

Agreement No. _____

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND CORNERSTONE ONDEMAND, INC.

This Agreement is entered into this _____ day of _____, 20_____, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and Cornerstone OnDemand, Inc., hereinafter called "Contractor."

* * *

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

Whereas, it is necessary and desirable that Contractor be retained for the purpose of providing a countywide Learning Management System(LMS) and related services for the County, Consortium, and the Courts, for the period of October 31, 2019 through October 30, 2022 with the right of the County, in its sole discretion, to extend the contract term to October 30, 2023 and/or October 2024 by exercising County reserved options; and.

Now, therefore, it is agreed by the parties to this Agreement as follows:

1. Exhibits and Attachments

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

Exhibit A—Description of Products and Services (Included Success Package)

Exhibit B—Payments and Rates

Exhibit C – Additional Contractor Terms

Attachment I—§ 504 Compliance

2. Services to be performed by Contractor

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for County in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. County reserves the right to withhold payment for purchased products or services that have not been delivered. Late payments hereunder will accrue interest at a rate of 1½% per month, or the highest rate allowable by law, whichever is lower. In no event shall County's total fiscal obligation under this Agreement exceed Five Hundred Seventy-Four Thousand and Six Hundred Forty-Five Dollars (\$574,645.00) over the course of three years plus \$150,124.85 if the County exercises its fourth year option, plus \$154,628.59 if the County exercises its fifth year option. In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration. Contractor is not entitled to payment for work not performed as required by this Agreement. Awarding this contract does not ensure that the County will spend the total amount of this Agreement. County is not obligated to purchase any optional products and services.

4. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from October 31, 2019 through October 30, 2022, or through October 30, 2023, if the County exercises its fourth year option, or through October 30, 2024, if the County exercises its fifth year option.

5. Termination

This Agreement may be terminated by Contractor or by the Director of Human Resources or his/her designee at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

Either party may terminate this Agreement for cause. In order to terminate for cause, the terminating party must first give the other party written notice of the alleged breach describing the breach in reasonable detail. The other party shall have ten business days after receipt of such notice to respond and a total of thirty calendar days after receipt of such notice to cure the alleged breach. If Contractor fails to cure the breach within this period, County may immediately terminate this Agreement without further action. The option available in this paragraph is separate from the ability to terminate without cause with appropriate notice described above. In the event that County provides notice of an alleged breach pursuant to this section, County may, in extreme circumstances, immediately suspend performance of services and payment under this Agreement pending the resolution of the process described in this paragraph. County has sole discretion to determine what constitutes an extreme circumstance for purposes of this paragraph, and County shall use reasonable judgment in making that determination.

6. Contract Materials

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "Contract Materials") prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Contract Materials shall not include any of Contractor's proprietary Intellectual Property. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law.

7. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

8. Hold Harmless

a. General Hold Harmless

Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all third party claims, suits, or actions of every name, kind, and description against County resulting from the acts or omissions of Contractor or any of its employees, officers, or agents under this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

(A) injuries to or death of any person, including Contractor or its employees/officers/agents;

(B) damage to any property of any kind whatsoever and to whomsoever belonging;

(C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or

(D) any other loss or cost to County. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

b. Intellectual Property Indemnification

Contractor hereby certifies that, to the best of its knowledge, it owns, controls, and/or licenses and retains all right, title, and/or interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and/or other technology relating to any part of the services it provides under this Agreement and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights") except as otherwise noted by this Agreement.

Contractor shall defend, indemnify, and hold harmless County from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the services provided under this Agreement infringe or violate any third-party's IP Rights provided any such right is enforceable in the United States. Contractor's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Contractor promptly in writing of any notice of any such third-party claim; (b) County cooperates with Contractor, at Contractor's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Contractor retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Contractor shall not have the right to settle any criminal action, suit, or proceeding without County's prior written consent, not to be unreasonably withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on County, impair any right of County, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of County without County's prior written consent, not to be unreasonably withheld); and (d) should services under this Agreement become, or in Contractor's opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes County's reasonable use of the services under this Agreement to be seriously endangered or disrupted, Contractor shall, at Contractor's option and expense, either: (i) procure for County the right to continue using the services without infringement or (ii) replace or modify the services so that they become non-infringing but remain functionally equivalent.

