











The following documentation is an electronically-submitted vendor response to an advertised solicitation from the *West Virginia Purchasing Bulletin* within the Vendor Self-Service portal at ***wvOASIS.gov***. As part of the State of West Virginia's procurement process, and to maintain the transparency of the bid-opening process, this documentation submitted online is publicly posted by the West Virginia Purchasing Division at ***WVPurchasing.gov*** with any other vendor responses to this solicitation submitted to the Purchasing Division in hard copy format.



Jump to: FORMS  Go

 Home  Personalize  Accessibility  App Help  About 

Welcome, Lu Anne Cottrill

Procurement

Budgeting

Accounts Receivable

Accounts Payable

Solicitation Response(SR) Dept: 0308 ID: ESR05111600000005506 Ver.: 1 Function: New Phase: Final Modified by batch , 05/12/2016

Header

List View

General Information

Contact


Default Values

Discount

Document Information

Procurement Folder: 169603


Procurement Type: Central Purchase Order

Vendor ID: VS0000004819 

Legal Name: eDocs Technologies, LLC

Alias/DBA:

Total Bid: \$299,744.00

Response Date: 05/12/2016 

Response Time: 12:38

SO Doc Code: CRFQ

SO Dept: 0308



SO Doc ID: LAB1600000002

Published Date: 5/5/16

Close Date: 5/12/16

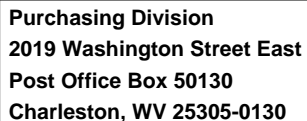
Close Time: 13:30

Status: Closed

Solicitation Description: Addendum No. 01 Software Maintenance for Onbase EDMS   


Total of Header Attachments: 0

Total of All Attachments: 0



## State of West Virginia Solicitation Response

Proc Folder : 169603

**Solicitation Description :** Addendum No. 01 Software Maintenance for Onbase EDMS system

**Proc Type :** Central Purchase Order

Date issued	Solicitation Closes	Solicitation No	Version
	2016-05-12 13:30:00	SR 0308 ESR05111600000005506	1

## VENDOR

VS0000004819

eDocs Technologies, LLC

**FOR INFORMATION CONTACT THE BUYER**

Jessica S Chambers

(304) 558-0246

jessica.s.chambers@wv.gov

**Signature X**

FEIN #

DATE \_\_\_\_\_

**All offers subject to all terms and conditions contained in this solicitation**

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	Please see attached pricing page.				\$299,744.00

Comm Code	Manufacturer	Specification	Model #
81112200			

Extended Description :	Please see attached pricing page for Software Maintenance for Onbase EDMS system pricing page.
------------------------	--



Response to



State of West Virginia  
Department of Administration  
Purchasing Division

Request for Proposal  
Solicitation # CRFQ 0308 LAB1600000002  
For  
SOFTWARE MAINTENANCE FOR ONBASE EDMS SYSTEM

State of West Virginia  
Department of Administration  
Purchasing Division  
2019 Washington Street E  
Charleston, WV 25305

Ms. Jessica S. Chambers  
(304) 558-0246  
[Jessica.s.chambers@wv.gov](mailto:Jessica.s.chambers@wv.gov)

May 11, 2016

May 11, 2016

Ms. Jessica S. Chambers  
State of West Virginia  
Department of Administration  
Purchasing Division  
2019 Washington Street E  
Charleston, WV 25305

Ms. Chambers:

eDocs Technologies very much appreciates the opportunity to assist the State of West Virginia in it's search for the ideal OnBase Partner. We have endeavored to prepare this document in a format that will identify and detail our capabilities and experience that makes eDocs the ideal candidate to support and enhance your investment in OnBase.

We fully recognize the important nature of the services provided by the Division of Labor. We are committed to working with you to provide the resources needed to deliver the recommended solution that exceeds your expectations.

The eDocs team will provide the project staff to help identify best practices and tools utilized to accomplish your stated goals. As a company, eDocs' expertise encompasses every aspect of OnBase including maintenance, support, analysis, design, and related professional services.

The talent of our people and strength of our solutions are the reasons eDocs is confident of successful partnership with West Virginia.

Thank you for the opportunity to be of service to you. We look forward to work with you on this very important project.

Sincerely,  
eDocs Technologies, LLC

A handwritten signature in black ink, appearing to read "Brian Konick", written over the printed name.

By: Brian Konick  
Principal & VP Sales & Marketing

## EXECUTIVE SUMMARY

eDocs Technologies has built a response to the West Virginia's RFP Solicitation # CRFQ 0308 LAB1600000002 for Software Maintenance for WV Division of Labor's OnBase EDMS system.

The eDocs Team has been providing similar Support and Enhancement Services such as what we are proposing for satisfied OnBase clients for a combined 30+ years. We are happy to be able to offer our OnBase expertise to assist you with building a more robust platform in order to better serve the Division of Labor staff.

## COMPANY BACKGROUND

### *Who is eDocs Technologies?*

**eDocs Technologies** was created with the vision of providing *Information.Made.Available* technology specializing in the Enterprise Content Management (ECM) as well as the exploding Mobile Apps industry.

We let your Critical Business Content (Data & associated Documents) find you - not the other way around.

We are a proud Partner of the leading ECM Solution in the Industry – OnBase by Hyland Software ([www.onbase.com](http://www.onbase.com)) and represent a combined 35+ years of working with Designing, Implementing and Supporting OnBase in all industries especially Government.

#### **In a nutshell, eDocs is:**

- An Pennsylvania-based Certified WBE Technology Consulting Firm
  - o PA UCP Directory Information:
    - **eDocs Technologies, LLC**  
Class Type: WBE  
Service Category: Other  
NAICS Codes: 541512, 541611, 541618  
Description: Provides IT consulting, document management, and contract compliance services.  
Owner(s): Susan Ruttenberg/Brian Konick  
Phone: 844-336-2748; email: [brian@edocstechnologies.com](mailto:brian@edocstechnologies.com)
- Experts in automating the way to capture, process, manage and integrate your Critical Business Information
- A support-driven Professional Services group with over 80 years of combined Industry Expertise
- Dedicated to providing the best Client Experience – many of our support staff was an end-user of our technology at one point – we understand sitting in your chair.

## PROPOSED PROCESS & JUSTIFICATION

eDocs Technologies appreciates the opportunity to respond to this Request and to add the Division of Labor to our growing list of satisfied Clients.

eDocs brings the unique advantage of being a Certified M/W/DBE Technology Firm with specialty in Electronic Content Management in general, and OnBase specifically.

With 35+ years of combined OnBase experience you will not find a more qualified, Minority-owned Firm.

As an Authorized OnBase Partner, we have to adhere to their guidelines regarding Maintenance & Support - specifically to payments required for Annual Maintenance that has not been paid, as well as Payments in advance of the forthcoming 12-month period. We appreciate your understanding to adhering to these guidelines.

