as described in the Implementation Planning Report Document if so applicable; otherwise as mutually agreed to between Contractor and the County;

iii. Applicable Oracle Database Standard Edition Two and WebLogic Standard Edition Licenses;

iv. Acquisition of a compatible SSL digital certificate and domain name is the responsibility of the County. Installation of the SSL Certificate is the responsibility of Contractor. Contractor will generate the CSR for the SSL with the information provided by the County for the SSL.

2.4   Other services provided by Contractor include

i. Configuration and use of monitoring and performance tools;

ii. Documented Disaster Recovery (DR) plan.

2.5   Services included, licenses are extra cost:

i. Installation, configuration and ongoing maintenance of other server products

   a. Oracle Business Intelligence (BI) server

   b. Windward Reports Engine

   c. Symmetry Taxation Engine

3. On-going Services

3.1   On-going services provided by Contractor include:

i. All Operating System upgrades, patches and fixes applied as required and agreed/scheduled;

ii. Contractor updates and patches for up to 100 hours/year;

iii. 24 x 7 monitoring of the Network and all servers;

iv. Installation of anti-virus software on all servers. Virus definitions are to be updated daily or as available/required;

v. File transfers to and from the Hosted Services Provider, to be transferred using a secure transfer method such as FTP via a VPN link or SFTP/FTP with PGP (Pretty Good Privacy Encryption method); the system can also be accessed via VPN/direct access to the database for ad hoc reporting and similar;

vi. Database administration and performance monitoring and maintenance. Contractor must perform any support actions regarding any performance issue that causes or requires table changes. Any Hosting Service provider service does not include attention to individual tables.

vii. Concurrence between the County and Contractor hosting data center as to the procedure and controls to be used for code promotion to the Production environment. Final decision to promote code to production environment rests with the County. The County will make this decision after successfully completing a test process or script based on guidance provided by Contractor during the project planning process. A schedule to promote code will be jointly agreed to and will be based on current processing cycles, the criticality of the change and events already scheduled. Contractor will verify promotion results with the County.

viii. Change Management for promotion of code from test to production environment with end-user sign-off by an authorized member of the County's staff.

ix. Performance and Intrusion monitoring (24 x 365); and

x. Providing Disaster Recovery (DR) process and recovery site, including:

   a. Transfer of the processing of the County's standard services to a recovery location as expeditiously as possible, but in no event later than twenty-four (24) hours after the declaration of a Disaster. The restoration will be of the entire production system environment (application and database);

   b. Coordination of the cutover to back-up telecommunication facilities with the appropriate carriers and facilities. This action will occur in conjunction with the declaration of a disaster;

c. the County will work cooperatively with Contractor prior to the go live of payroll to develop a business continuity plan that takes into consideration a declared Disaster at either Contractor's hosting data center facility or one or more of the County's facilities;

d. Annual Disaster Recovery review and test, the results of which will be shared with the County, and development of an action plan to address any items requiring retesting and process improvements that may have been identified; and

e. Annual SSAE-16 SOC 1 and SOC 2 Audit of relevant controls and processes.

4. Physical Security

4.1   The hosted facilities will include the following physical security measures:

i.   Buildings housing computers or communications systems will be protected with physical security measures that prevent unauthorized persons from gaining access;

ii.   Production system changes will be consistent with the information security architecture: To prevent changes in hardware and software from contributing to or creating security vulnerabilities, every non-emergency change to production systems will be shown to be consistent with the information security architecture and approved by the County as part of the formal change control process prior to installation;

iii.   Systems software and applications software to be kept at most recent stable levels: All production operating systems, database management systems, firewalls and related systems software, as well as all production business applications software, will be kept at the most recent stable release level. The County data will be encrypted in transit; at rest, encryption can be provided for identification-related fields:

Table	Column	Encrypted Column
P2K_HR_CONTACTS	BIRTH_DATE	RAW_BIRTH_DATE
P2K_HR_CONTACTS	GOVERNMENT_CODE	RAW_GOVERNMENT_CODE
P2K_HR_IDENTITIES	BIRTH_DATE	RAW_BIRTH_DATE
P2K_HR_IDENTITIES	DRIVERS_LICENSE	RAW_DRIVERS_LICENSE
P2K_HR_IDENTITIES	GOVERNMENT_CODE	RAW_GOVERNMENT_CODE
P2K_PR_DEPOSITS	BANK_ACCOUNT	RAW_BANK_ACCOUNT
P2K_PR_PAYMENT_RULE_DETAILS	BANK_ACCOUNT	RAW_BANK_ACCOUNT
P2K_RE_CANDIDATES	BIRTH_DATE	RAW_BIRTH_DATE
P2K_RE_CANDIDATES	DRIVERS_LICENSE	RAW_DRIVERS_LICENSE
P2K_RE_CANDIDATES	GOVERNMENT_CODE	RAW_GOVERNMENT_CODE

;

iv.   Security criteria a prerequisite for extranet connection: Before any computer system or network segment can be connected to the County's Extranet, it must first be deemed to have met the necessary industry accepted security. These criteria include, but are not limited to, the following: no connection to the Internet which is not guarded by an acceptable firewall; an acceptable user-authentication system; an acceptable user privilege control system; an established change control process; a clearly written definition of system management responsibilities; and adequate operational documentation; and

v. Hosting Facility will perform the services in a timely manner and will at all times provide its services in a highly professional manner and shall demonstrate a level of quality equal to or exceeding normal practices for its industry.

vi. <u>Hosting Facility will be located in the U.S.A. or Canada only.</u>

5. The County Obligations

5.1 Use of a Hosting Facility – the County shall:

i. Comply with any operating instructions on the use of the system, access, change control and other procedures required by Hosting Facility; and

ii. Work with Hosting Facility to resolve any performance related conditions and resolve any application related problems impacting the County's use of the system and its functionality. The County shall determine and be responsible for the authenticity and accuracy of all information and data submitted to Hosting Facility.