Notwithstanding anything in this Section to the contrary, Contractor will have no obligation or liability to County under this Section to the extent any otherwise covered claim is based upon: (a) any aspects of the services under this Agreement which have been modified by or for County (other than modification performed by, or at the direction of, Contractor) in such a way as to cause the alleged infringement at issue; and/or (b) any aspects of the services under this Agreement which have been used by County in a manner prohibited by this Agreement.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

9. Assignability and Subcontracting

Any assignment or subcontract without County's prior written consent shall give County the right to immediately terminate this Agreement without penalty or advance notice.

10. Insurance**a. General Requirements**

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use commercially reasonable diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

(a) Comprehensive General Liability...	\$1,000,000
(b) Motor Vehicle Liability Insurance...	\$1,000,000
(c) Professional Liability.....	\$1,000,000

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, except for Professional Liability, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

11. Compliance With Laws

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations to which Contractor is subject, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation

Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations to which Contractor is subject, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Further, Contractor certifies that it and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware. Accordingly, Contractor shall not use any non-recyclable plastic disposable food service ware when providing prepared food on property owned or leased by the County and instead shall use biodegradable, compostable, reusable, or recyclable plastic food service ware on property owned or leased by the County.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

12. Non-Discrimination and Other Requirements

a. General Non-discrimination

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

b. Equal Employment Opportunity

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.

c. Section 504 of the Rehabilitation Act of 1973

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Compliance with County's Equal Benefits Ordinance

Contractor shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Contractor's employee is of the same or opposite sex as the employee.

e. Discrimination Against Individuals with Disabilities

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination

Contractor certifies that no finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. If any finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or other investigative entity, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the

discrimination prior to execution of this Agreement. Failure to comply with this Section shall constitute a material breach of this Agreement and subjects the Agreement to immediate termination at the sole option of the County.

g. Reporting; Violation of Non-discrimination Provisions

Contractor shall report to the County Manager the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or the Section titled "Compliance with Laws". Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or
- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this Section, the County Manager shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

h. Compliance with Living Wage Ordinance

As required by Chapter 2.88 of the San Mateo County Ordinance Code, Contractor certifies all contractor(s) and subcontractor(s) obligated under this contract shall fully comply with the provisions of the County of San Mateo Living Wage Ordinance, including, but not limited to, paying all Covered Employees the current Living Wage and providing notice to all Covered Employees and Subcontractors as required under the Ordinance.

13. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply if this Agreement's total value listed in the Section titled "Payments", is less than one-hundred thousand dollars (\$100,000), but Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value meets or exceeds that threshold amount.

14. Retention of Records; Right to Monitor and Audit

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

15. Merger Clause; Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

16. Controlling Law; Venue

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

17. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title: Rocio Kiryczun, Human Resources Director
Address: 455 County Center, Redwood City, Ca 94063
Telephone: 650-363-4343
Facsimile: 650-363-4219
Email: rkiryczun@smcgov.org

In the case of Contractor, to:

Name/Title: General Counsel
Address: 1601 Cloverfield Blvd., Suite 620 South, Santa Monica, CA 90404
Telephone: (310) 752-0200
Facsimile: n/a
Email: aweiss@csod.com

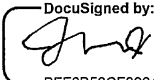
18. **Electronic Signature**

Both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo. Any party to this Agreement may revoke such agreement to permit electronic signatures at any time in relation to all future documents by providing notice pursuant to this Agreement.

* * *

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

For Contractor: CORNERSTONE ONDEMAND, INC.

DocuSigned by:  BFF6B53CF008409...	October 7, 2019	Jim Gill
Contractor Signature	Date	Contractor Name (please print)

Approved as to form (Cornerstone Legal):	DocuSigned by:  266B24AE554B438...
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COUNTY OF SAN MATEO

By:
President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:
Clerk of Said Board

EXHIBIT A

Products and Services Description and Service Level Agreement

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

Included Customer Success Package

Clients with the Included Customer Success package will enjoy the following support benefits¹:

1. **Application Functionality:** General guidance intended to ensure the effective use of the Cornerstone application.
2. **Application Issue Management:** Analysis, tracking, communication and resolution of production-related application issues.
3. **Service Request Management:** Managing the scoping, tracking and delivery of Service Requests, which are requests for standard engineering services.
4. **24/7 access to our Knowledge Base and Cornerstone Success Center:** Clients will have around the clock access to self-service resources such as the online Knowledge Base and to our customer community in the Cornerstone Success Center where they can self-assist or seek best-practice advice from Cornerstone Subject Matter Experts and peer organizations.