***eDocs is proposing that WV DOL "Re-Purchase" the OnBase solution, as well as "Audit/Access" the existing DOL licenses to ensure their need DOL's investment is warranted.***

The factor and justification for this proposal is due to the fact that WV DOL has been "off maintenance" for a period of 3 years. In this situation, both the cost of the back maintenance and incentives for Software procurement – coupled with the fact that WV DOL will receive the most current version of OnBase and save a few dollars – make this a preferred option by clients facing similar situations.

To compare, we have provided numbers on both a "Re-Purchase" option and Maintenance required to get current. Our price reflected in the WV OASIS response is based on the "Re-Purchase" but we are willing to meet & discuss both options.

## PRICING

Description	Qty	Maint Required from 4/1/13-6/30/17	"Re-Purchase"
Application Enabler Maintenance	1	\$ 17,000.00	
Desktop Document Imaging (Unlimited) Maintenance	3	\$ 3,825.00	
Desktop Document Imaging (Unlimited) Maintenance	1	\$ 1,125.00	
Concurrent Client (1-100) Maintenance	34	\$ 40,460.00	
Storage Integration for EMC Centera Maintenance	1	\$ 17,000.00	
Production Document Imaging (Kofax or Twain) (1) Maintenance	1	\$ 4,250.00	
Production Document Imaging (Kofax or Twain) (2+) Maintenance	1	\$ 2,550.00	
Production Document Imaging (Kofax or Twain) (2+) Maintenance	5	\$ 12,750.00	
Document Retention Maintenance	1	\$ 8,500.00	
Disconnected Scanning (2+) Maintenance	1	\$ 2,550.00	
Production Document Imaging (ISIS or TWAIN) (1) Maintenance	1	\$ 4,250.00	
Multi-User Server Maintenance	1	\$ 6,800.00	
Office Business Application for 2010 (Each, Qty 1-100) Maintenance	100	\$ 4,250.00	
Office Business Application for 2010 (Each, Qty 101-200) Maintenance	1	\$ 30.00	
Virtual Print Driver Maintenance	1	\$ 4,250.00	
Workflow Concurrent Client Maintenance	5	\$ 5,100.00	
Workflow Concurrent Client Maintenance	27	\$ 27,540.00	
Departmental Workflow Server Maintenance	1	\$ 8,500.00	
Reinstatement Fee		\$ 4,020.80	
Back Maintenance SubTotal		\$ 174,750.80	
1 <sup>st</sup> Renewal (7/1/17 – 6/30/18)		\$ 43,248.00	
2 <sup>nd</sup> Renewal (7/1/18 – 6/30/19)		\$ 43,248.00	
3 <sup>rd</sup> Renewal (7/1/19 – 6/30/20)		\$ 43,248.00	
Back Maintenance Total		\$ 304,494.80	
"Re-Purchase" New Software – List Price			\$ 216,240.00
New Software Discount			\$ (89,488.00)
"Re-Purchase Software Total			\$ 126,752.00
1 <sup>st</sup> Year Software Maintenance			\$ 43,248.00
"Re-Purchase" Total – Year 1			\$ 170,000.00
1 <sup>st</sup> Renewal (7/1/17 – 6/30/18)			\$ 43,248.00
2 <sup>nd</sup> Renewal (7/1/18 – 6/30/19)			\$ 43,248.00
3 <sup>rd</sup> Renewal (7/1/19 – 6/30/20)			\$ 43,248.00
WV DOL Investment Total			\$ 299,744.00

## EDOCS QUALIFICATIONS & REFERENCES

eDocs has a history of completing projects on time and within budget. Our experience consists of over a combined 80+ years in the document & information management industry. Business Analysis & Consulting mixed with the best use of Technology is our Core business, and one we have been successful in for the history of the company.

Specifically, eDocs has an extensive amount of experience in State and County information management solutions. eDocs personnel is one of an elite list of Providers that can list 30+ different State & Local Government Clients engaged in various levels of Support & Managed Services.

<b>Client</b>	<b>City of Pittsburgh, PA</b>
Contact Name	Doug Anderson, Deputy Controller
Location Street Address/City/Zip phone	Grant Street Pittsburgh, PA 15222 412-255-4602
Comparable Project experience	Support the City's use of Business Content and Case Management Technology to manage their information (Contracts, Vouchers & related content).

<b>Client</b>	<b>Washington County, PA</b>
Contact Name	Donald Cortese, CIO
Location Street Address/City/Zip phone	100 West Beau Street Washington, PA 15301 724-228-6759
Comparable Project experience	Support the County's use of Business Content Technology to manage their information & Business Processes (15+ departments including Civil, Criminal Case & Doc Mgt.

<b>Client</b>	<b>PA Treasurer</b>
Contact Name	Ted LeGore
Location Street Address/City/Zip phone	G-10 Finance Building Harrisburg, PA 17120 717-787-7142
Comparable Project experience	Support the Treasurer's use of Business Content Technology to manage their information & Business Processes (10+ areas including Human Services, Unemployment Compensation & UCP

## ***eDOCS – FINAL THOUGHTS***

As stated earlier, we fully recognize the important nature of the services provided by West Virginia Division of Labor and the goal & scope of this Request for Proposal.

eDocs brings 80+ years of combined industry experience – and 35+ years of combined OnBase expertise - in providing the perfect mix of the “human touch & technology” to provide greater value to your day in the life.

We are committed to working with you to provide the resources needed to deliver the recommended solution in the timeliest manner.

eDocs will provide the project staff to help identify best practices and technology tools to accomplish – and exceed - your stated goals.

We are a Certified M/W/DBE focused on ECM – we excel at OnBase and our Clients are our Partners. We have proved successful elsewhere and look to establish a footprint in West Virginia.

The talent of our people and strength of our solutions are the reasons eDocs is confident of successful partnership with West Virginia Department of Labor.

REQUEST FOR QUOTATION  
SOFTWARE MAINTENANCE FOR ONBASE EDMS SYSTEM

---

**9. VENDOR DEFAULT:**

**9.1.** The following shall be considered a vendor default under this Contract.

**9.1.1.** Failure to perform Contract Services in accordance with the requirements contained herein.

**9.1.2.** Failure to comply with other specifications and requirements contained herein.

**9.1.3.** Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.

**9.1.4.** Failure to remedy deficient performance upon request.

**9.2.** The following remedies shall be available to Agency upon default.

**9.2.1.** Immediate cancellation of the Contract.

**9.2.2.** Immediate cancellation of one or more release orders issued under this Contract.

**9.2.3.** Any other remedies available in law or equity.

**10. MISCELLANEOUS:**

**10.1. Contract Manager:** During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

**Contract Manager:** BRIAN KAVICK  
**Telephone Number:** 412-638-7540  
**Fax Number:** \_\_\_\_\_  
**Email Address:** brian.edocstechnologies.com

### CERTIFICATION AND SIGNATURE PAGE

By signing below, or submitting documentation through wvOASIS, I certify that I have reviewed this Solicitation in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

eDocs Technologies, LLC  
(Company)