5.2 Proprietary Information – The Hosting System shall contain information and computer software that is proprietary and confidential information of Hosting Facility, its suppliers and its licensors. The County agrees not to attempt to circumvent the devices employed by Hosting Facility to prevent unauthorized access to the Hosted System, including, but not limited to, alteration, decompiling, disassembly, modification and reverse engineering. It shall not be deemed "unauthorized access" for the County to access the County Files defined below.

5.3 Regulatory Agencies, Regulations and Legal Requirements regarding the County files – Records maintained and produced for the County ("the County Files") may be subject to examination by such Federal, State or other governmental regulatory agencies as may have jurisdiction over the County's business to the same extent as such records would be subject if maintained by the County on its own premises. The County agrees that Hosting Facility is authorized to give all reports, summaries or information contained in or derived from the data or information in Hosting Facility's possession relating to the County when formally requested to do so by an authorized regulatory or government agency, provided Hosting Facility shall give the County advance notice of any such request so that the County may take additional steps to protect the County Files.

6.   Technical Hosting Environment

6.1   The proposed technical hosting environment (the **"the County Technical Environment"**) is described below. This environment will be established to meet the County's requirements and Contractor's then-current Service Level Matrix.

HARDWARE COMPONENT	ENVIRONMENT	COMMENTS
PRODUCTION Environment Application Servers	Application Servers (Load balanced servers, Self Service, Report Server) configured for access (internal / external) as agreed upon in the County Environments description. Application Server configuration will be sufficient to support the performance metrics as identified in the SLA	Virtualized environments using current supported Operating Systems

	Database server configuration will be sufficient to support the identified amount of data to be stored and support the performance metrics as identified in the SLA.	Virtualized environments using current supported Operating Systems
PRODUCTION Database Server		
TEST/PILOT and DEMO/TRAINING Environments	Application Servers configured for access as agreed upon in the County Environments description.	Virtualized environments using current supported Operating Systems
Additional redundant Infrastructure	Firewall, UPS, power generator, routers and internet connections.	

7. Licensed Software Support and Maintenance Service Cancellations

The County shall inform Contractor regarding timing of cancellation, but no later than 45 days in advance of Support Services specific to the County's existing Oracle Application Specific Licensing and the County's Enhanced Technical Support renewal term. Support and Maintenance may be cancelled at any time during the support year but charges are not refunded. The reduction in fees will occur at the next support and maintenance term.

The following Applications and Services eligible to be cancelled:

- o   Oracle Internet Developer Suite   1 Seat
- o   Oracle Internet Application Server Enterprise Edition   1 Processor

5. Support and Maintenance

5.1. Key Dates
SUPPORT START DATE: Upon first Initial Installation of software at HIGH LINE or County site or hosting facility. Start date will coincide with contract date.

SUPPORT EXPIRATION DATE: One (1) Year Thereafter, subject to renewal below, within the Term of Software Licenses and Services Agreement.

5.2. Term
(a) In exchange for the fees described in this Agreement, Contractor shall provide support and maintenance ("Support Services") on the Licensed Software listed in Exhibit II, Support Service Fees, and any additions or deletions therefrom agreed to by Contractor and the County in writing from time to time, from the Support Start Date until the Support Expiration Date (the "Initial Support Term").

(b) Within the Contract Term defined in the Software Licenses and Services Agreement, unless terminated in accordance with Section 5.6 Termination, or the Software Licenses and Services Agreement, this Section 5 shall automatically renew at the end of the Initial Support Term (and thereafter) for additional periods of twelve (12) months (any such renewal term,

the "Renewal Support Term" and together with the Initial Support Term, the "Support Services Term").

(c) Fees applicable throughout the term of this Section 5 will be Contractor's then current service rates and payment terms for the Licensed Software and Third Party Software. The Annual Service rates for the Licensed Software will not increase from the prior year by more than 2% in any year, per Software License and Services Agreement, Section 7.A. A schedule of Annual Service Rates and payment terms in the form of an invoice will be mailed by Contractor to the County not less than forty-five (45) days prior to the expiration of the then current term. If any part of the maintenance term is greater or less than twelve (12) months, the Annual Service Rates for that part of the term will be adjusted *pro rata* for the period in question on a per diem basis.

5.3. Coverage

(a) Contractor agrees to provide the following Licensed Software Support Services to the County during Support Services Term, conditional upon all Annual Service Rates having been paid up to the date at which the service is to be provided:

i. Corrections and fixes for any errors or inconsistencies in the programs in the Licensed Software due to Contractor programming error, or failures of the programs or databases in the Licensed Software to perform in accordance with the manuals provided by Contractor, which are notified in writing to Contractor by the County during the Support Services Term. The County shall assist Contractor in identifying the circumstances in which such errors or inconsistencies were discovered and in providing documentary evidence of the same;

ii. Improvements, changes, upgrades and updates to the Licensed Software and related documentation as they become generally available;

iii. Support for Oracle Database and other Oracle Corporation Technology Programs to the extent they have been incorporated into the Licensed Software;

iv. Support for the integration of the Symmetry Tax Engine™ ("STE") into the LICENSED SOFTWARE to provide legislated taxation computations at the Federal, State and Local (county/city/school district) levels;

v. Updated rates and database information for the calculation of Federal, State/Provincial and Local Income Taxes, State Disability Insurance and Unemployment Insurance ("**Government Changes**"), and production of Federal and State/Provincial-legislated reports; and

vi. Access to the Contractor SUPPORT LINE, Monday to Friday, 8 am to 8 pm Eastern Standard Time, except for statutory holidays; with Service Level response times as outlined in the Support Services Policy document.

(b) In return for the services described in this Section 5.3 – Coverage, the County will pay Contractor the Service Fees referred to in Exhibit II, Support Service Fees, failing which Contractor may refuse to provide these services.

(c) Notwithstanding anything herein to the contrary, Contractor shall not be obligated to deliver Government Changes for any calendar year unless the County has paid Support Services Fees for that calendar year, and installation or use of Government Changes for any calendar year shall be deemed to be a binding agreement between Contractor and the County for the County to pay the then current Annual Service Rates for all of that calendar year.