The Included Customer Success Package offers the following support features:

Support Feature	Description
Live Emergency Phone Support	24/7 S1/S2 Emergency Support.

¹ Specific package features may be subject to change or enhancement over time, though overall support will remain at least substantially equivalent.

Live Phone Support	Available M-F, 24 hours. Access is available to administrators that maintain their training certifications.
Named Lead Administrators	Up to 2 individual administrators who may contact Cornerstone Global Product Support.
Online Support and Knowledge Base	Access to Cornerstone's self-service resources is available 24/7 through the web interface within the Cornerstone application.
Case Management Tools	Included, via 24/7 self-service portal.
Cornerstone Success Center Community	Included, via 24/7 self-service portal.
Service levels	Standard, as set forth in Cornerstone's Service Level Agreement

SERVICE LEVEL AGREEMENT (STANDARD)

This Service Level Agreement is subject to the terms and conditions of Client's agreement with Cornerstone (the "Agreement"), and does not become operative until Client has signed off on Implementation, training is completed for all products purchased, and Client's portal is live on Cornerstone's production environment. For clarity, this Service Level Agreement applies only to "live" portals.

DEFECTS

A "Defect" is a technical defect with the Cornerstone application and/or those portions of software integrations within Cornerstone's control. Defects fall into two general categories: major (Severity 1 and Severity 2) and minor (Severity 3). The "Severity" of a Defect is determined by Cornerstone, subject to the following definitions and parameters.

Major Defects

- **Severity 1 (S1):** A Defect that results in at least one of the following: (i) the Cornerstone URL produces no results, or (ii) Client's authorized users cannot log in to Cornerstone's application after repeated attempts. "Severity 1" does not include downtime for maintenance.
- **Severity 2 (S2):** A Defect that results in any of the following: (i) an entire application module (e.g., Learning Cloud, Performance Cloud, Extended Enterprise Cloud, etc.) is inaccessible; (ii) no course is being delivered; (iii) no queue will process any transactions; (iv) no report within the application produces any data or the data has not been refreshed in fewer than twenty-four (24) hours; or (v) no tasks will launch.

	S1	S2
Initial Notification	One (1) hour via an Incident Report	
Status Updates	Every two (2) hours until resolution or as indicated in the Incident Report	
Resolution	Twelve (12) hours	Twenty-four (24) hours
Remedy	In the event that Cornerstone has not complied with its "Resolution" obligations set forth above, then, for each calendar day (or portion thereof) that Cornerstone has not so complied, Client shall be entitled, as its sole and exclusive remedy therefor, to a credit against Client's next invoice equal to 1/365th of the annual fees for Software set forth in the Agreement.	

Minor Defects

- **Severity 3 (S3):** A Defect in one or more application features.

For "Severity 3" Defects, Client determines its priority in having the Defect resolved (i.e., Priority 1 (P1), Priority 2 (P2), or Priority 3 (P3)). Any issue not clearly labeled "Priority 1" or "Priority 2" by Client at the time of initial submission will be deemed a "Priority 3" issue.

As a guideline, below are some examples of the three priority levels:

- **Priority 1** = A prominent feature I routinely use that is important to my business, where multiple users are prevented from progressing with important tasks. There is no work-around. "I get mad whenever I think about it not working." *An example: The submit button on a task is greyed out and a user cannot submit a performance review.*
- **Priority 2** = A feature that is annoying when it doesn't work, but multiple users are not prevented from progressing with important tasks. A work-around exists. "I get annoyed but can deal with it not working." *An example: Users' transcripts do not accurately reflect course completions. A temporary work-around is available via Cornerstone manually running reports for the client to access this data.*
- **Priority 3** = A feature issue that is neither Priority 1 nor Priority 2, including without limitation, cosmetic issues with the application. "I can deal with it." *An example: An image is scaled too large on certain printed transcripts.*

	S3/P1	S3/P2	S3/P3
Case Generation	Upon submission		
Status Updates	Available 24/7 via self-service portal.		