Brian Kowick, Principle VP  
(Authorized Signature) (Representative Name, Title)

412-638-7540                      5/11/16  
(Phone Number) (Fax Number) (Date)

STATE OF WEST VIRGINIA  
Purchasing Division

## PURCHASING AFFIDAVIT

**MANDATE:** Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

**EXCEPTION:** The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

**DEFINITIONS:**

**"Debt"** means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

**"Employer default"** means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

**"Related party"** means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

**AFFIRMATION:** By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

**WITNESS THE FOLLOWING SIGNATURE:**

Vendor's Name: edacs Technologies, LLC

Authorized Signature: [Signature] Date: 5/11/16

State of Pennsylvania

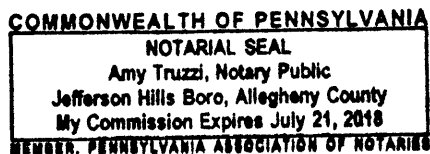
County of Allegheny, to-wit:

Taken, subscribed, and sworn to before me this 11th day of May, 2016.

My Commission expires July 21st, 2018.

**AFFIX SEAL HERE**

**NOTARY PUBLIC**



*Purchasing Affidavit (Revised 08/01/2015)*

## VENDOR PREFERENCE CERTIFICATE

Certification and application is hereby made for Preference in accordance with **West Virginia Code, §5A-3-37**. (Does not apply to construction contracts). **West Virginia Code, §5A-3-37**, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the **West Virginia Code**. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Vendor Preference, if applicable.

**1. Application is made for 2.5% vendor preference for the reason checked:**

- ☐ Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,
- ☐ Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification;
- ☐ Bidder is a resident vendor partnership, association, or corporation with at least eighty percent of ownership interest of bidder held by another entity that meets the applicable four year residency requirement; or,
- ☐ Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; or,

**2. Application is made for 2.5% vendor preference for the reason checked:**

- ☐ Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,

**3. Application is made for 2.5% vendor preference for the reason checked:**

- ☐ Bidder is a nonresident vendor that employs a minimum of one hundred state residents, or a nonresident vendor which has an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia and employs a minimum of one hundred state residents, and for purposes of producing or distributing the commodities or completing the project which is the subject of the bidder's bid and continuously over the entire term of the project, on average at least seventy-five percent of the bidder's employees or the bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years and the vendor's bid; or,

**4. Application is made for 5% vendor preference for the reason checked:**

- ☐ Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; or,

**5. Application is made for 3.5% vendor preference who is a veteran for the reason checked:**

- ☐ Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; or,

**6. Application is made for 3.5% vendor preference who is a veteran for the reason checked:**

- ☐ Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

**7. Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with West Virginia Code §5A-3-59 and West Virginia Code of State Rules.**

- ☒ Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) rescind the contract or purchase order; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: edocs Technologies, LLC

Signed: [Signature]

Date: 5/11/16

Title: Principal eVP Sales & Marketing

\*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.

**ADDENDUM ACKNOWLEDGEMENT FORM****SOLICITATION NO.:** CRFQ 0308 LAB1600000002

**Instructions:** Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

**Acknowledgment:** I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

**Addendum Numbers Received:**

(Check the box next to each addendum received)

<input checked="" type="checkbox"/> Addendum No. 1	<input type="checkbox"/> Addendum No. 6
<input type="checkbox"/> Addendum No. 2	<input type="checkbox"/> Addendum No. 7
<input type="checkbox"/> Addendum No. 3	<input type="checkbox"/> Addendum No. 8
<input type="checkbox"/> Addendum No. 4	<input type="checkbox"/> Addendum No. 9
<input type="checkbox"/> Addendum No. 5	<input type="checkbox"/> Addendum No. 10

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

eDocs Technologies, LLC

Company

Berk

Authorized Signature

5/11/16

Date

**NOTE:** This addendum acknowledgement should be submitted with the bid to expedite document processing.

Revised 6/8/2012

**OnBase® Information Management System  
SOFTWARE MAINTENANCE AGREEMENT**

This Software Maintenance Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between eDocs Technologies, LLC, with its principal offices at 700 River Avenue, Pittsburgh, PA 15212 (“Service Provider”), and the company, person or entity executing this Agreement as the “Licensee” in the space provided below (“Licensee”):

**RECITAL:**

WHEREAS, Service Provider is an authorized solution provider of Hyland Software, Inc. and has marketed and resold to Licensee certain OnBase® Information Management System software modules of Hyland Software, Inc.;

WHEREAS, Licensee has licensed the specified software from Hyland Software, Inc. pursuant to the terms of an OnBase® End User License Agreement (as the same may be amended or modified from time to time, the “EULA”); and

WHEREAS, Licensee desires to obtain, and Service Provider is willing to provide, maintenance and technical support services for the specified software and the delivery of generally released upgrades and enhancements with respect to such software from Hyland Software, Inc.;

NOW, THEREFORE, the parties mutually agree as follows:

1. **DEFINED TERMS.** The following terms shall have the meanings set forth below for all purposes of this Agreement:

(a) Documentation. “Documentation” means for the “Help Files” included in the Software and that relate to the functional, operational or performance characteristics of the Software.

(b) Error. “Error” means any defect or condition inherent in the Software that causes the Software to fail to perform in accordance with the current Documentation published by Hyland Software, Inc.

(c) EULA. “EULA” is defined in the recitals to this Agreement.

(d) Maintenance and Support Services. “Maintenance and Support Services” means all professional services provided under this Agreement by Service Provider.

(e) Software. “Software” means (1) the current released version of the computer software licensed by Licensee from Hyland Software, Inc. from time to time under the EULA (the initial list of which is included on Exhibit A attached hereto), and (2) at any time after Service Provider has delivered to Licensee a new version of such computer software as an Upgrade and Enhancement under this Agreement, the released version of such computer software last released prior to the current released version; provided, that the 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 Hyland Software, Inc. 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.

(f) Upgrades and Enhancements. “Upgrades and Enhancements” means any and all new versions, improvements, modifications, upgrades, updates, fixes and additions to the Software that Hyland Software, Inc. commercially releases to its end users generally during the term of this Agreement to correct deficiencies or enhance the capabilities of the 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 or new functionality.