5.4. Exclusions

(a) Notwithstanding anything herein to the contrary, the following matters are not covered by this Section 5 and Contractor shall not provide corrections, fixes, updates, upgrades, or Support Services for:

  i. New developments or modifications to the Licensed Software requested or made by the County or someone on its behalf, unless new development/modification requested by Contractor;

  ii. Software enhancements, programs or databases that have been custom written for the County by Contractor and are not part of or do not become part of Contractor's standard package for the Licensed Software;

  iii. The County calculation programs, Discoverer reports, and customized the County reports which do not form part of Contractor's standard package for the Licensed Software, unless covered under a separate Contractor support agreement;

  iv. Training or retraining of new or existing personnel in the operations or understanding of the Licensed Software;

  v. Any problems, errors, omissions, deficiencies or inconsistencies caused by modifications, additions or tampering with the Licensed Software by persons other than Contractor personnel;

  vi. Any problems caused by the County as a result of file or table manipulation. It is the County's responsibility to fully test all file or table changes prior to using them in production;

  vii. Support of Third Party Software (except as may be noted in 3(a).

  viii. Any problems, errors or inconsistencies not attributable to matters expressly set out in 3(a).

(b) For any of these items, the County shall pay Contractor on a time and materials basis at Contractor's then current Professional Service Fee rates for its customers.

5.5. Contractor Support Services Policies

(a) Contractor will provide support services in accordance with the support services policy (the **"Service Policies"**), attached as Exhibit C.

(b) The Service Policies are subject to change at Contractor's discretion; however, (i) the services provided will not be materially reduced during the Support Services Term, and (ii) no policy change will be effective if it conflicts with the terms and conditions set out in this Agreement, and (iii) County will be notified in advance of any Service Policy changes.

5.6. Termination

(a) The County may terminate this Section 5 of Exhibit A, by written notice no less than thirty (30) days prior to the end of the then-current term.

(b) Upon any termination of the Agreement by the County pursuant to the Master Agreement Section 5 B (ii) (Termination for Convenience), the County shall remain liable for, and shall have no refund entitlements with respect to, the Support Services Fees paid in respect of the then-current Support Services Term.

(c) Upon any termination of the Agreement by the County pursuant to the Master Agreement Section 5 B (i) (Termination for Default) or the Support Services by Contractor pursuant to Section 5.7 (Discontinuance), the County shall be entitled to receive a per diem refund of the Support Services Fees paid in respect of the then-current Support Services Term for the remaining unexpired portion of such Support Services Term.

(d) In the event that the Support Services coverage lapses or is terminated by the County during any Service Period; the County may reinstate the Support Services by paying a Reinstatement

Fee in addition to the normal Support Services Fees. To reinstate support on any module, the County shall incur a $2,500 Administration Reinstatement Fee (per reinstatement - one or more modules) plus 60% of current Support Services Fees for each unsupported year. If support is reinstated during the first year of cancellation, no Reinstatement Fee is due. Reinstatement must occur prior to the start of the next Service period.

(e) Notwithstanding anything else to the contrary, Contractor shall have the right to terminate Support Services:

    i. If the Support Services are not paid for as required under the terms of Exhibit II, Support Service Fees, Contractor shall provide one (1) month's prior written notice before terminating Support Services; or

    ii. If the County moves the Licensed Software from a currently supported environment (i.e. specific configuration of operating system, application server and database) to an environment not currently supported by Contractor.

5.7. Notice of Discontinuance

(a) Contractor agrees to provide the County with twelve (12) months written notice if Contractor decides to discontinue offering these Support Services for all or any part of the Licensed Software. In no way does such discontinuance of Support Services affect the continued use of the perpetual Licensed Software by the County.

Exhibit I, Licensed Software Modules

Pursuant to this Agreement, the County has acquired and Contractor has granted the County a right to Use the following PERSONALITY Application Software modules (the **"Licensed Software"**) to process active Employee/Retiree Records in any month during a twelve-month service period up the maximum amount set out in the Software and Services Agreement between the Contractor and the County (the **"Maximum Active Employee Amount"**) on the terms set out in that agreement.

MODULE	YES OR NO
Foundation	YES
Payroll	YES
Salary Administration	YES
Benefit Administration	YES
Attendance	YES
Forecasting & Costing	NO
Labor Relations	YES
Safety & Health	NO
Training & Development	NO
Recruiting	NO
Time Scheduling	NO
Contract Processing	NO
Workflow	YES
Employee/Manager Self-Service	YES
Benefits Self-Service	NO
Recruiting Self-Service	NO
Time Management Self-Service	NO
Canadian Tax Tables	NO
Generic Interface	NO
State Retirement Reporting	NO
Limited Payroll	NO
TS Time Rules	NO

Exhibit II, Support Service Fees

In consideration of providing the Support Services described in Section 5 - Support and Maintenance, the County agrees to pay Contractor the fees (the "**Support Services Fees**") in respect of the Maximum Active Employee Amount, and as per the Support Services Fees payment schedule, specified in the table below in respect of the Initial Support Term and any Renewal Support Term, as adjusted in accordance with this Exhibit II, Support Service Fees.

Personality Application Software Support Services	ANNUAL FEES (current)
Foundation	$6,396
Payroll	$9,043
Salary Administration	$2,560
Benefit Administration	$3,018
Attendance	$3,018
Labor Relations	$1,277
Workflow	$2,560
Employee/Manager Self-Service	$2,560
TOTAL	**$30,432**

Personality Annual Support Service Fees due upon first installation of software, or Use of the software on the County's behalf.

Third Party Application Software Support Services	ANNUAL FEES
Windward Report Writer	$2,530
Symmetry Tax Engine (the "STE")	$10,450
Oracle IDS, 1 User	$1,250
Oracle Internet Application Server – Enterprise Edition, 1 Processor	$4,400
Logi BI Dashboard	$2,772
Third Party Application Total	**$21,402**

(b) Third Party Application Software Support Services Payment Schedule:

    i. Windward, Logi, Symmetry and Oracle Support Services – Annual Support Services Fees due upon first installation of software, or Use of the software on the County's behalf and are billed in advance on annual basis. Logi will be an added product for the NextGen environment, Windward, Symmetry and Oracle are currently in place.