Resolution	Thirty (30) calendar days	Sixty (60) calendar days	Within a reasonable time period
Remedy	In the event that Cornerstone has not complied with its "Resolution" obligations for S3/P1 and S3/P2 set forth above, then Client shall give Cornerstone prompt, written notice of such non-compliance. If, after five (5) business days from receipt of such notice of non-compliance, Cornerstone still has not resolved the problem, then Client shall be entitled, as its sole and exclusive remedy therefor, to a one-time credit** against Client's next invoice equal to 1/365th of the annual fees for Software set forth in the Agreement.		N/A

UPGRADE/DOWNGRADE OF SEVERITY LEVEL

If, during the case submission process, the issue either warrants assignment of a higher priority level than currently assigned or no longer warrants the priority level currently assigned based on its current impact on the production operation of application, then the severity level will be upgraded or downgraded accordingly to the severity level that most appropriately reflects its current impact.

GENERAL QUERIES

Cornerstone endeavors to respond to all general queries about the application within one (1) business day.

OFFLINE PLAYER SUPPORT

For Offline Player, Cornerstone support is limited to **troubleshooting one model PC in the client's environment that meets the minimum technical requirements specified by Cornerstone** (available in the Cornerstone Success Center). It is the responsibility of the primary administrator to ensure all other machines in their environment conform to the model PC requirements. Should the client desire troubleshooting assistance with issues other than on the model PC, Cornerstone may be available to provide support services for an additional fee.

Cornerstone will periodically release new versions of Offline Player. Accordingly, technical support will be available for the then-current version and immediately prior version only. In addition, if a code change is required to resolve the issue, the client may be required to upgrade to the then-current version of Offline Player. The primary administrator is responsible for ensuring that the Offline Player is kept up-to-date, including applying available software updates.

The client agrees to provide WebEx access (or other means of remote diagnostics) to the model PC upon request to aid troubleshoot efforts.

SOFTWARE AVAILABILITY

Cornerstone will provide at least 99.5% availability per calendar month to Software (excluding reasonable and scheduled maintenance periods, which usually occur at or after 5:30pm US Pacific Standard Time on Fridays). In the event that Cornerstone has not complied with this Software availability obligation, then, for each 0.3% (or portion thereof) of availability below 99.5%, Client will be entitled, as its sole and exclusive remedy therefor, to a credit against Client's next invoice equal to 1/365th of the annual fees for Software set forth in the Agreement.

To claim a credit, Client must submit a credit request within thirty (30) days of the event giving rise to a credit. Upon receiving the request, Cornerstone shall have five (5) business days to respond.

Product Description

Standard Functionality

Home

- Welcome: The Welcome page is personalized to give each user access to relevant system information, and may be configured by Organizational Unit.
- Edit Preferences: Users may edit limited personal details, such as email address, Cornerstone Enterprise password, and vacation status.

System Admin

- Corporate Preferences: Define the look and feel of Cornerstone Enterprise to fit the culture of your enterprise. Administrators can also set up support information and define their fiscal year end date to facilitate reporting.
- Users: A complete list of every user registered with Cornerstone Enterprise, this function is useful to look up individual users or groups of users. In this section it is also possible to see which rights a user has and which users have certain rights.
- Email Administration: Enables administrators to configure emails based on a number of pre-defined email triggers.
- Organizational Units: Enables the creation and editing of hierarchically-based organizational units (OUs), such as divisions, positions, and cost centers. Enables the creation of groups which combine other organizational units into custom OUs. Once established, many system preferences can be configured by OU.

Learning Management System

Learning Management and Certification

- View Your Transcript: In the Transcript, users can launch and manage all training, as well as view complete training histories.
- Events Calendar: This calendar is a graphical representation of all the events available to the user in their specific location from which he/she can view, request, and assign an event. They are also able to view, request, and assign events in other locations or regions.