2. **MAINTENANCE AND SUPPORT SERVICES.**

(a) Generally. Service Provider shall: (1) use its commercially reasonable efforts to correct any properly reported Error(s) in the Software reported in accordance with Service Provider’s current policies for the reporting of Errors, and which are confirmed by Hyland Software, Inc., in the exercise of its commercially reasonable judgment; (2) use its commercially reasonable efforts to correct any properly reported defect(s) (non-conformity to functional specifications mutually agreed upon by Service Provider and Licensee) in any configurations of the Workflow or WorkView modules of the Software that are created by Service Provider or any integrations of the Software with other applications, software or hardware that are configured or created by Service Provider, which are confirmed by Service Provider, in the exercise of its commercially reasonable judgment; and (3) upon the request of Licensee, provide technical support and assistance and advice related to the operation and use of the Software by Licensee, or any problems with any of the foregoing. Licensee’s report must include updated information on its installed version of the Software and information reasonably

necessary to describe the circumstances under which the reported Error is manifest. Service Provider shall undertake to report to Hyland Software, Inc. for confirmation any reported Errors promptly after receipt of proper notice from Licensee. Service Provider shall undertake to confirm any reported defect(s) described in clause (2) above promptly after receipt of proper notice from Licensee in accordance with Service Provider's current defect reporting procedures. Service Provider shall perform services in an effort to correct confirmed Errors in the Software or defects in configurations or integrations created by Service Provider promptly after making such confirmation. Maintenance and Support Services generally will be available during the hours of \_\_\_\_ a.m. to \_\_\_\_ p.m., Time, Monday through Friday, excluding holidays, or as otherwise provided by Service Provider to its end users purchasing continuing Maintenance and Support Services in the normal course of its business, by on-line connectivity, telephonically or both. Should Licensee experience an emergency situation outside of normal hours, Licensee may contact Service Provider 24 hours per day, 7 days per week, by calling Service Provider's regular telephone Maintenance and Support Services number and using Service Provider's after hours paging system. Service Provider's designated support engineer on call will contact Licensee regarding the emergency situation within a reasonable time (usually not more than 3 hours) after the page. Service Provider reserves the right to notify Licensee that it is making unauthorized (i.e., not in an emergency situation) or excessive use of after hours Maintenance and Support Services and to terminate the provision of such Services thereafter, unless Licensee pays Service Provider for such continued after-hours Services at the rate of \$225 per hour (with a minimum charge of one hour per call). An emergency situation is as the occurrence of an Error that causes Licensee's business to be materially interrupted and the Error has prevented, in a material respect, any access to or use of the Software by Licensee in its production environment. Licensee shall be informed at the time of a call if such call is considered an unauthorized or excessive use call and Licensee shall have the opportunity to terminate the call and delay Maintenance and Support Services until normal hours on the next business day. Licensee acknowledges and agrees that Service Provider and Hyland Software, Inc. require on-line access to the Software installed on Licensee's systems in order for Service Provider to provide Maintenance and Support Services hereunder. Accordingly, Licensee shall install and maintain, at Licensee's sole cost and expense, appropriate communications software as specified by Service Provider; and Licensee shall establish and maintain, at Licensee's sole cost and expense, an adequate connection with Service Provider and Hyland Software, Inc. to facilitate Service Provider's on-line Maintenance and Support Services.

(b) On-Site 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 in accordance with Section 5(a)(4), Service Provider may provide on-site Maintenance and Support Services at Licensee's facilities in connection with the correction of any Error(s) involving a mission critical function of the Software that is not functioning in a production environment.

(c) Exclusions. Service Provider is not responsible for providing, or obligated to provide, Maintenance and Support Services or Upgrades and Enhancements under this Agreement: (a) 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 Software, including any configuration of the Workflow or WorkView modules of the Software that was not undertaken by Service Provider or Hyland Software, Inc. or authorized in writing in advance by Hyland Software, Inc.; (b) in connection with any Error if Service Provider (directly or through Hyland Software, Inc.) has previously provided corrections for such Error, which correction Licensee chooses not to implement; (c) in connection with any Errors or problems that have been caused by errors, defects, problems, alterations, revisions, changes, enhancements or modifications in the database, operating system, third party software (other than third party software bundled with the Software by Hyland Software, Inc.), hardware or any system or networking utilized by Licensee; (d) if the Software or related software or systems have been subjected to abuse, misuse, improper handling, accident or neglect; or (e) if any party other than Service Provider or Hyland Software, Inc. has provided any services in the nature of Maintenance and Support Services to Licensee with respect to the Software.

**3. UPGRADES AND ENHANCEMENTS.** Service Provider will provide to Licensee, in accordance with Hyland Software, Inc.'s then current policies, all Upgrades and Enhancements to the Software released by Hyland Software, Inc. during the term of this Agreement. Licensee acknowledges and agrees that Hyland Software, Inc. has the right, at any time, to change the specifications and operating characteristics of the Software and Hyland Software, Inc.'s policies respecting Upgrades and Enhancements and the release thereof to its end users. Any Upgrades and Enhancements to the Software and Documentation shall remain proprietary to Hyland Software, Inc. and the sole and exclusive property of Hyland Software, Inc., 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 trade secrets in the Software and Documentation and any Upgrades and Enhancements are and shall remain the exclusive property of Hyland Software, Inc.

#### **4. LICENSEE'S RESPONSIBILITIES.**

(a) Operation of the Software. Licensee acknowledges and agrees that it is solely responsible for the operation, supervision, management and control of the 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. Service Provider and Hyland Software, Inc. shall have no responsibility or liability for data loss regardless of the reasons for said loss. Service Provider and Hyland Software, Inc. shall have no responsibility or liability for Licensee's selection or use of the Software or any hardware, third party software or systems.

(b) Licensee's Implementation of Error Corrections and Upgrades and Enhancements. In order to maintain the integrity and proper operation of the Software, Licensee agrees to implement, in the manner instructed by Service Provider, all Error corrections and Upgrades and Enhancements. Licensee's failure to implement any Error corrections or Upgrades and Enhancements of the Software as provided in this Section 4(b) shall relieve Service Provider of any responsibility or liability whatsoever for any failure or malfunction of the Software, as modified by a subsequent Error correction or Upgrade and Enhancement, 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) Notice of Errors; Documentation of Errors. Licensee shall provide prompt notice of any Errors in the Software discovered by Licensee, or otherwise brought to the attention of Licensee, in accordance with Service Provider's then current policies for reporting of Errors. Proper notice may include, without limitation, prompt telephonic and written notice to Service Provider of any alleged Error. If requested by Service Provider, Licensee agrees to provide written documentation of Errors to substantiate the Errors and to assist Service Provider in the detection and correction of said Errors.

(d) Access to Premises and Systems. Licensee shall make available reasonable access to and use of Licensee's premises, computer hardware, peripherals, Software and other software as Service Provider deems necessary to diagnose and correct any Errors or to otherwise provide Maintenance and Support Services. In addition, Licensee acknowledges and agrees that Hyland Software, Inc. may be retained by Service Provider to provide Error corrections or other Maintenance and Support Services directly to Licensee and, accordingly, Licensee shall provide such same access directly to Hyland Software, Inc. Such right of access and use shall be provided at no cost or charge to Service Provider or Hyland Software, Inc.

## **5. FEES, PAYMENTS, CURRENCY AND TAXES.**

(a) Annual Maintenance Fees. Licensee shall pay to Service Provider annual maintenance fees in the amounts invoiced by Service Provider.