(c) In the event that, the actual number of Active Employees exceeds the corresponding Maximum Active Employee Amount then in effect, the County shall pay supplemental Support Services fees at current published pricing in effect at the time ("**Supplemental Support Services Fees**"). For purposes of this Agreement, the actual number of Active Employees will be calculated as the highest number of Active Employees at any time. For greater certainty, upon payment by the County of such Supplemental Support Services Fees, the County's right to receive the Support Services shall thereafter apply in respect of an actual number of Active Employees up to such greater Maximum Active Employee Amount.

(d) If any part of the Support Services Term is greater or less than twelve (12) months, the Annual Service Rates for that part of the term will be adjusted *pro rata* for the period in question on a per diem basis.

(e) The rates and payment terms for the Support Services will be Contractor's then current service rates and payment terms for the Licensed Software and Third Party Software. A schedule of service rates and payment terms in the form of an invoice will be mailed by Contractor to the County not less than forty-five (45) days prior to the expiration of the then current term.

<u>**Exhibit B to Software License and Services Agreement**</u>

Service Level Agreement

1   SYSTEM AVAILABILITY

Performance Standard: System Available 24 X 7 X 365   99.5% of the time, measured by a rolling 6-month period.

Contractor shall make Systems available 24 x 7 x 365 with the exception of time required for any maintenance windows when required by HIGH LINE or for unexpected events, such as the need to install security fixes to eliminate a supplier- or vendor- identified security threat.

Contractor shall guarantee uptime of 99.5% availability of hardware and network components controlled by HIGH LINE (i.e. not the CUSTOMER computers, the CUSTOMER network or general internet availability). Uptime and availability are not synonymous. A system can be up, but not available, as in the case of a CUSTOMER network outage.

The 99.5% availability metric will be measured by a rolling 6-month period.

HIGH LINE has a regular maintenance window every Saturday from 5:00 PM Eastern Time to Sunday at 5:00 PM Eastern Time. This window is used once a month, at a maximum, and CUSTOMERS are informed via email generally two weeks in advance if this maintenance window is required. Contractor shall coordinate the use of this window with the CUSTOMER in an effort to avoid impacting any weekend work plans.

System outage for any planned maintenance is not considered downtime for purposes of this Section 1.

Availability will be calculated on a monthly basis, calculated to two decimal places, and is calculated as:

$$\text{Percentage Availability} = \frac{Total\ Uptime}{Total\ Uptime + Total\ Downtime}$$

Total Uptime is the sum of hours the system was available
Total Downtime is the sum of hours the system was unavailable due to unplanned outages

For example, in the month of March there are 31 days, so if there were no downtime of any kind, the system would be available for 31 X 24 hours = 744 hours. If there were 6.25 hours of planned downtime and an additional 3.50 hours of unplanned downtime in the month, then the formula would be 734.25 hours of uptime divided by 737.75 hours of planned uptime.

$$\text{Percentage Availability (99.53\%)} = \frac{Total\ Uptime\ (744 - 9.25 = 734.25)}{Total\ Uptime\ (734.25) + Total\ Downtime(\ 3.50) = 737.75}$$

A report of the details around any unplanned downtime incidents lasting longer than 15 minutes will be sent to the CUSTOMER's contacts after the system has resumed normal operation.

2   RESPONSE TIME

Performance Standard: Contractor will ensure screen response time is within the performance indicated in *Exhibit B, Appendix I*, 95% of the time.

Performance Standard: Batch Processing and Report Generation will be measured as number of transactions per minute, identified by each process in *Exhibit B, Appendix I*, 95% of the time.

A performance standard of screen response time within the performance indicated in Exhibit B, Appendix I of 95% of the time, is based on the hardware, software and network components controlled by HIGH LINE (i.e. not the CUSTOMER computers, the CUSTOMER network or general internet availability).

Screen and Report response is based upon HIGH LINE provided functions as noted in *Exhibit B, Appendix I.*

In standard benchmarks of web-based applications, the practice is to define response time to see 90th percentile or 95th percentile response times used. The benchmark may specify that the 90th percentile response time of a transaction should be within x seconds. This means that only 10% of the transactions have a response time higher than x seconds and can therefore be a meaningful measure. The same measure would be used for a 95th percentile response time, where only 5% of the transactions are beyond that measure. This is particularly important when there is, for many valid reasons, the potential for widely varying response times.

Screen response time metrics will be measured by CUSTOMER. Report and Batch Processing response time metrics will be derived from actual values stored in the application database, indicating start and stop times for the various processes.

Performance of the application is also dependent up on regular maintenance of historical information that has become redundant. Regular pruning of application logs (such as execution run logs and audit logs) and transactional data (pay period transactions) must be undertaken by the customer in order to maintain performance levels.

2.1   Screen Response Time

For the identified screens (in *Exhibit B, Appendix I*), the response time (measured by CUSTOMER) is measured in the amount of time it takes to load the screen and be ready for further entry. Each of these screens being loaded will also result in the query of the database of a large amount of data and then the presentation of the data on the screen. Saving a record on these screens (where possible) will result in the same type of transactional lag: save the data to the database, and then re-query it (the same step as when initially logging in to the screen).

2.2   Batch Processing and Report Generation Response Time

The identified batch/report processes (in *Exhibit B, Appendix I*) will have a widely varied response time, dependent upon the transactional volume. The response times noted will be indicative of the start and stop times, as recorded in the database for each process divided by the number of transactions being processed

3   SYSTEM MONITORING

Performance Standard: **Monitor Network, Server Performance and Database Performance 24 X 7 X 365. Notify the CUSTOMER if the issue is not resolved within fifteen minutes during regular business hours.**

Performance Standard: A quarterly report of incidents will be sent to CUSTOMER contacts.

HIGH LINE shall enable automated monitoring of network connectivity, system availability, performance and resource usage. In the event that the automated process identifies a system issue, an alert is sent to personnel at HIGH LINE, and (if desired) the CUSTOMER. Upon receipt of such an alert, HIGH LINE staff will log the issue and investigate and resolve the issue.