- Proxy Enrollment: Administrators may assign or enroll groups of users into any training item. Administrators may also enroll users retroactively into past instructor-led events that were not entered into Cornerstone Enterprise for some reason.
- Certification/CEU Tracking

Knowledge Management

- Knowledge Bank: This central message board is highly configurable and controllable to allow users to contribute his/her knowledge to topics defined by administrators. Topics can be controlled by rights or location within the enterprise hierarchy. Files may be attached to postings, and administrators may edit or delete postings. Users may submit questions via this message board to administrator-defined experts.

Reports

- Track Employees: This suite of reports focuses on the manager tracking his/her subordinates. Managers can view past and present training requests, as well as viewing their subordinates' transcripts, employee records, and test scores.
- Training Reports: Depending on rights, this suite of reports shows generalized training information for either the entire enterprise or just the division of the person running the reports. Reports can also be run for content providers, incomplete training, required training status, and total aggregate training hours.
- Billing Reports: Administrators can view the billing reports to track costs for the enterprise as a whole, or for their cost center or division. Billing reports are controlled by rights, so users only see reports granted to them by administrators. The reports summarize transactions by provider, user, cost center, or manager.

System Admin

- Catalog Management: Catalog manager is used to define corporate access to subject areas and to select training providers for online and instructor-led training. Manage recent entries into the course catalog and associate them with subjects relevant to the learning objectives of your organization.
- Knowledge Bank: Administrators use this tool to personalize the knowledge bank, including adding topics and defining user roles and rights.
- Curriculum Manager: The Curriculum Manager enables authors to group training into sequenced required and elective training curricula. Curriculum owners can manage the curriculum worksheets of individual users, enabling the owners to make exceptions regarding required training for individual users and/or marking curriculum components as complete.

Instructor-Led Training Module ***ILT***

- Manage Events and Sessions: The starting point for instructor-led training management. Administrators see a list of events with a listing of how many tentative, confirmed, and completed

sessions belong to each event. Waitlists, exception requests, and interest tracking also are monitored from this page.

- Create Sessions: Create sessions for specified events. Each session may consist of multiple parts, which may have their own separate location, equipment, and instructors. Select registration deadline, charge date, price, availability, and other options.
- Facilities and Equipment: Manage and track facilities used for instructor-led training sessions, as well as the equipment used in each location. Administrators may also view room usage graphs to compare occupancy times across facilities.
- Vendors and Instructors: Administrators use this feature to maintain proper records on vendors and instructors, as well as to activate and inactivate vendors and instructors as enterprise training needs change. They can also enter detailed instructor profile information, as well as view a calendar of scheduled courses per instructor.

Reports

- ILT Admin Reports: These are the reports for the instructor-led training interface of Cornerstone Enterprise. The reports focus on traditional classroom-based metrics of attendance, withdrawal and cancellation, and request status.

Content Management System

- Course Publisher: The Course Publisher enables authors to publish industry-compliant proprietary content directly into the Cornerstone Enterprise catalog.
- Asset Importer: Authors can manage content assets through the Asset Importer, providing for the storage and retrieval of assets used in content development.
- Module Builder: Authors can create training modules utilizing existing assets through a WYSWYG tool.
- Course Builder: Authors can arrange modules into courses for publication.
- Test Engine: The Cornerstone Enterprise Test Engine enables authors to create questions and configurable tests. Tests can be randomly generated by the system based from a defined pool of questions.

Analytics Module

- Custom Reports: The Custom Reporting Engine enables the generation of an unlimited number of ad hoc reports utilizing a wide range of criteria. Custom report criteria can be saved and shared with other Cornerstone Enterprise users.

Other Products & Services Available to County:

Content – available through Cornerstone at market prices, according to an applicable Content Purchase Addendum.

Exhibit B

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

Order Start Date: October 31, 2019

Order End Date: October 30, 2022 (or October 30, 2023, if the County exercises its fourth year option, or October 30, 2024, if the County exercises its fifth year option).

