

**AMENDMENT TO THE AGREEMENT
BETWEEN THE COUNTY OF SAN MATEO
AND
NORTHWOODS CONSULTING PARTNERS, INC.**

THIS SECOND AMENDMENT TO THE AGREEMENT, entered into this ____ day of _____, 20 ____, by and between the COUNTY OF SAN MATEO, hereinafter called "County," and Northwoods Consulting Partners, Inc., hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, the parties entered into an Agreement for proprietary software services on April 9, 2014; and

WHEREAS, the parties amended the Agreement to ratify the signature of the Director of the Human Services Agency, and to add \$458,074 to the Agreement for a total obligation of \$800,000, on June 3, 2014.

WHEREAS, the parties wish to further amend the Agreement to continue use of the system for an additional three years and add \$1,500,000 for a total obligation of \$2,300,000.

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Section 1 – Exhibits and Attachments – is amended to read as follows:

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A – Scope of Services
Exhibit A – Revised 10/2014
Exhibit A1 – Compass Software Support
Exhibit A1 – Revised 10/2014
Exhibit B – Payments and Rates
Exhibit B1

2. Section 3 – Payments - is amended to read as follows:

In consideration of services provided by Contractor in accordance with all terms, conditions, and specifications set forth herein and in Exhibit A, County shall make payments to Contractor based on the rates and in the manner specified in Exhibit B. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable. In no event shall County's total fiscal obligation under this Agreement exceed Two Million Three Hundred Thousand Dollars (\$2,300,000).

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3. Section 4 – Term and Termination - is amended to read as follows:

Subject to compliance with all terms and conditions, the term of this Agreement shall be from March 1, 2014, through February 28, 2018.

4. **Exhibit A** – Revised 10/2014 (see attached)
5. **Exhibit A1** – Revised 10/2014 (see attached)
6. **Exhibit B1** – is added to the Agreement and incorporated into this Agreement by this reference.
7. **All other terms and conditions of the Agreement dated April 9, 2014, and as amended June 3, 2014, between the County and Contractor shall remain in full force and effect.**

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
President, Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

NORTHWOODS CONSULTING PARTNERS, INC.



Contractor's Signature

Date: 11/10/2014

Exhibit A – Revised 10/2014

SCOPE OF SERVICES

In consideration of the payments set forth in Exhibit B, Contractor shall provide the following services:

Maintenance Services as described in the "Compass Software Support - Exhibit A1" for the following Northwoods Products:

OnBase:

- Multi-User Server License
- Named User Client
- Concurrent Client
- Document Import Processor
- Application Enabler
- Distributed Disk Services
- Virtual Print Driver
- Unity Integration Tool Kit
- Workflow Named Clients
- Named User Clients

Compass:

- Capture Desktop
- Co-Pilot
- Documents
- Tasks
- Tasks Tracker
- Data Migrator
- Forms
- Forms Center Manager
- Print Stream Processor
- Mail Merge
- Capture Scan Station
- Additional Environments

On Site travel and incidentals

If pre-approved in writing, County will reimburse Contractor to travel according to current standards used for reimbursement of County employees up to the limits in Exhibit B1

If pre-approved in writing, County will reimburse Contractor for incidental expenses in advance of incurrence by Contractor up to the limits in Exhibit B1.

Compass Software Support - Exhibit A1-Revised 10/2014

RECITALS:

WHEREAS, Licensee has licensed the specified software from Northwoods pursuant to the terms of an End User License Agreement (as the same may be amended or modified from time to time, hereinafter referred to as the "EULA"); and

WHEREAS, Licensee desires to obtain, and Northwoods is willing to provide, technical support services for the specified software and the delivery of generally released upgrades and enhancements with respect to such software from Northwoods; and

WHEREAS, Licensee has been advised of the various support offerings provided by Northwoods and has elected to purchase:

Silver Level of Support	—	Please initial in the space
Gold Level of Support	—	next to the support
Platinum Level of Support	—	offering(s) you have chosen
Additional environment support	—	

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and intending to be legally bound, the parties hereto agree as follows:

1. **DEFINED TERMS.** The following terms shall have the meanings set forth below for all purposes of this Agreement:
 - a. "Consumable Items" includes all materials that can be used up and must be replenished. Examples of Consumable Items include, but are not limited to: printer, toner, scanner lamps, rollers, glass, cleaning sheets, data tapes, CDs, DVDs, etc.
 - b. "Covered Hardware" is defined as hardware (1) purchased through Northwoods, as detailed on Northwoods' invoices that Licensee has properly paid, and (2) installed and configured by Northwoods.
 - c. "Covered Software" means (1) the current released version of the Commercial Off-The-Shelf ("COTS") Compass® software licensed by Licensee from Northwoods under the EULA, as detailed on Northwoods' invoices that the Licensee has properly paid; (2) at any time after Northwoods has delivered to Licensee a new version of such computer software as a Patch, Upgrade and/or Fix under this Agreement, the released version of such computer software last released prior to the current released version; provided that the Covered Software will not include any prior released version of such computer software that has been superseded for more than two (2) years (as determined from the date that Northwoods first announced publicly, through its web site or otherwise, the general release of the next later version of such computer software) by any later released version of such computer software; and (3) the current released version of the COTS Document Management Software ("Covered DMS Software") of which Northwoods is a Reseller that is (a) licensed by Licensee through Northwoods, as detailed on Northwoods' invoices that the Licensee has properly paid and (b) installed and/or configured by Northwoods.
 - d. "Covered Database" or "Covered Database Software" means the database software or the index data and/or image data stored in the database that is (1) purchased through Northwoods as detailed on Northwoods' invoices that Licensee has properly paid, and (2) installed and configured by Northwoods.
 - e. "Covered Operating System" (sometimes abbreviated "OS") is the software program that, after being initially loaded into the computer by a boot program, manages all the other programs in a computer and that is (1) purchased through Northwoods, as detailed on Northwoods' invoices that Licensee has properly paid, and (2) installed and configured by Northwoods.
 - f. "Covered Third Party Applications" means any third party software that is (1) licensed by Licensee through Northwoods, as detailed on Northwoods' invoices that the Licensee has properly paid and (2) installed and configured by Northwoods. In no instance does "Covered Third Party Application" apply to Box.com software.
 - g. "Documentation" means electronic on-line material, including user manuals, provided by Northwoods for the Covered Software and that relate to the functional, operational or performance characteristics

of the Covered Software.

- h. "Error" or "Problem" when used in the context of the Covered Software operation shall mean a demonstrable instance of adverse and incorrect operation of the Covered Software that impacts Licensee's ability to utilize a function of the Covered Software: (1) as provided for in the current Documentation published by Northwoods; or (2) that was available prior to the report of the Error or Problem.
- i. "EULA" is defined in the Recitals to this Agreement.
- j. "Onsite Services" are Support Services provided by Northwoods on behalf of Licensee at a Licensee-designated physical location other than the Northwoods offices or location.
- k. "Patch(es), Upgrade(s) and Fix(es)" means any and all new versions, improvements, modifications, upgrades, updates, fixes and additions to the Covered Software that Northwoods commercially releases to its end users generally during the term of this Agreement to correct deficiencies or enhance the capabilities of the Covered Software, together with updates of the Documentation to reflect such new versions, improvements, modifications, upgrades, fixes or additions; provided, however, that the foregoing shall not include new, separate product offerings, new modules, re-platformed software, new business process consulting, workflow changes or new functionality.
- l. "Support Services" means all professional services provided under this Agreement by Northwoods, subject to the Support Level actually purchased by Licensee, as noted in the Recitals to this Agreement.

2. SUPPORT SERVICES.

a. Silver Level.