If the issue is not resolved within fifteen minutes, an update must be sent to CUSTOMER contacts as identified in the Customer Care system as "Prime" to indicate the issue the status, the action plan an estimated time of resolution. Updates must follow each hour until the issue is resolved.

3.1   Network Monitoring

Monitoring includes availability usage, network related response time, threats and attempted attacks. In the event of an outage, rollover to a backup communications link is automatic.

3.2   Server Performance Monitoring

HIGH LINE will monitor production servers for performance spikes, non-responsiveness and any hardware failure incident.

3.3   Oracle Database management, monitoring & maintenance

HIGH LINE will monitor databases for deadlocks, disk space management, performance spikes, hardware component failures and other potential failures.

4   DISASTER RECOVERY

Performance Standard: **System restoration within twenty-four (24) hours of the declaration of the disaster.**

Optional Performance Standard (NOT APPLICABLE): System restoration within four (4) hours of a declaration of the disaster

A disaster would be declared by Contractor:

- In consultation with the CUSTOMER
- If the hosting facility or major components in the facility are rendered inoperable
- The issue cannot be rectified faster than the time it would take to move operations to the disaster recovery site.

The notice process described in Section 3 of this Exhibit, System Monitoring, will be utilized here, but should an incident occur that, in HIGH LINE's opinion, has the potential to result in the declaration of a disaster, HIGH LINE will contact individuals identified by the CUSTOMER immediately, regardless of the day or time. HIGH LINE will continue to call the contact(s) until someone is reached.

The guideline for the restoration of base level services such as payroll entry and processing is within a 24-hour window from a declared disaster, or other value as may be agreed upon by contract.

A disaster will be declared by mutual agreement between HIGH LINE and the CUSTOMER. Such a declaration will consider the current payroll schedule, the payroll-processing window and HIGH LINE's best estimate of when the system will be restored. HIGH LINE will provide the CUSTOMER an estimate of the time required to resolve the issue within four to six hours from when the initial discovery is logged.

Report to be generated for the disaster incident detailing:
- the nature of the disaster
- when it was declared
- who was involved in the declaration decision (from HIGH LINE and CUSTOMER)
- specifics of restoration

Attainment of the standard is measured by the calculation of the time between the declaration of the disaster and the time the CUSTOMER's system environment has been restored and verified and connectivity has been re-established such that operational processing is ready to begin.

During a declared disaster, performance service levels will not be measured. Measurement will restart after processing has been restored to the primary hosting facility.

5   APPLICATION OF UPDATES AND PATCHES

Performance Standard: Patches applied to servers, operating systems and application as agreed upon with the CUSTOMER.

5.1   Personality Product Updates and Patches

Requests for software updates are made through the creation of a Customer Care ("CCare") case identifying the release/patch to be applied to production, and are then applied at a mutually agreeable schedule time. In this context, this applies to all supported applications, including but not limited to the Windward Report Engine.

No updates will be applied to production environments without an explicit, documented CUSTOMER request.

The CUSTOMER must review available update information as it becomes available to make an informed decision about the upgrade context. HIGH LINE will strive to ensure that the CUSTOMER remains on a supportable version of the software.

5.2 Application of Operating System and server updates and patches

As operating system (Windows or Linux) and application/database server patches are made available on a regular basis, these updates will be applied to the CUSTOMER environments during a scheduled maintenance window.

In the event of a critical zero-day security patch, this will be applied as soon as possible, after consultation with the CUSTOMER to determine a window of opportunity.

Exhibit B, Appendix I – SYSTEM RESPONSE TIME METRICS

			APPENDIX I: System Response Time Metrics		
#	Service Category	Hours of Operations or Operating Tasks	Availability & Performance Standards	Standards	Performance Measurement/Metric
1	Payroll Performance	Payroll Processing: • Calculation Gross to Net (UPCALC)	Guaranteed payroll run time for the UPCALC process of up to 1 hour for a pay run (wall clock processing time not including any print time) for up to 2,000 employees. This assumes that: 1. HIGH LINE is responsible for database administration and performance and HIGH LINE's controls for the promotion of code to production are followed. 2. CUSTOMER has followed HIGH LINE's minimum workstation requirements for the application as configured for CUSTOMER. 3. The workstation(s) running payroll is not concurrently running any other process that would impact the workstations performance	Thru put guarantee is based on a dual processor application server and multi-processor database server.	Performance statistics against standard including the processing time per employee and the overall pay run time. **Payroll Gross to Net:** This will be calculated as follows: Number of pays rendered/time (in minutes). The result must equal 50 pay calculations per minute or better for the standard to have been achieved.

APPENDIX I: System Response Time Metrics					
#	Service Category	Hours of Operations or Operating Tasks	Availability & Performance Standards	Standards	Performance Measurement/Metric
2	Response Time	Measured from the point that a request reaches, is processed and exits HIGH LINE's Network	Based on Transaction Type. This measurement assumes that CUSTOMER has followed HIGH LINE's minimum workstation recommendation for the application as configured for CUSTOMER and the workstation(s) running payroll is not concurrently running any other process that would impact the workstation and response time.	Simple Transactions or queries - 3 second average response time from the point where a transaction enters HIGH LINE's network till it exits with a response. Complex transactions (requiring multiple calculations) - 5-second average response time from the point where a transaction enters HIGH LINE's network till it exits with a response. Complex reports and queries, such as one that is accessing 5 or more tables or 500,000 or more rows, and batch processes are excluded from this standard. All transactions will be monitored so if response time is degraded as a result of complex reports, queries or batch processes, an exception report can be produced that identifies the activity or activities that are contributing to the issue, so that a remedy/ resolution can be reached.	End to end hosting site internal response time (that is the round trip response time from the point of entry into HIGH LINE's network/servers and to point of exit from hosting site.

High Line Corporation Support Services Policy
Effective: July 1, 2009
Revision: April 1, 2014

This Policy shall serve as a Supplement to the Master Agreement between HIGH LINE and CUSTOMER. When in conflict with the original agreements, the terms and conditions of this Supplement shall prevail unless specifically indicated in the Master Agreement or below.

Definitions

"Activity" means an electronic record of an event or action related to a *Case* entered in HIGH LINE's web-based Customer Care System.