Product Name	Quantity	Annual Fee(s)
Cornerstone eLearning	6,017	\$109,810.25
Included Customer Success Package	1	\$0.00
Certifications	6,017	\$0.00
eCommerce – EXE - User Based Licensing	1,149	\$14,075.25
Data Load Wizard	1	\$2,600.00
Basic Training	1	\$5,700.00
Unlimited Video Hosting and Delivery	1	\$5,200.00
eCommerce – EXE – Transaction Based Licensing	1	\$0.00
FIRST YEAR GRAND TOTAL		\$137,385.50
SECOND YEAR GRAND TOTAL		\$141,507.07
THIRD YEAR GRAND TOTAL		\$145,752.28
OPTIONAL Fourth year Grand Total		\$150,124.85
OPTIONAL Fifth Year Grand Total		\$154,628.59

Product Details:

See <http://www.cornerstoneondemand.com/support> for detailed support descriptions. Support package selected above applies to all subsequent Orders except where otherwise stated. Any amendments or addenda to this Order shall be subject to mutual written agreement of the parties.

County has allocated an additional \$150,000 for **optional** purchases of eLearning Content and/or Services.

Invoices and Payment

Payment of fees will be due within 30 days after the receipt of invoice. All payments must be made in U.S dollars.

Consulting Services – invoiced monthly at \$200/hour in accordance with an associated Statement of Work.

Exhibit C

Additional Contractor Terms

These Additional Contractor Terms are made a part of and incorporated by reference into the Agreement by and between County and Contractor OnDemand ("**Contractor**").

1. **Definitions.**

- a) "**Active User**" means a user established on the Software with a designation of "active." County determines who is an Active User, subject to the maximum quantities set forth in the respective Order(s).
- b) "**Affiliate**" means a party that partially (at least 50%) or fully controls, is partially or fully controlled by, or is under partial (at least 50%) or full common control with, another party.
- c) "**County Content**" means any and all courses, learning objects, certifications, quizzes, tests, materials, instructor-led sessions, documents, or URLs created and/or introduced by County or its Affiliates that reside in the Software.
- d) "**County Data**" means personal data regarding County, its Affiliates, or any of their users which is uploaded to the Software pursuant to this Agreement.
- e) "**Confidential Information**" means any non-public information of Contractor or County disclosed by either party to the other party, either directly or indirectly, in writing, orally or by inspection of tangible objects, or to which the other party may have access, which a reasonable person would consider confidential and/or which is marked "confidential" or "proprietary" or some similar designation by the disclosing party. Confidential Information shall not, however, include the existence of the Agreement or any information which the recipient can establish: (i) was or has become generally known or available or is part of the public domain without direct or indirect fault, action, or omission of the recipient; (ii) was known by the recipient prior to the time of disclosure, according to the recipient's prior written documentation; (iii) was received by the recipient from a source other than the discloser, rightfully having possession of and the right to disclose such information; or (iv) was independently developed by the recipient, where such independent development has been documented by the recipient.
- f) "**Order**" means a purchase made by County hereunder in a schedule, statement of work, addendum, or amendment signed by both parties.
- g) "**Service**" means any service rendered by Contractor specifically to County, including, but not limited to: (i) hosting and making available the Software; (ii) hosting, delivery, and/or distribution of eLearning content; and/or (iii) provision of customer and/or technical support for the Software.
- h) "**Software**" means: (i) any and all of Contractor's proprietary web-based applications, including, without limitation, all updates, revisions, bug-fixes, upgrades, and enhancements thereto, as well as applications that have been modified in any way by Contractor at the request of a County; and (ii) application functionality and eLearning content provided by Contractor-contracted third parties.

2. **Rights; Usage.** In accordance with the terms and conditions of the Agreement, Contractor gives County the non-transferable and non-assignable right for the duration of applicable Orders to use, and to permit its and its Affiliates' Active Users to use, the Software items listed therein on a non-exclusive basis via the Internet. Contractor will (i) according to ISO 27001 (or successor/equivalent) standards, maintain appropriate safeguards for protection of County Data, including regular back-ups, security and incident response protocols, and application and infrastructure monitoring; and (ii) not access, modify, or disclose County Data, except as compelled by law, to prevent or address service or technical issues, or if otherwise permitted by County. County may retrieve County Data any time during the term of the Agreement. If requested, Contractor will assist with such data retrieval at a scope and price to be agreed. To meet its disaster recovery commitments, Contractor maintains a backup copy of County Data for approximately six (6) months following expiration or termination of the Agreement, after which time all backups are destroyed.