- 1) *Remote Support of the Covered Software.* Northwoods shall: (1) use its commercially reasonable efforts to remotely correct any properly reported Error(s) in the Covered Software that are confirmed by Northwoods, in the exercise of its commercially reasonable judgment; (2) use its commercially reasonable efforts to remotely correct any properly reported Error(s) (non-conformity to functional specifications mutually agreed upon by Northwoods and Licensee) in any configurations of the Covered Software that are created by Northwoods or any integrations of the Covered Software with other applications, software or hardware that are configured or created by Northwoods, which are confirmed by Northwoods, in the exercise of its commercially reasonable judgment; and (3) upon the request of Licensee, provide remote technical support and assistance and advice related to the operation and use of the Covered Software by Licensee in a production environment, plus any additional, non-production environment(s) for which Licensee has elected to pay for additional environment support, or any problems with any of the foregoing. Northwoods shall undertake to confirm any reported defect(s) described in this clause promptly after receipt of proper notice from Licensee in accordance with Northwoods' current defect reporting procedures. Northwoods shall perform services in an effort to correct confirmed Errors in the Covered Software, or in configurations or integrations created by Northwoods, promptly after making such confirmation.
- 2) *Support Center Access.* Support Services generally will be available during the hours of 8:00 a.m. to 8:00 p.m., Eastern Time, Monday through Friday, excluding Northwoods' holidays, or as otherwise provided by Northwoods to its end users purchasing continuing Support Services in the normal course of its business, either by telephone or through a remote control connection to the end-user client or server computer. Licensee acknowledges and agrees that Northwoods requires on-line access to the Covered Software installed on Licensee's systems in order for Northwoods to provide remote Support Services hereunder. Accordingly, Licensee shall install and maintain, at Licensee's sole cost and expense, properly functioning and appropriate industry standard communications software approved by Northwoods; and Licensee shall establish and maintain, at Licensee's sole cost and expense, an adequate secure or dedicated connection with Northwoods to facilitate Northwoods' remote Support Services.
- 3) *Patches, Upgrades and Fixes.* Upon request, Northwoods will provide to Licensee, according to Northwoods' then current policies, up to two (2) Patches, Upgrades and/or Fixes to the Covered Software released by Northwoods on an annual basis. Any additional Patches, Upgrades, and Fixes requested by Licensee will be available at the discretion of Northwoods. Northwoods will use its best efforts to remotely install on behalf of Licensee any such Patches, Upgrades, and Fixes but, to the extent the Patch, Upgrade, and/or Fix cannot be installed by Northwoods remotely, Licensee may

request the necessary Onsite Services in accordance with Section 2(a)(4) below. Licensee acknowledges and agrees that Northwoods has the right, at any time, to change the specifications and operating characteristics of the Covered Software, and Northwoods' policies respecting Patches, Upgrades and Fixes and the release thereof to end users. Any Patches, Upgrades and Fixes to the Covered Software and Documentation shall remain proprietary to Northwoods and/or its suppliers, shall be the sole and exclusive property of Northwoods and/or its suppliers, and shall be subject to all of the restrictions, limitations and protections of the EULA. All applicable rights to patents, copyrights, trademarks, other intellectual property rights, applications for any of the foregoing, and/or trade secrets in the Covered Software, Documentation, and any Patches, Upgrades and Fixes are and shall remain the exclusive property of Northwoods and/or its suppliers.

- 4) *Onsite Services*. Upon the reasonable request of Licensee, and submission of a purchase order for such services agreeing to pay for such services on a time and materials basis at Northwoods then-current rates for such services, Northwoods may provide Onsite Services at Licensee's facilities in connection with the correction of any Error(s) involving the Covered Software that is not functioning in either a production environment or non-production environment(s) for which Licensee has elected to pay fees for additional environment support.

b. Gold Level. Gold Level Support includes everything outlined in Section 2(a) (Silver Level) above, plus the following:

- 1). *Remote Support of Covered Database(s)*. Northwoods will provide remote, first line of support and troubleshooting for the support of any Covered Database. If, in the sole discretion of Northwoods, the issue requires escalation to the software manufacturer, Northwoods will act as a liaison between Licensee and the software manufacturer for support and troubleshooting.
- 2). *Remote Covered Operating System Support*. Northwoods will provide remote, first line of support and troubleshooting for the support of any Covered Operating System. If, in the sole discretion of Northwoods, the issue requires escalation to the software manufacturer, Northwoods will act as a liaison between Licensee and the software manufacturer for support and troubleshooting.
- 3). *Remote Support of Covered Third Party Applications*. Northwoods will provide remote, first line of support and troubleshooting for the support of any Covered Third Party Applications. If, in the sole discretion of Northwoods, the issue requires escalation to the software manufacturer, Northwoods will act as a liaison between Licensee and the software manufacturer for support and troubleshooting.
- 4). *Remote Support of Covered Hardware*. Northwoods will provide remote, first line of support and troubleshooting for the support of any Covered Hardware. If, in the sole discretion of Northwoods, the issue requires escalation to the hardware manufacturer, Northwoods will act as a liaison between Licensee and the hardware manufacturer for support and troubleshooting.
- 5). *OnSite Services*. Upon the reasonable request of Licensee, and submission of a purchase order for such services agreeing to pay for such services on a time and materials basis at Northwoods then-current rates for such services, Northwoods may provide Onsite Services at Licensee's facilities in connection with the correction of any Error(s) involving the Covered Software that is not functioning in a production environment or non-production environment(s) for which Licensee has elected to pay fees for additional environment support.