"Back-port" means a *Software Update* affecting Java code on the middle tier that, when made or added to the LICENSED SOFTWARE, resolves specific *Issues* and eliminates the adverse effect of the *Issues*. *Back-ports* are introduced between *Official Releases* and are distributed to selected customers. *Back-ports* are identified by a new numeral to the right of the third decimal point in the release number (e. g. 4.07.05.01).

"Case" means an electronic record of an *Issue* entered in HIGH LINE's web-based Customer Care System.

"CUSTOMER" means Licensee of the software, the recipient of the support services.

"Documentation" means all written material describing the LICENSED SOFTWARE that HIGH LINE makes generally available to its customers, including manuals, release notes and white papers.

"HIGH LINE" means the Licensor of the software, the provider of the support services.

"Interim Release" means a new version of the LICENSED SOFTWARE which HIGH LINE makes available to selected customers to deliver specific new features and/or specific *Issue* resolutions that cannot be back-ported or patched. *Interim Releases* are introduced between *Official Releases* and are not intended to be "go-live" releases. *Interim Releases* are identified by a new numeral to the right of the second decimal point in the release number (e. g. 4.07.05).

"Issue" means a failure of the LICENSED SOFTWARE to conform to the specifications set forth in the *Documentation*, resulting in the inability to use or restriction in the use of the LICENSED SOFTWARE, and/or a CUSTOMER identified need for new procedures, clarifications and/or additional information.

"LICENSED SOFTWARE" means the programs/modules identified in the Master Agreement between HIGH LINE and CUSTOMER and that are covered by the Support and Maintenance agreement provided therein.

"Official Release" means a new version of the LICENSED SOFTWARE which HIGH LINE makes generally available to its supported customers to deliver new features and *Issue* resolutions. *Official Releases* are normally introduced once or twice a year and are regression tested and documented. *Official Releases* are identified by a new numeral to the right of the first decimal point in the release number (e. g. 4.07).

"Patch" means a *Software Update* affecting server code on the database tier that, when made or added to the LICENSED SOFTWARE, resolves specific *Issues* and eliminates the adverse effect of the *Issues*. *Patches* are introduced between *Official Releases* and are distributed to selected customers. *Patches* are identified by a new numeral to the right of the third decimal point in the release number (e. g. 4.07.05.01).

"Product Generation" means a new generation of software which HIGH LINE makes generally available to its supported customers to address major technology changes, through an Addendum to the Master Agreement and payment of additional fees. *New Product Generations* are introduced very infrequently, historically 5 to 7 years. They are identified by a new numeral to the left of the first decimal point in the release number (e. g. 4.xx).

"Release" means a *New Product Generation, Official Release, Interim Release, Back-port or Patch.*

"Release Number" A numerical identification of a release with the format "x.xx.xx.xx"

x	Product generation number	e.g. 4.xx.xx
x.xx	Release number	e.g. 4.07.xx
x.xx.xx	Build number	e.g. 4.07.05
x.xx.xx.xx	Back-port number	e.g. 4.07.05.03

"*Software Update*" means all improvements, extensions, modifications, upgrades, updates, fixes and additions to or of the LICENSED SOFTWARE which HIGH LINE makes generally available to its supported customers from time-to-time to correct deficiencies and/or to improve or extend the capabilities of the LICENSED SOFTWARE.

Support Obligations

This policy details HIGH LINE's support services obligations to CUSTOMER on the LICENSED SOFTWARE covered under a Master Agreement (Support and Maintenance). If additional software is licensed, it must be identified in an Addendum to the Master Agreement to be eligible for Support Services beyond the warranty period.

Warranty Period

Support Services will be provided for the duration of the warranty period specified in the Master Agreement (the standard is 180 days). The warranty period starts with the first load of the software at either the client's site or in a hosted environment.

Service Period

Support Services will be provided for the duration of the Service Period. The Service Period will commence on the Effective Date and will continue up to and including the Expiration Date stated in the Master Agreement.

Support Service Fees

The Support Service Fees applicable upon renewal will be HIGH LINE's current Support Service Fees for the LICENSED SOFTWARE. HIGH LINE shall provide CUSTOMER with a schedule of fees in the form of an invoice not less than forty-five (45) days prior to the Expiration Date. Support Service Fees are due and payable annually in advance of the Service Period. If additional software is licensed during the Service Period, the Support Service Fees for the additional software will be the current Support Service Fees prorated to the Expiration Date of the Service Period.

Reinstatement Fees

In the event that the Support Services coverage lapses or is terminated by CUSTOMER during any Service period; CUSTOMER may reinstate the Support Services by paying a Reinstatement Fee in addition to the normal Support Service Fees. If not specified in the Master Agreement, to reinstate support on any module, client shall incur a $2,500 Administration Reinstatement Fee (per reinstatement - 1 or more modules) plus 60% of current maintenance fees for each unsupported year.

If reinstated during the 1st year of cancellation, no reinstatement Fee. Reinstatement has to occur prior to the start of the next Service period.

Standard Service Hours

Standard Service Hours are Monday to Friday, 8:00am to 8:00pm Eastern Standard Time, excluding all public holidays. If CUSTOMER anticipates the need for after-hours support under special circumstances, HIGH LINE may offer extended support on a prearranged basis, for an extra fee. Reasonable advance notice must be given for extended support.

Customer Support Contacts

CUSTOMER may designate up to five (5) individuals as liaisons with HIGH LINE to receive Support Services; one must be identified as the primary contact. All designated individuals must be listed in the *Customer Support Contacts Table* (see sample provided at the end of this document). This will be done by CUSTOMER in HIGH LINE's Customer Care System. Under normal circumstances, Customer Support Contacts will be the sole liaisons with HIGH LINE for Support Services. CUSTOMER may modify its list of Customer Support Contacts at any time during the Service Period; however, CUSTOMER must notify HIGH LINE of all changes. In an emergency, HIGH LINE may accept communication from an unauthorized contact subject to later verification and involvement of a named Customer Support Contact.