3. **Restrictions.** The Software and Services may be used only for County's and its Affiliates' own lawful business purposes. County shall not: (i) use or deploy the Software in violation of applicable laws or this Agreement; (ii) resell any Software or Service except through Extended Enterprise transactions/registrations; (iii) create any derivative works based upon the Software; (iv) reverse engineer, reverse assemble, decompile or otherwise attempt to derive source code from the Software or any part thereof (except to the extent that such restriction is not permitted under applicable law); (v) make any Software or Service available to any unauthorized parties; or (vi) release the results of benchmark tests or other comparisons of any Software or Service with other software, services, or materials. County will be responsible for Active Users' compliance with the Agreement and liable for Active Users' breach thereof. County will ensure that it has obtained all necessary consents and approvals for Contractor to access County Data for the purposes permitted under this Agreement. Upon expiration or termination of this Agreement, County shall cease using all Software and Services.

4. **Support.** Contractor shall provide the level of technical support stated in the applicable Order. Only the number of administrators set forth in the applicable support package description (i.e., not all Active Users) who have completed the requisite training may contact Contractor for support. County agrees to promptly provide Contractor with sufficient documentation, data and assistance with respect to any reported errors, and to reasonably cooperate

with Contractor, in order for Contractor to comply with its support obligations hereunder. In no event shall Contractor be responsible or liable for any errors, bugs or other problems contained in or originating from hardware or software not provided by Contractor. Should unexpected or inappropriate use of the Software result in denial of service (DoS) with respect to the Software, Contractor may disable the implicated County Content and/or deny access to County's portal only if and for so long as necessary to restore service.

5. Confidentiality. Each of the parties agrees: (i) not to disclose any Confidential Information to any third parties except as mandated by law and except to those Affiliates and subcontractors of Contractor providing Services hereunder who agree to be bound by confidentiality obligations no less stringent than those set forth in this Agreement; (ii) not to use any Confidential Information for any purposes except carrying out such party's rights and responsibilities under this Agreement; and (iii) to keep the Confidential Information confidential using the same degree of care such party uses to protect its own confidential information; provided, however, that such party shall use at least reasonable care. These obligations shall survive termination of this Agreement. If either party breaches any of its obligations with respect to confidentiality or the unauthorized use of Confidential Information hereunder, the other party shall be entitled to seek equitable relief to protect its interest therein, including but not limited to, injunctive relief, as well as money damages. The parties recognize the County is subject to the California Public Records Act and other transparency laws. Should the County receive a request pursuant to one of these laws which seeks Confidential Information of Contractor, the County's only obligation will be to notify Contractor of the request prior to production of the Confidential Information. It is then Contractor's sole responsibility to seek whatever relief it deems necessary including an injunction from a court of law relieving the County of its responsibility to produce the information.
6. Intellectual Property. As between the parties, Contractor will and does retain all proprietary and intellectual property rights, title and interest in and to the Software and Services. County retains all proprietary and intellectual property rights, title and interest in and to County Data and County Content.
7. Warranties. CONTRACTOR WARRANTS THAT THE SOFTWARE WILL PERFORM SUBSTANTIALLY IN MATERIAL ACCORDANCE WITH THE AGREEMENT AND APPLICABLE DOCUMENTATION REGARDING EXISTING FUNCTIONALITY PROVIDED BY CONTRACTOR; NO NEW OR DIFFERENT FUNCTIONALITY IS PROMISED HEREUNDER. TO THE EXTENT PERMITTED BY APPLICABLE LAW, CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE.
8. Liability.
 - a) Liability Cap. EXCEPT FOR (i) A PARTY'S INTELLECTUAL PROPERTY INDEMNIFICATION OBLIGATIONS; (ii) A PARTY'S WILLFUL MISCONDUCT; OR (iii) LIABILITY WHICH CANNOT BE LIMITED BY APPLICABLE LAW, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY, WILL BE LIMITED TO THE TOTAL FEES PAID OR PAYABLE BY COUNTY TO CONTRACTOR HEREUNDER FOR THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CAUSE OF ACTION AROSE. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT EXPAND SUCH LIMIT. THE PARTIES ACKNOWLEDGE THAT THE FEES AGREED UPON BETWEEN COUNTY AND CONTRACTOR ARE BASED IN PART ON THESE LIMITATIONS, AND THAT THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ANY ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE FOREGOING LIMITATION SHALL NOT APPLY TO A PARTY'S PAYMENT OBLIGATIONS UNDER THE AGREEMENT.
 - b) Exclusion of Consequential Damages. NEITHER PARTY WILL BE LIABLE FOR LOST PROFITS, LOST REVENUE, LOST BUSINESS OPPORTUNITIES, LOSS OF DATA, INTERRUPTION OF BUSINESS, PROVIDING REPLACEMENT SOFTWARE (EXCEPT AS SET FORTH IN SECTION "INFRINGEMENT CURES"), OR ANY OTHER INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
9. Miscellaneous Provisions.
 - a) Force Majeure. Neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including without limitation acts of war, acts of God, earthquake, flood, weather conditions, embargo, riot, epidemic, acts of terrorism, sabotage, governmental act, failure of the Internet or other acts beyond such party's reasonable control, provided that the delayed party: (i) gives the other party prompt notice of such cause; and (ii) uses reasonable commercial efforts to correct promptly such failure or delay in performance.
 - b) No Third Party Beneficiaries. The representations, warranties and other terms contained herein are for the sole benefit of the parties hereto and their respective successors and permitted assigns, and shall not be construed as conferring any rights on any other persons.