(1) Initial Software. The table on Exhibit A attached hereto sets forth the aggregate invoice amounts for initial annual maintenance fees for each Software module initially licensed, and for all Software modules initially licensed in the aggregate. Licensee shall be required to submit a purchase order for this Agreement, in the amount of the initial annual maintenance fees due hereunder, simultaneously with Licensee's submission of its purchase order for the license of the Software under the EULA.

(2) Additional Software. Service Provider shall invoice Licensee for annual maintenance fees for all Software modules that Licensee additionally licenses under the EULA promptly upon acceptance of Licensee's purchase order for the purchase of Maintenance and Support Services for such Software.

(3) Renewal Periods. Service Provider shall invoice Licensee for annual maintenance fees for renewal terms at least forty-five (45) days prior to the end of the then-current term of this Agreement. In the event that any term of this Agreement for which annual maintenance fees are payable is a period of less than twelve (12) calendar months, the annual maintenance fees for such term will be pro rated based upon the number of calendar months in such period (including the calendar month in which such term of this Agreement commences only if such period commences prior to the 15<sup>th</sup> day of such month).

(4) Time and Materials Charges. Notwithstanding anything to the contrary, if Licensee requests (1) Maintenance and Support Services that Service Provider is not obligated to provide because of the provisions of Section 2(c), and Service Provider agrees to provide such requested Services notwithstanding the provisions of Section 2(c), (2) on-site Maintenance and Support Services in accordance with Section 2(b), or (3) any other services in the nature of Maintenance and Support Services that Service Provider is not obligated to provide, or is not obligated to provide in the manner requested, and Service Provider agrees to provide the requested Maintenance and Support Services, then in any such case Licensee agrees that such Maintenance and Support Services shall not be covered by the annual maintenance fees under Section 5(a) and Licensee agrees to pay for such Maintenance and Support Services at Service Provider's standard time and materials charges payable by end users who have not purchased a continuing

Software Maintenance Agreement from Service Provider. Service Provider shall invoice Licensee for all time and materials charges hereunder.

(b) Incidental Costs and Expenses. Licensee shall be responsible for all incidental costs and expenses incurred by Service Provider in connection with the performance of this Agreement. Examples of incidental costs and expenses include, without limitation, all costs and expenses for tools, supplies, accessories, media and other expendables purchased or otherwise used by Service Provider, on-line connection charges and out-of-pocket expenses incurred at Licensee's request, including but not limited to travel, meals and lodging expenses for on-site Maintenance and Support Services. Service Provider shall invoice Licensee for all incidental costs and expenses hereunder.

(c) Payments; Remedies.

(1) Annual Maintenance Fees. Licensee shall pay all invoices for annual maintenance fees in full on or before the last day of the then-current term of this Agreement.

(2) Other Payments. Licensee shall pay all other invoices hereunder in full net thirty (30) days from the date of invoice.

(3) Remedies. All past due amounts shall bear interest at the rate of one and one-half percent (1.5%) per month (or, if lower, the maximum rate lawfully chargeable) from the date due through the date that such past due amounts and such accrued interest are paid in full. In the event of any default by Licensee in the payment of any amounts due hereunder, which default continues unremedied for at least ten (10) calendar days after the due date of such payment, Service Provider shall have the right to cease to provide any Maintenance and Support Services and Upgrades and Enhancements to Licensee unless and until such default, and any and all other defaults by Licensee under this Agreement, shall have been cured.

(4) U.S. Dollars. All payments by Licensee to Service Provider shall be made in U.S. dollars.

(d) Taxes and Governmental Charges. In addition to any and all other payments required to be made by Licensee hereunder, Licensee shall pay all taxes and governmental charges, foreign, federal, state, local or otherwise (other than income or franchise taxes of Service Provider), however designated, which are levied or imposed by reason of the transactions contemplated by this Agreement, including but not limited to sales and use taxes, excise taxes and customs duties or charges. Licensee agrees to make any and all required tax payments directly to the appropriate taxing authority.

## **6. LIMITED WARRANTY.**

(a) Limited Warranty of Services. Service Provider warrants that the Maintenance and 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 Maintenance and Support Services fail to conform to this limited warranty, Licensee must notify Service Provider 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 Maintenance and Support Services in question are determined not to conform to this limited warranty, Service Provider's sole obligation, and Licensee's sole remedy, shall be for Service Provider to use commercially reasonable efforts to re-perform the nonconforming Services in an attempt to correct the nonconformity. If Service Provider 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 8(b)(3)(B). This warranty specifically excludes non-performance issues caused as a result of 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 Upgrades and Enhancements. The EULA shall govern any limited warranty or disclaimers relating to Upgrades and Enhancements of the Software provided to Licensee under this Agreement, and no warranty is given under this Agreement with respect to Upgrades and Enhancements.

(c) DISCLAIMER OF WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 6(a), SERVICE PROVIDER MAKES NO WARRANTIES OR REPRESENTATIONS REGARDING ANY MAINTENANCE AND SUPPORT SERVICES, ANY SOFTWARE OR ANY UPGRADES AND ENHANCEMENTS PROVIDED UNDER THIS AGREEMENT. SERVICE PROVIDER DISCLAIMS AND EXCLUDES ANY AND ALL OTHER EXPRESS, IMPLIED AND STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF GOOD TITLE, WARRANTIES AGAINST

INFRINGEMENT, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES THAT MAY ARISE OR BE DEEMED TO ARISE FROM ANY COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. SERVICE PROVIDER DOES NOT WARRANT THAT ANY MAINTENANCE AND SUPPORT SERVICES, SOFTWARE OR UPGRADES AND ENHANCEMENTS PROVIDED WILL SATISFY LICENSEE'S REQUIREMENTS OR ARE WITHOUT DEFECT OR ERROR, OR THAT THE OPERATION OF ANY SOFTWARE OR UPGRADES AND ENHANCEMENTS WILL BE UNINTERRUPTED. SERVICE PROVIDER DOES NOT ASSUME ANY LIABILITY WHATSOEVER WITH RESPECT TO ANY THIRD PARTY HARDWARE, FIRMWARE, SOFTWARE OR SERVICES.

**7. LIMITATIONS OF LIABILITY.** IN NO EVENT SHALL SERVICE PROVIDER'S OR ITS SUPPLIERS' AGGREGATE LIABILITY UNDER THIS AGREEMENT EXCEED THE AGGREGATE AMOUNTS PAID BY LICENSEE TO SERVICE PROVIDER UNDER THIS AGREEMENT DURING THE CURRENT TERM OF THIS AGREEMENT. IN NO EVENT SHALL SERVICE PROVIDER OR HYLAND SOFTWARE, INC. 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 SERVICE PROVIDER OR HYLAND SOFTWARE, INC. HAS BEEN ADVISED OF THE POSSIBILITIES OF SUCH DAMAGES OR LOSSES.