c. Platinum Level. Platinum Level Support includes everything outlined in Sections 2(a) (Silver Level) and 2(b) (Gold Level) above, plus the following:

- 1) *Onsite Services*. Northwoods will provide first line remote support and troubleshooting for all Covered Software, Covered Database Software, Covered Operating Systems, Covered Third Party Applications, and Covered Hardware. Should Northwoods be unable to successfully resolve the issue remotely, however, Northwoods will, in its sole discretion, provide one or more support professionals to provide Onsite Services for Licensee to actively resolve the issue. Onsite Services do not include installation, set up, or testing of new equipment, operator training or re-training, or replacement of Consumable Items. Onsite Services generally will be available during the hours of 8:00 a.m. to 5:00 p.m., in the time zone of Licensee, Monday through Friday, excluding Northwoods holidays.
- 2) *Onsite Response Time*. Northwoods or Northwoods' appointed Agents or Subcontractors will use best efforts to provide timely response to all calls for service from Licensee. For purposes of this

Agreement, timely response will be defined as a Northwoods consultant arriving at the Licensee's designated site within four (4) business operating hours (excluding travel time)(8:00am to 5:00pm in the time zone of Licensee, Monday through Friday, excluding Northwoods holidays) of Northwoods' determination that onsite support is required to address the Licensee's issues. This determination will be made by Northwoods exercising reasonable commercial discretion. Exceptions to the 4-hour on-site response time include any unforeseen events prohibiting Northwoods from meeting the response time that are reasonable and beyond the control of Northwoods.

- 3) *Patches, Upgrades and Fixes*. To the extent that there are major Patches, Upgrades or Fixes to the Covered Software that cannot be installed by Northwoods remotely, and upon request of Licensee, Northwoods will make available up to one (1) major Patch, Upgrade or Fix per year to Licensee, will provide all professional services hours and resources necessary for such installation, and will train up to two (2) of Licensee's System Administrators on the new functionality of any such installation.
- 4) *Server Health Checks*. Northwoods will conduct remote server checks on the memory capacity and general operation of Licensee's servers on a periodic (not less than monthly) basis and will communicate to Licensee's System Administrator concerns over the health of Licensee's servers.
- 5) *Annual Assessment*. Licensee will receive a scheduled, annual visit by Northwoods' support manager or designee to assess Licensee's satisfaction with Northwoods' responsiveness to Licensee's needs and to respond to questions concerning the Compass® Software Support Agreement.
- d. Exclusions. Northwoods is not responsible for providing, or obligated to provide, Support Services or Patches, Upgrades and Fixes under this Agreement: (i) in connection with any Errors or Problems that result in whole or in part from any alteration, revision, change, enhancement or modification of any nature of the Covered Software, including any configuration of the Covered Software that was not undertaken by or authorized in writing in advance by Northwoods; (ii) in connection with any Error if Northwoods has previously provided corrections for such Error, which correction Licensee chose not to implement; (iii) in connection with any Errors or problems that have been caused by defects, alterations, revisions, changes, enhancements or modifications in the database, operating system, third party software (other than third party software bundled with the Software by Northwoods), hardware or any system or networking utilized by Licensee; (iv) if the Covered Software or related software or systems have been subjected to abuse, misuse, improper handling, accident or neglect; (v) if any party other than Northwoods has provided any services in the nature of Support Services to Licensee with respect to the Covered Software; (vi) in connection with any Errors or Problems that occur in any non-production environment, unless Licensee has elected to pay for additional environment support. Any upgrades, support, or troubleshooting requested for a non-production environment for which Licensee has not paid additional environment fees is available at the sole discretion of Northwoods and Northwoods reserves the right to bill for any such request on a time and materials basis at Northwoods then-current rates; (vii) where applicable, in connection with any hardware systems, operating systems, database systems, network operating systems, hardware drivers, or any software or hardware unless specifically "covered" by this Agreement and by the relevant Support Level pursuant to the defined terms hereinabove; or (viii) in connection with any Covered Hardware, Covered Database Software, Covered Operating Systems, Covered Third Party Applications, and Covered DMS Software for which the manufacturer has ceased providing support. Further, except as otherwise explicitly provided for elsewhere, Northwoods is not responsible for end user training or retraining, preventative support visits by Northwoods technicians, forms creation services of any type, business process consulting, workflow lifecycle creation or modification, services to bring the system back to working order after changes have been made by anyone other than Northwoods to the system or supporting systems, to the desktop image, to hardware, new operating systems, or repairs or adjustments necessitated by the moving of hardware. The exclusions outlined in this section are applicable to all levels of Software Support.