- c) Statistical Data. Without limiting the confidentiality rights and intellectual property rights protections set forth in this Agreement, Contractor has the perpetual right to use aggregated, anonymized, and statistical data ("Statistical Data") derived from the operation of the Software, and nothing herein shall be construed as prohibiting Contractor from utilizing the Statistical Data for business and/or operating purposes, provided that Contractor does not share with any third party Statistical Data which reveals the identity of County, County's users, or County's Confidential Information.
- d) Suggestions. Contractor shall have a royalty-free, worldwide, perpetual license to use or incorporate into the Software and Services any suggestions, ideas, enhancement requests, feedback, recommendations, or other information provided by County or its users relating to the operation of the Software and Services.
- e) Third-Party Applications and Service Providers.
 - i) External Applications. The Software may contain features capable of interoperating with third-party applications not offered by Contractor ("External Applications"). To use such features, County may be required to obtain access to such applications from a third-party provider. Contractor shall not be responsible for County's access to, or operation of, External Applications.
 - ii) Embedded Applications. Contractor may offer or sell certain third-party applications embedded within the Software, which meet security, privacy, and/or support standards that differ from those set forth in the Agreement ("Embedded Applications"). Use of Embedded Applications is optional, and County may deactivate Embedded Applications in its Software portal at any time. A list of Embedded Applications, including information relevant thereto, is available upon request.
 - iii) Service Providers. Contractor offers a certification program to certify third-party service providers that implement, configure, and/or administer Software ("Certified Consultants"). A list of Certified Consultants is available upon request. County may not permit any non-Certified Consultant to implement, configure, and/or administer Software. None of the warranties or support obligations hereunder shall apply to any Software implemented, configured, or administered by any non-Certified Consultant.
- f) Export Controls. County understands that use of the Software and Services is subject to U.S. export controls and trade and economic sanctions laws and agrees to comply with all such applicable laws and regulations, including without limitation the Export Administration Regulations maintained by the U.S. Department of Commerce, and the trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control.
- g) Severability. If any provision of this Agreement is held by a court or arbitrator of competent jurisdiction to be contrary to law, such provision shall be changed by the court or by the arbitrator and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and the remaining provisions of this Agreement shall remain in full force and effect.
- h) Waiver. No failure or delay on the part of either party in exercising any right, power or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise or the exercise of any other right, power or remedy.

ATTACHMENT I

Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

☐

a. Employs fewer than 15 persons.

☒

b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

Name of 504 Person: Kim Cassidy

Name of Contractor(s): Cornerstone OnDemand

Street Address or P.O. Box: 1601 Cloverfield, Suite 600 South

City, State, Zip Code: Santa Monica, CA 9040

I certify that the above information is complete and correct to the best of my knowledge

Signature:



Title of Authorized Official: Director, State and Local Government

Date: October 9, 2019

*Exception: DHHS regulations state that: "If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."