**8. TERM, RENEWAL AND TERMINATION.**

(a) Term. Subject to the early termination provisions of Section 8(b), the initial term of this Agreement (the "Initial Term") shall commence on the day that Service Provider issues to Licensee license codes for the Software modules licensed by Licensee under the EULA and shall expire on the first annual anniversary of such date; and, except as otherwise provided in Section 8(c)(3) below, the term of this Agreement shall be renewed: (1) at the end of the Initial Term, for a period from the first day after the end of the Initial Term through December 31 of the calendar year in which the Initial Term ends; and (2) thereafter, annually on a calendar year by calendar year basis.

(b) 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 Service Provider For Cause. Service Provider 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, 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, Service Provider shall be entitled, in addition to any other rights it may have under this Agreement, or otherwise at law or in equity, to immediately terminate this Agreement.

(3) By Licensee.

(A) For Convenience. Licensee may terminate this Agreement at any time, for any reason or for no reason, upon not less than sixty (60) days advance written notice to Service Provider.

(B) For Cause. Licensee shall be entitled to give written notice to Service Provider of any breach by Service Provider or other failure by Service Provider to comply with any material term or condition of this Agreement, specifying the nature of such breach or non-compliance and requiring Service Provider to cure the breach or non-compliance. If Service Provider 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 twenty (20) business days after receipt of written notice, Licensee shall be entitled, in addition to any other rights it may have under this Agreement, or otherwise at law or in equity, to immediately terminate this Agreement; and thereafter, so long as Licensee has complied in all material respects with its obligations under the EULA and this Agreement and is current on all payment obligations under the EULA and this Agreement, Licensee shall be entitled to a refund from Service Provider of the "unused portion of the annual maintenance fees" for the then-current term of this Agreement. For these purposes, the "unused portion of the annual

maintenance fees” shall mean that portion of the annual maintenance fees paid by Licensee under Section 5(a) with respect to the term of this Agreement during which such termination of this Agreement is effective, equal to the total of such annual maintenance fees multiplied by a fraction, the numerator of which shall be the number of calendar months during the then-current term of this Agreement that remain until the end of such then-current term, commencing with the calendar month after the calendar month in which such termination is effective, and the denominator of which shall be the total number of calendar months in such then-current term determined without regard to such termination.

(C) Non-Renewal. Licensee may elect not to renew this Agreement at the end of the then-current term of this Agreement by written notice to Service Provider on or prior to the date payment is due under Section 5(c)(1) of Service Provider’s invoice for annual maintenance fees for the next succeeding renewal term of this Agreement.

(4) By Either Party in Accordance with Section 9. Either party may terminate this Agreement in accordance with the procedures set forth in Section 9.

(c) Effect of Termination.

(1) Payments. Notwithstanding any termination of this Agreement, Licensee shall be obligated to pay Service Provider for (A) all Maintenance and 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 maintenance fees due with respect to any period commencing prior to the effective date of termination; and (C) all incidental costs and expenses incurred by Service Provider at any time on or prior to the effective date of termination. All such payments shall be made in accordance with Section 5, 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, Section 3 (as it relates to title and ownership), Section 5(d), Section 6(c), Section 7, Section 8, Section 10 and Section 11. 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 8(b)(4)(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 8(c)(3). To obtain reinstatement, Licensee shall deliver written notice to such effect to Service Provider, together with payment in full of: (A) annual maintenance fees, based upon Service Provider’s Annual Maintenance Fee Schedule in effect as of the time of such reinstatement, for all periods (as determined under Section 8(a) as if the Agreement had not been terminated under Section 8(b)(4)(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 maintenance fee, based upon Service Provider’s Annual Maintenance 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 8(c)(3) shall be effective as of the first business day after Service Provider 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 from the first day after the end of such first renewal term through December 31 of the calendar year in which such first renewal term ends; and (ii) thereafter, annually on a calendar year by calendar year basis.

**EXCEPT AS EXPRESSLY PROVIDED BY THIS SECTION 8(c)(3), LICENSEE SHALL HAVE NO RIGHT TO REINSTATE THIS AGREEMENT FOLLOWING THE TERMINATION THEREOF FOR ANY REASON.**

9. **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 9 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 9 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.

10. **NOTICES.** Unless otherwise agreed to by the parties in a writing signed by both parties, all notices required under this Agreement shall be deemed effective: (a) when sent and made in writing by either (1)(A) registered mail, (B) certified mail, return receipt requested, or (C) overnight courier, in any such case addressed and sent to the address set forth herein and to the attention of the person executing this Agreement on behalf of that party or that person's successor, or to such other address or such other person as the party entitled to receive such notice shall have notified the party sending such notice of; or (2) facsimile transmission appropriately directed to the attention of the person identified as the appropriate recipient and at the appropriate address under (a)(1) above, with a copy following by one of the other methods of notice under (a)(1) above; or (b) when personally delivered and made in writing to the person and address identified as appropriate under (a)(1) above.

## 11. GENERAL PROVISIONS.

(a) **Jurisdiction.** This Agreement and any claim, action, suit, proceeding or dispute arising out of this Agreement shall in all respects be governed by, and interpreted in accordance with, the substantive laws of the State of \_\_\_\_\_, without regard to the conflicts of laws provisions thereof. Venue and jurisdiction for any action, suit or proceeding arising out of this Agreement shall vest exclusively in the federal or state courts of general jurisdiction located in \_\_\_\_\_ County, \_\_\_\_\_.

(b) **Interpretation.** The headings used in this Agreement are for reference and convenience purposes only and shall not in any way limit or affect the meaning or interpretation of any of the terms hereof. All defined terms in this Agreement shall be deemed to refer to the masculine, feminine, neuter, singular or plural, in each instance as the context or particular facts may require. Use of the terms "hereunder," "herein," "hereby" and similar terms refer to this Agreement.

(c) **Waiver.** No waiver of any right or remedy on one occasion by either party shall be deemed a waiver of such right or remedy on any other occasion.

(d) **Integration.** This Agreement, including any and all exhibits and schedules referred to herein or therein set forth the entire agreement and understanding between the parties pertaining to the subject matter and merges all prior discussions between them on the same subject matter. Neither of the parties shall be bound by any conditions, definitions, warranties, understandings or representations with respect to the subject matter other than as expressly provided in this Agreement. This Agreement may only be modified by a written document signed by duly authorized representatives of the parties. This Agreement shall not be supplemented or modified by any course of performance, course of dealing or trade usage. Variance from or addition to the terms and conditions of this Agreement in any purchase order or other written notification or documentation, from Licensee or otherwise, will be of no effect unless expressly agreed to in writing by both parties. This Agreement will prevail over any conflicting stipulations contained or referenced in any other document.

(e) **Binding Agreement and Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. Service Provider may assign this Agreement or its rights or obligations under this Agreement, in whole or in part, to any other person or entity. Licensee may not assign this Agreement or its rights or obligations under this Agreement, in whole or in part, to any other person or entity without the prior written consent of Service Provider. Any change in control of Licensee resulting from an acquisition, merger or otherwise shall constitute an assignment under the terms of this provision. Any assignment made without compliance with the provisions of this Section 11(e) shall be null and void and of no force or effect.