3. **LICENSEE'S RESPONSIBILITIES.**

- a. Operation of the Covered Software. Licensee acknowledges and agrees that it is solely responsible for the operation, supervision, management and control of the Covered Software, including but not limited to providing training for its personnel, instituting appropriate security procedures and implementing reasonable procedures to examine and verify all output before use. In addition, Licensee is solely responsible for its data, its database, and for maintaining suitable backups of the data and database to

prevent data loss in the event of any hardware or software malfunction. Northwoods shall have no responsibility or liability for data loss regardless of the reasons for said loss. Northwoods shall have no responsibility or liability for Licensee's selection or use of the Covered Software or any hardware, third party software or systems.

- b. Licensee's Implementation of Error Corrections and Patches, Upgrades and Fixes. In order to maintain the integrity and proper operation of the Covered Software, Licensee agrees to implement, in the manner instructed by Northwoods, all Error corrections and Patches, Upgrades and Fixes. Licensee's failure to implement any Error corrections or Patches, Upgrades and Fixes of the Covered Software as provided in this Section 3(b) shall relieve Northwoods of any responsibility or liability whatsoever for any failure or malfunction of the Covered Software, as modified by a subsequent Error correction or Patch, Upgrade and Fix, but in no such event shall Licensee be relieved of the responsibility for the payment of fees and charges otherwise properly invoiced during the term hereof.
 - c. System Administrator. Licensee agrees to provide at least one (1) "System Administrator" responsible for the administration, supervision, management, and control of the Covered Software. Licensee also agrees that all Covered Software support incidents raised by Licensee's personnel will be reported to the System Administrator, who will provide the initial research, investigation, and troubleshooting into the support incident. In the event the support incident can be resolved without Northwoods, the System Administrator will provide the support resolution to Licensee personnel. If, after initial research and investigation into a support question, the System Administrator determines there is an Error or Problem with the Covered Software, the System Administrator will report the Error or Problem to Northwoods. Licensee agrees that all communications regarding Covered Software Errors and Problems will be between the System Administrator and Northwoods.
 - d. Notice and Documentation of Errors. Licensee shall give prompt notice of any Errors in the Covered Software discovered by Licensee, or otherwise brought to the attention of Licensee, in accordance with Northwoods' then current defect reporting procedures. Proper notice may include, without limitation, prompt telephonic or written notice to Northwoods of any alleged Error. If Northwoods requests, Licensee agrees to provide written documentation of Errors to substantiate them and to assist Northwoods in the detection and correction of said Errors.
 - e. Access to Premises and Systems. Licensee shall provide reasonable access to and use of Licensee's premises, computer hardware, peripherals, Covered Software, and any other software as Northwoods deems necessary to diagnose and correct any Errors or to otherwise provide Support Services. In addition, Licensee acknowledges and agrees that a third party service provider may be retained by Northwoods to provide Error corrections or other Support Services directly to Licensee and, accordingly, Licensee shall provide the same access directly to such service provider. Such right of access and use shall be provided at no cost or charge to Northwoods or the third party service provider.
 - f. Network Infrastructure. Licensee agrees to maintain all required network infrastructure to ensure persistent connectivity between Licensee's workstations and servers. This includes necessary networking hardware and associated software configuration and security settings.
 - g. Back-ups. Licensee agrees to perform daily back-ups of all application related systems, databases, and data files and to maintain current back-up copies of other pertinent systems and data files.
 - h. Upgrades. Licensee agrees to upgrade the Covered Software in accordance with Northwoods' Product Version Life Cycle <<http://www.teamnorthwoods.com/endofsupportpolicy.aspx>> to maintain an Active version of Covered Software.
4. **LIMITED WARRANTY.**
- a. Limited Warranty of Services. Northwoods warrants that the Support Services shall be performed in a good and workmanlike manner and substantially according to industry standards. In order to assert any claim that any Support Services fail to conform to this limited warranty, Licensee must notify Northwoods in writing of such claim within thirty (30) days after the date the alleged non-conforming Services are completed. If, after such timely notice from Licensee, the Support Services in question are determined not to conform to this limited warranty, Northwoods' sole obligation, and Licensee's sole remedy, shall be for Northwoods to use commercially reasonable efforts to re-perform the nonconforming Support Services in an attempt to correct the nonconformity. If Northwoods is unable to correct such nonconformity after a reasonable period of time, Licensee's sole and exclusive remedy