It is recommended that the Customer Support Contacts be trained representatives who are knowledgeable of CUSTOMER's environment and the use of the LICENSED SOFTWARE. These individuals will be required to assist in analyzing and resolving *Issues*. HIGH LINE may review cases logged by Customer Support Contacts, and may recommend specific training to help avoid cases that would be prevented by such training.

Issue Reporting

A *Customer Support Contact* reports an *Issue* by entering a *Case* in HIGH LINE's Customer Care System which is available 24x7. All *issues* are logged by data and time, product, version, module, type (implementation or production), category (problem, technical, training, documentation, enhancement request, consulting request or question) and severity level. The *issue* will be routed to the appropriate department depending on the category of the *case* and the severity.

Issues should be demonstrable in the current *release(s)* of the LICENSED SOFTWARE on a supported platform. It may be necessary for HIGH LINE to have remote access to CUSTOMER's system to see the *Issue* first hand. An automated response email is sent to confirm the submission of each new *Case*.

If the Customer Care System is not available, an *Issue* can be reported by telephone or email during Standard Service Hours or email at other times. A toll free number is provided by HIGH LINE.

Severity Level

"Severity Level" indicates how critical an *Issue* is and determines the expected Response Time for the *Issue*. Every *Case* shall be assigned an appropriate Severity Level by CUSTOMER when the *Case* is entered into the Customer Care System. In the event that the condition of a submitted *Case* materially changes such that the *Issue* now meets the conditions of a higher or lower Severity Level, then such *Case* shall be re-classified and shall follow the Response Time of the revised Severity Level, upon HIGH LINE's receipt of CUSTOMER's request for such a change. HIGH LINE reserves the right to request reclassification of a *Case* if the Severity Level is deemed inappropriate.

If a case is a Severity 1 (A+) level, CUSTOMER should enter the case and then follow-up with a phone call to HIGH LINE's Support Team.

Response

"Response Time" is defined as the time between the entering of a *Case* and the contact of a HIGH LINE representative with CUSTOMER to begin resolving the *Case*. Time is measured in Standard Service Hours; for example, a case submitted at 7:30pm EST will be responded to on the next business day. Contact may be made through telephone or an *Activity* added to the *Case*. HIGH LINE shall make their best effort to meet the response times and resolution times outlines in the *Support Severity, Response and Resolution Table* included in this document.

Resolution

"Resolution" is defined as HIGH LINE having provided an answer, work around or *Release* to resolve an *Issue* that has been recorded as a *Case*.

Escalation

If CUSTOMER is not satisfied with the Response Time or Resolution provided by HIGH LINE, CUSTOMER shall contact HIGH LINE's Manager responsible for the *Issue* or a pre-designated Senior Service representative as the first escalation point. If this individual is not available or CUSTOMER wishes to escalate to the next level, CUSTOMER shall contact HIGH LINE's pre-designated Senior Management representative. Such contact persons may be changed from time-to-time at the sole discretion of HIGH LINE, upon written notice to CUSTOMER.

Coverage

This Coverage section applies where Coverage is not previously defined in the Master Agreement.

HIGH LINE agrees to provide the following support services for the LICENSED SOFTWARE to CUSTOMER during the Service Period, conditional upon a signed Master Agreement (Support and Maintenance Article) being in effect and all Annual Service Rates having been paid up to date at the time the service is to be provided:

a. Corrections and fixes for any errors or inconsistencies in the programs of the LICENSED SOFTWARE due to HIGH LINE programming error, or failures of the programs or databases of the LICENSED SOFTWARE to perform in accordance with the Master Agreement (Support and Maintenance) or the *Documentation* provided by HIGH LINE. CUSTOMER shall assist HIGH LINE in identifying the circumstances in which such errors or inconsistencies were discovered and in providing documentary evidence of the same.

b. Improvements, changes, updates and upgrades to the LICENSED SOFTWARE and related *Documentation* as they become generally available.

c. Support for Oracle software to the extent that it has been incorporated into the LICENSED SOFTWARE, or it is required to make reasonable use of the LICENSED SOFTWARE, provided that CUSTOMER has purchased Oracle Support from HIGH LINE. Severity 1 issues will be addressed for CUSTOMERS without Oracle Support on a time and materials basis.

d. Support for the integration of the Symmetry Tax Engine™ ("STE") System into the LICENSED SOFTWARE to provide legislated taxation computations at the Federal, State and Local (county/city/school district) levels.

e. Support for legislated taxation reports at the Federal and State/Province levels.

f. Support for other legislated reports that HIGH LINE currently has within the LICENSED SOFTWARE.

Conditions for Providing Support

HIGH LINE's obligation to provide Support Services is conditioned upon the following:

a. CUSTOMER must be using a published version of the LICENSED SOFTWARE.

b. CUSTOMER makes reasonable efforts to correct the *Issue* after consulting with HIGH LINE.

c. CUSTOMER provides HIGH LINE with sufficient information and resources to correct the *Issue* either at HIGH LINE's site or via remote access to CUSTOMER's site.

d. CUSTOMER provides access to the personnel, hardware, and any additional software involved in discovering the *Issue*.

e. CUSTOMER installs and tests the *Release* containing the resolution to the *Issue* within a reasonable time frame.

f. CUSTOMER procures, installs and maintains all equipment, telephone lines, communication interfaces and other hardware necessary to operate the LICENSED SOFTWARE and allow HIGH LINE to provide the Support Services.

g. If CUSTOMER requests that any Support Services be provided onsite, CUSTOMER shall compensate HIGH LINE for performing such Support Services on a time and materials basis at HIGH LINE's current per diem rates published on the Customer Care system.

h. All remote access by HIGH LINE shall comply with CUSTOMER's network security rules and HIGH LINE shall promptly notify CUSTOMER if HIGH LINE experiences problems remotely accessing CUSTOMER's system.

i. Upon request, CUSTOMER shall provide HIGH LINE with representative test data files.

Exclusions

This Exclusions section applies where Exclusions are not previously defined in the Master Agreement.