(f) **Severability.** In the event that any term or provision of this Agreement is deemed by a court of competent jurisdiction to be overly broad in scope, duration or area of applicability, the court considering the same will have the power and is hereby authorized and directed to limit such scope, duration or area of applicability, or all of them, so that such term or provision is no longer overly broad and to enforce the same as so limited. Subject to the foregoing sentence, in the event any provision of this Agreement is held to be invalid or unenforceable for any reason, such invalidity or unenforceability will attach only to such provision and will not affect or render invalid or unenforceable any other provision of this Agreement.

(g) **Independent Contractor.** The parties acknowledge that Service Provider is an independent contractor and that it will be responsible for its obligations as employer for those individuals providing the Maintenance and Support Services.

(h) Export. Licensee agrees to comply fully with all relevant regulations of the U.S. Department of Commerce and all U.S. export control laws, including but not limited to the U.S. Export Administration Act, to assure that the Upgrades and Enhancements are not exported in violation of United States law.

(i) Injunctive Relief. The parties to this Agreement recognize that a remedy at law for a breach of the provisions of this Agreement relating to confidential information and intellectual property rights will not be adequate for Service Provider's protection and, accordingly, Service Provider shall have the right to obtain, in addition to any other relief and remedies available to it, specific performance or injunctive relief to enforce the provisions of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives:

_____ Licensee	_____ Service Provider
Business Address: _____ _____ _____	
By: _____	By: _____
Print Name: _____	Print Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

**Exhibit A**

<b><u>SOFTWARE MODULES</u></b>	<b><u>ANNUAL MAINTENANCE FEES</u></b>

# EDOCs TECHNOLOGIES, LLC MASTER SERVICES CONSULTING AGREEMENT

This CONSULTING AGREEMENT (this "Agreement"), made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_, a Corporation organized under the laws of the state of \_\_\_\_\_, having a principal place of business at \_\_\_\_\_ (hereinafter "Client"), and eDocs Technologies, LLC., a Pennsylvania Corporation having a principal place of business at 700 River Avenue, Pittsburgh, PA 15212 (hereinafter "Consultant").

## Article 1

### TERM AND TERMINATION

**1.1 Term.** This agreement will become effective on the date first shown above and will continue in effect until terminated by either party after giving 30 days prior written notice to the other party

**1.2 Termination of Work Orders.** Client may, at its sole option, terminate any Work Order, or any portion thereof, upon thirty (30) days advance written notice. Upon receipt of such notice, Consultant shall advise Client of the extent to which performance has been completed through such date, and collect and deliver to Client whatever work product then exists in the manner requested by Client. Consultant shall be paid for all work performed through the date of termination.

**1.3 Survival.** In the event of any termination of this Agreement, Articles 5, 6 and 7 hereof shall survive and continue in effect.

## Article 2

### INDEPENDENT CONTRACTOR STATUS

**2.1 Intention of Parties.** It is the intention of the parties that Consultant be an independent contractor and not an employee, agent, joint venture, or partner of Client. Nothing in this agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Client and either Consultant or any employee or agent of Consultant.

**2.2 Nonexclusive.** Consultant shall retain the right to perform work for others during the terms of this Agreement. Client shall retain the right to cause work of the same or a different kind to be performed by its own personnel or other contractors during the term of this Agreement.

## Article 3

### SERVICES TO BE PERFORMED BY CONSULTANT

**3.1 Work Orders.** All work performed by Consultant shall be documented in a Work Order signed by authorized representatives of both parties. Each Work Order shall set forth, at a minimum, the work to be done, the number of Consultant's personnel to be assigned to Client's work, the duration of each individual's assignment, and the fees for the work to be performed. Client shall have the right to accept or decline any proposed Work Order.

**3.2 Method of Performing Services.** Consultant, in conjunction with its personnel, will determine the method, details, and means of performing the work to be carried out for Client. Client shall have no right to, and shall not, control the manner or determine the method of accomplishing such work. Client may, however, require

Consultant's personnel to observe at all times the security and safety policies of Client. In addition, Client shall be entitled to exercise a broad general power of supervision and control over the results of work performed by Consultant to ensure satisfactory performance. This power of supervision shall include the right to inspect, stop work, make suggestions or recommendations as to the details of the work, and request modifications to the scope of the Work Order.

**3.3 Assignment of Personnel.** Client may interview the personnel Consultant assigns to Client's work. If Client determines that such personnel are not appropriate for the work based on their specific or general skills or their background and experience, Consultant shall make a reasonable effort to assign qualified personnel.

**3.4 Scheduling.** Consultant will try to accommodate work schedule requests of Client to the extent possible. Should any personnel of Consultant be unable to perform scheduled services because of illness, resignation, or other causes beyond Consultant's reasonable control, Consultant will attempt to replace such personnel within a reasonable time, but Consultant shall not be liable for failure if it is unable to do so, giving due regard to its other commitments and priorities.

**3.5 Reporting.** Client will advise Consultant of the individuals to whom Consultant's manager will report progress on day-to-day work. Client and Consultant shall develop appropriate administrative procedures for performance of work at Client's site. Client shall periodically prepare an evaluation of the work performed by Consultant for submission to Consultant.

**3.6 Place of Work.** Consultant's personnel will perform all work for Client primarily off-site except when such projects or tasks may, as mutually determined, be performed at the Client's location. Client agrees to provide working space and facilities and any other services and materials Consultant or its personnel may reasonably request in order to perform their work. Client recognizes that there may be a need to train Consultant's personnel in the unique procedures used at Client's location. When Client determines that such training is necessary, Client shall, unless otherwise agreed in writing, pay Consultant for its personnel's training time.

## Article 4

### COMPENSATION

**4.1 Rates.** The current schedule of fees for work performed by Consultant shall be set forth as part of each Work Order. Unless otherwise stated, Consultant reserves the right to change such schedule for any Work Order upon at least fourteen (14) days' advance notice or at any time for any new Work Order or modified portion of an existing Work Order. Consultant shall not change rates for any unchanged Work Order that is in progress.

**4.2 Estimates.** Estimates of total fees for projects may be provided in a Work Order, but Consultant does not guarantee such estimates. Consultant will, however, notify Client as soon as possible if it will exceed the estimate, and Client may then terminate the project and pay only for services actually rendered if Client so chooses.

**4.3 Invoices.** Consultant shall submit invoices to Client monthly for the services furnished and other expenses incurred hereunder. Each invoice will provide a breakdown and distribution of charges by name of individual and expense items.

**4.4 Date For Payment of Compensation.** Client shall pay each invoice in full within thirty (30) days after receipt.

**4.5 Remedies.** All past due amounts shall bear interest at the rate of one and one-half percent (1.5%) per month (or if lower the maximum rate lawfully chargeable) from the date due to the date that such past due amounts and such accrued interest are paid in full.