- shall be termination of this Agreement in accordance with Section 7(b)(3)(B). This warranty specifically excludes non-performance issues caused as a result of any circumstances described in Section 2(d), incorrect data or incorrect procedures used or provided by Licensee or a third party, or failure of Licensee to perform and fulfill its obligations under this Agreement or the EULA.
- b. No Warranty of Patches, Upgrades and Fixes. The EULA shall govern any limited warranty or disclaimer relating to Patches, Upgrades and Fixes of the Covered Software provided to Licensee under this Agreement, and no warranty is given under this Agreement with respect to Patches, Upgrades and Fixes.
- c. DISCLAIMER OF WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 5(a), NORTHWOODS MAKES NO WARRANTIES OR REPRESENTATIONS REGARDING ANY SUPPORT SERVICES, ANY SOFTWARE OR ANY PATCHES, UPGRADES AND FIXES PROVIDED UNDER THIS AGREEMENT. NORTHWOODS DISCLAIMS AND EXCLUDES ANY AND ALL OTHER EXPRESS, IMPLIED AND STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF GOOD TITLE, WARRANTIES AGAINST INFRINGEMENT, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES THAT MAY BE DEEMED TO ARISE FROM ANY COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. NORTHWOODS DOES NOT WARRANT THAT ANY SUPPORT SERVICES, SOFTWARE OR PATCHES, UPGRADES AND FIXES PROVIDED WILL SATISFY LICENSEE'S REQUIREMENTS OR ARE WITHOUT DEFECT OR ERROR, OR THAT THE OPERATION OF ANY SOFTWARE OR PATCHES, UPGRADES AND FIXES WILL BE UNINTERRUPTED. NORTHWOODS DOES NOT ASSUME ANY LIABILITY WHATSOEVER WITH RESPECT TO ANY THIRD PARTY HARDWARE, FIRMWARE, SOFTWARE OR SERVICES.
5. **LIMITATIONS OF LIABILITY.** IN NO EVENT SHALL NORTHWOODS' AGGREGATE LIABILITY UNDER THIS AGREEMENT EXCEED THE AGGREGATE AMOUNTS PAID BY LICENSEE TO NORTHWOODS UNDER THIS AGREEMENT DURING THE CURRENT TERM OF THIS AGREEMENT. IN NO EVENT SHALL NORTHWOODS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO ANY LOST PROFITS, LOST SAVINGS, BUSINESS INTERRUPTION DAMAGES OR EXPENSES, THE COSTS OF SUBSTITUTE SOFTWARE OR SERVICES, LOSSES RESULTING FROM ERASURE, DAMAGE, DESTRUCTION OR OTHER LOSS OF FILES, DATA OR PROGRAMS OR THE COST OF RECOVERING SUCH INFORMATION, OR OTHER PECUNIARY LOSS, EVEN IF NORTHWOODS HAS BEEN ADVISED OF THE POSSIBILITIES OF SUCH DAMAGES OR LOSSES. THIS LIMITATION INCLUDES ANY LOSS RESULTING FROM SERVER FAILURE THAT WAS NOT DIAGNOSED DURING A SERVER HEALTH CHECK CONDUCTED BY NORTHWOODS.
6. **TERM, RENEWAL AND TERMINATION.**
- a. Early Termination.
- 1) *Automatic.* This Agreement shall terminate automatically, without any other or further action on the part of either of the parties, immediately upon any termination of the EULA.
- 2) *By Northwoods for Cause.* Northwoods shall be entitled to give written notice to Licensee of any breach by Licensee or other failure by Licensee to comply with any material term or condition of the EULA or this Agreement, specifying the nature of such breach or non-compliance and requiring Licensee to cure the breach or non-compliance. If Licensee has not cured, or commenced to cure (if a cure cannot be performed within the time period set forth below), the breach or non-compliance within (A) in the case of non-payment, any breach of Section 1 of the EULA, or any breach of Section 3 of this Agreement, ten (10) calendar days after receipt of such written notice, or (B) in the case of any other breach or non-compliance, twenty (20) business days after receipt of such written notice, Northwoods shall be entitled, in addition to any other rights it may have hereunder, or otherwise at law or in equity, to immediately terminate this Agreement.
- b. Effect of Termination.
- 1) *Payments.* Notwithstanding any termination of this Agreement, Licensee shall be obligated to pay Northwoods for (A) all Support Services provided on a time and materials basis in accordance with this Agreement at any time on or prior to the effective date of termination; (B) all annual support fees due with respect to any period commencing prior to the effective date of termination; and (C) all incidental costs and expenses incurred by Northwoods at any time on or prior to the effective date of termination. All such payments shall be made in accordance with Section 4, which shall survive any