HIGH LINE is not obligated to provide Support Services for the following:

a. CUSTOMER is not using a published version of the LICENSED SOFTWARE.

b. New developments or modifications to the LICENSED SOFTWARE made by CUSTOMER or someone on its behalf without HIGH LINE's consent.

c. Any problems, errors, omissions, deficiencies or inconsistencies caused by modifications, additions or tampering with the LICENSED SOFTWARE by persons other than HIGH LINE personnel without HIGH LINE's consent.

d. Any problems caused by CUSTOMER as a result of file or table manipulation. It is CUSTOMER'S responsibility to fully test all file, table and software changes prior to using them in production.

e. Training or retraining of new or existing CUSTOMER personnel in the operations and/or understanding of the LICENSED SOFTWARE.

f. Support of Third Party Software except as set out in the Coverage section.

g. Any problems, errors, omissions, deficiencies or inconsistencies not attributable to matters expressly set out in the Coverage section.

Services requested by CUSTOMER for any of these items may be available from HIGH LINE on a time and materials basis at HIGH LINE's current per diem rates.

Software Updates

During the Service Period, HIGH LINE shall make *Software Updates* available to CUSTOMER if, as and when HIGH LINE makes such *Software Updates* generally available to its supported customers. HIGH LINE at its own discretion may deliver the *Software Updates* as a *New Product Generation, Official Release, Interim Release* or *Back-port/Patch*. CUSTOMER is responsible for downloading and installing *Software Updates* that are made available.

Releases Supported

HIGH LINE shall have no obligation to support or maintain any version of the LICENSED SOFTWARE except the then most current *Release*, the two immediately preceding *Official Releases* and any *Release* published in the preceding twelve (12) months. HIGH LINE shall provide six (6) months prior written notice before ceasing support of a *Release* of the LICENSED SOFTWARE. If a version of the LICENSED SOFTWARE is at the end of its life cycle (i.e. no longer upgraded or enhanced), Support Services shall be provided for twelve (12) months following the end of its life cycle.

Technical Services

At CUSTOMER's option and on a mutually agreeable basis, HIGH LINE shall provide installation and/or integration services for *Software Updates* or *Releases* at the then current per diem rates published on the Customer Care system.

Enhancement Requests

CUSTOMER may from time to time request enhancements to the LICENSED SOFTWARE. These requests should be recorded as *Cases* in HIGH LINE's Customer Care System and categorized as Enhancement Requests. HIGH LINE will periodically review the Enhancement Requests and take them into consideration when planning upcoming releases.

Product Revisions

If CUSTOMER needs an improvement, extension or modification of the LICENSED SOFTWARE to address their specific requirements or to implement a desired enhancement quickly, CUSTOMER can request a Product Revision. Product Revision requests must be accompanied by a statement of the work to be done. HIGH LINE reserves the right to decline Product Revision requests. If HIGH LINE agrees to consider a Product Revision request, HIGH LINE will prepare a Work Order which includes the specifications, time and cost estimates plus related terms and conditions. Work Orders will be valid for thirty (30) days from the date issued. Upon approval of the Work Order, the work will be scheduled by HIGH LINE taking into consideration current workload. Software developed under Product Revisions is not automatically covered under the current Master Agreement (Support and Maintenance) for the LICENSED SOFTWARE. Provisions for Support Services on Product Revisions must be written into the Work Order.

Termination of Support Services

Support Services shall automatically terminate upon termination of CUSTOMER'S Master Agreement for the LICENSED SOFTWARE. The termination provisions of the Master Agreement (Licensed Software Modules Article) shall govern termination of the Support and Maintenance Article.

Notice of Discontinuance

HIGH LINE agrees to provide CUSTOMER with twelve (12) months written notice if HIGH LINE decides to discontinue offering these Support Services for all or any part of the LICENSED SOFTWARE. In no way does such discontinuance of Support Services affect the continued use of the perpetual LICENSED SOFTWARE by CUSTOMER.

Notice of Changes

These Support Services Policies are subject to change at HIGH LINE's discretion; however, the services provided will not be materially reduced during the term of the Master Agreement (Support and Maintenance).

Support Severity, Response and Resolution Table

Severity Code	Condition	Response Time	Escalation (as required)	Resolution
Severity 1 (A+) Critical / Urgent / Catastrophic Impact	Severe loss of service. Production use of the supported programs is stopped or prevents continuation of work. The operation is mission critical to the business and the situation is an emergency.	1 Hour (measured in Standard Service Hours) via a phone call	Immediate notification of Support Manager. Further escalation to Technical Service Manager, Consulting Manager or Development Manager depending on the nature of the issue.	Within 3 business days unless otherwise agreed by the parties. Delivered in a *Back-port/Patch* or as a workaround.
Severity 2 (A) Very Important / High Impact	Significant loss of service. Important features are unavailable with no acceptable workaround; however, operations can continue in a restricted fashion.	4 Hours (measured in Standard Service Hours) via an email activity to the case owner and primary contact	Escalation to Support Manager, Technical Service Manager, Consulting Manager or Development Manager depending on the nature of the issue.	Within a month unless otherwise agreed by the parties. Delivered in a *Back-port/Patch* or as a workaround.
Severity 3 (B) Important / Medium Impact	Minor loss of service. The impact is an inconvenience, which may require a workaround to restore functionality.	24 Hours (measured in Standard Service Hours) via an email activity to the case owner and primary contact	Escalation to Support Manager, Technical Service Manager, Consulting Manager or Development Manager depending on the nature of the issue.	Within a year unless otherwise agreed by the parties. Delivered in an *Interim release* or *Official Release*
Severity 4 (C) Nice To Have / Low Impact	No loss of service. General inquiries on functionality, improvements, or documentation clarification but there is no impact on the operation of the software.	24 Hours (measured in Standard Service Hours)	Escalation to Support Manager, Technical Service Manager, Consulting Manager or Development Manager depending on the nature of the issue.	As mutually agreed to by the parties. Delivered in an *Interim release* or *Official Release*
Enhancements	Requests for enhancements or improvements.		As available.	As mutually agreed to by the parties.

Customer Support Contacts Table

This list is entered into HIGH LINE's Customer Care System

	Level	Name	Position	Phone #	Email
1	Primary Contact				
2					
3					
4					
5					