such termination for these purposes.

2) *Survival of Obligations*. The termination of this Agreement will not discharge or otherwise affect any pre-termination obligations of either party existing under the Agreement at the time of termination. The provisions of this Agreement which by their nature extend beyond the termination of the Agreement will survive and remain in effect until all obligations are satisfied, including, but not limited to, Sections 2(a)(3) and 2(c)(3) (as they relate to title and ownership), Section 4(d), Section 5(c), Section 6, Section 7, Section 9 and Section 10. No action arising out of this Agreement, regardless of the form of action, may be brought by Licensee more than one (1) year after the date the action accrued.

3) *Reinstatement of Agreement*. In the event of the termination of this Agreement by Licensee under Section 7(b)(3)(C) (Non-Renewal), Licensee may at any time after the effective date of such termination elect to reinstate this Agreement in accordance with this Section 7(c)(3). To obtain reinstatement, Licensee shall deliver written notice to such effect to Northwoods, together with payment in full of: (A) annual support fees, based upon Northwoods' Annual Support Fee Schedule in effect as of the time of such reinstatement, for all periods (as determined under Section 7(a) as if the Agreement had not been terminated under Section 7(b)(3)(C)) that have elapsed from the effective date of such termination through the effective date of such reinstatement; and (B) an amount equal to one hundred ten percent (110%) of the annual support fee, based upon Northwoods' Annual Support Fee Schedule in effect as of the time of such reinstatement, for the renewal term of this Agreement commencing on the effective date of such reinstatement. Any reinstatement under this Section 7(c)(3) shall be effective as of the first business day after Northwoods has received the notice of reinstatement and all payments required to be made hereunder in connection with such reinstatement. The renewal term commencing with the effective date of this Agreement shall be for a period ending on the first annual anniversary of such effective date; and thereafter the term of this Agreement shall be renewed: (i) at the end of such first renewal term, for a period of one year; and (ii) thereafter, annually on a year by year basis.

EXCEPT AS EXPRESSLY PROVIDED BY THIS SECTION 7(c)(3), LICENSEE SHALL HAVE NO RIGHT TO REINSTATE THIS AGREEMENT FOLLOWING THE TERMINATION THEREOF FOR ANY REASON.

7. **FORCE MAJEURE**. No failure, delay or default in performance of any obligation of a party to this Agreement (except the payment of money) shall constitute a default or breach to the extent that such failure to perform, delay or default arises out of a cause, existing or future, beyond the control (including, but not limited to: action or inaction of governmental, civil or military authority; fire; strike, lockout or other labor dispute; flood; war; riot; theft; earthquake; natural disaster or acts of God; national emergencies; unavailability of materials or utilities; sabotage; viruses; or the act, negligence or default of the other party) and without negligence or willful misconduct of the party otherwise chargeable with failure, delay or default. Either party desiring to rely upon any of the foregoing as an excuse for failure, default or delay in performance shall, when the cause arises, give to the other party prompt notice in writing of the facts which constitute such cause; and, when the cause ceases to exist, give prompt notice of that fact to the other party. This Section 8 shall in no way limit the right of either party to make any claim against third parties for any damages suffered due to said causes. If any performance date by a party under this Agreement is postponed or extended pursuant to this Section 8 for longer than ninety (90) calendar days, the other party, by written notice given during the postponement or extension, and at least thirty (30) days prior to the effective date of termination, may terminate this Agreement.

8. **Requirements of Licensee with regard to the purchase of Compass® CoPilot software:**

a) Licensee acknowledges and understands that any and all third party services or applications, including but not limited to Amazon, Inc.'s Simple Storage Service ("AWS S3"), or any other application(s) purchased or installed by Licensee at the request of Northwoods, or pre-installed on the tablet on which the Compass® CoPilot software runs, are not owned by Northwoods. Licensee agrees that Northwoods is not responsible for examining or evaluating the content or activities and does not warrant and will not have any liability or responsibility for any such third-party applications, nor does Northwoods have any responsibility for providing support services for any such third party applications, unless specifically agreed to in a signed written agreement between the Parties.

b) Licensee acknowledges and understands that an active AWS S3 account is required for the use of Compass CoPilot. Northwoods is not responsible for any loss of functionality or system downtime due to Licensee's failure to maintain uninterrupted access to the AWS S3 account, nor is Northwoods responsible or liable for the acts or omissions of Amazon.

c) The obligations of Licensee under this section and all disclaimers of warranties and limitations of liability set forth herein shall survive any termination of this Agreement.

Exhibit B1

In consideration of the services provided by Contractor in Exhibit A-Revised 10/2014 and subject to the terms of the Agreement, County shall pay Contractor based on the following fee schedule and terms:

Fee Schedule:

Aggregate increase of Maintenance Payments: \$1,000,000 to a maximum of \$1,350,000.

Aggregate increase of Professional Services, Travel and Incidentals payments: \$200,000 to a maximum of \$500,000.

Aggregate increase of Licensing Payments: \$300,000.00 to a maximum of \$450,000.00.

Maximum increase of all payments under this Amendment: \$1,500,000.00

Payment Term:

Payment Schedule for Maintenance Payments

Due Date	Type	Amount	Notes
3/1/2015	Annual Maintenance (Silver)	\$307,666	Based on quote
Net 30	Professional Services, Incidentals and Travel	TBD	Based on signed Statement of Work. Not to exceed Fee Schedule Maximum.
Net 30	Additional Licenses including maintenance up to Annual Renewal	TBD	Based on signed Statement of Work. Not to exceed Fee Schedule Maximum.
3/1/2016	Annual Maintenance (Silver)	TBD	Based on current licensing levels.
3/1/2017	Annual Maintenance (Silver)	TBD	Based on current licensing levels.

Contractor shall submit invoices to County monthly, for actual costs incurred based on the above Payment Term. County shall pay invoices within 30 days upon receipt of itemized invoices. Services shall be pursuant to the criteria set forth in this Exhibit A-Revised 10/2014. All payments under this Agreement shall not exceed the total obligation of \$2,300,000.

County may terminate this Agreement or a portion of the services referred to this Exhibit A-Revised 10/2014, based upon availability of federal, state, or County funds by providing a thirty (30) day written notice to Contractor. The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable.

Invoices shall be sent to: Human Services Agency – Attention Rand Miyashiro – 1 Davis Drive – Belmont, CA 94002