**4.6 Expenses.** Except as otherwise agreed in this Agreement or the applicable Work Order, Consultant shall be responsible for all costs and expenses incident to the performance of services for Client, including all costs incurred by Consultant to do business.

## Article 5

### TREATMENT OF CONSULTANT'S PERSONNEL

**5.1 Compensation of Consultant's Personnel.** Consultant shall bear sole responsibility for payment of compensation to its personnel. Consultant shall pay and report, for all personnel assigned to Client's work, federal and state income tax withholding, social security taxes, and unemployment insurance applicable to such personnel as employees of Consultant. Consultant shall bear sole responsibility for any health or disability insurance, retirement benefits, or other welfare or pension benefits, if any, to which such personnel may be entitled. Consultant agrees to defend, indemnify, and hold harmless Client, Client's officers, directors, employees and agents, and the administrators of Client's benefit plans, from and against any claims, liabilities, or expenses relating to such compensation, tax, insurance, or benefit matters; provided that Client shall (1) promptly notify Consultant of each such claim when and as it comes to Client's attention; (2) cooperate with Consultant in the defense and resolution of such claim; and (3) not settle or otherwise dispose of such claim without Consultant's prior written consent, such consent not to be unreasonably withheld.

**5.2 Worker's Compensation.** Notwithstanding any other workers' compensation or insurance policies maintained by Client, Consultant shall procure and maintain workers' compensation coverage sufficient to meet the statutory requirements of every state in which Consultant's personnel are engaged in Client's work.

**5.3 State and Federal Taxes.** As neither Consultant nor its personnel are Client's employees, Client shall not take any action or provide Consultant's personnel with any benefits or commitments inconsistent with any of such undertakings by Consultant. In particular:

- Client will not withhold FICA(Social Security) from Consultant's payments.
- Client will not make state or federal unemployment insurance contributions on behalf of Consultant or its personnel.
- Client will not withhold state and federal income tax from payment to Consultant.
- Client will not make disability insurance contributions on behalf of Consultant.
- Client will not obtain workers' compensation insurance on behalf of Consultant or its personnel.

## Article 6

### INTELLECTUAL PROPERTY RIGHTS

**6.1 Confidentiality.** Consultant shall maintain in strict confidence, and shall use and disclose only as authorized by Client, all information of a competitively sensitive or proprietary nature that it receives in connection with the work performed for Client pursuant to each Work Order. Consultant shall require its personnel to agree to do likewise. Client shall take reasonable steps to identify for the benefit of Consultant and its personnel any information of a competitively sensitive or proprietary nature, including by using confidentiality notices in written material where appropriate. These restrictions shall not be construed to apply to (1) information generally available to the public; (2) information released by Client generally without restriction; (3) information independently developed or acquired by Consultant or its personnel with reliance in any way on other protected information of Client; or (4) information approved for the use and disclosure of Consultant or its personnel without restriction. Notwithstanding the foregoing restrictions, Consultant and its personnel may use and disclose any information (1) to the extent required by an order of any court or other governmental authority or (2) as necessary for it or them to protect their interest in this Agreement, but in each case only after Client has been so notified and has had the opportunity, if possible, to obtain reasonable protection for such information in connection with such disclosure.

**6.2 Ownership of Work Product.** All copyrights, patents, trade secrets, or other intellectual property rights associated with any ideas, concepts, techniques, inventions, processes, or works of authorship developed or created by Consultant or its personnel during the course of performing Client's work (collectively, the "Work Product") shall belong exclusively to Client and shall, to the extent possible, be considered a work made for hire for Client within the meaning Title 17 of the United States Code. Consultant automatically assigns, and shall cause its personnel to automatically assign, at the time of the creation of the Work Product, without any requirement of further consideration, any right, title, or interest it or they may have in such Work Product, including any copyrights or other intellectual property rights pertaining thereto. Upon request of Client, Consultant shall take such further actions, and shall cause its personnel to take such further actions, including execution and delivery of instruments of conveyance, as may be appropriate to give full and proper effect to such assignment.

**6.3 Residual Rights of Personnel.** Notwithstanding anything to the contrary herein, Consultant and its personnel shall be free to use and employ its and their general skills, know-how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, or skills gained or learned during the course of any assignment, so long as it or they acquire and apply such information without disclosure of any confidential or proprietary information of Client and without any unauthorized use or disclosure of Work Product.

**6.4 Non-Compete.** Client undertakes not to compete with Consultant on any accounts disclosed by Consultant to Client during the terms of this Agreement and for 6 months thereafter. Client also agrees to work through Consultant on any matters concerning any such disclosed accounts during the terms of this Agreement. Breach of this clause by Client could result in significant loss of revenues to Consultant, and Consultant shall seek compensation and other damages from Client resulting from such a breach.

## Article 7

### HIRING OF PERSONNEL AND SUBCONTRACTORS

**7.1 Additional Value From Hiring.** Client acknowledges that Consultant provides a valuable service by identifying and assigning personnel and/or subcontractors for Client's work. Client further acknowledges that Client would receive substantial additional value, and Consultant would be deprived of the benefits of its work force if Client were to directly hire Consultant's personnel and/or subcontractors after they have been introduced to Client by Consultant.

**7.2 No Hiring Without Prior Written Consent.** Without the prior written consent of the other party, neither Client nor Consultant shall recruit or hire any personnel or subcontractor of the other party who are or have been assigned to perform work regarding any Work Order until one (1) year after the completion of the last Work Order in effect between the parties.

## **Article 8**

### **LIMITATIONS**

**8.1 Disclaimer.** CONSULTANT DOES NOT MAKE ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES RENDERED BY ITS PERSONNEL OR THE RESULTS OBTAINED FROM THEIR WORK, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL CONSULTANT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR INDIRECT DAMAGES, OR FOR ACTS OF NEGLIGENCE THAT ARE NOT INTENTIONAL OR RECKLESS IN NATURE, REGARDLESS OF WHETHER IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**8.2 Total Liability.** Client agrees that Consultant's liability hereunder for damages, regardless of the form of action, shall not exceed the total amount paid for services under the applicable estimate or in the authorization for the particular service if no estimate is provided.

**8.3 Force Majeure.** Consultant shall not be liable to Client for any failure or delay caused by events beyond Consultant's control, including, without limitation, Client's failure to furnish necessary information, sabotage, failures or delays in transportation or communication, failures or substitution of equipment, labor disputes, accidents, shortages of labor, fuel, raw materials, or equipment, or technical failures.

## **Article 9**

### **GENERAL PROVISIONS**

**9.1 Notices.** Any notices to be given hereunder by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the parties at the addresses appearing in the introductory paragraph of this Agreement, but each party may change such address by written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated as of two days after mailing.

**9.2 No Discrimination.** Consultant agrees that in the performance of this Agreement it will not discriminate or permit discrimination against any person or group of persons on the grounds of sex, race, color, religion, or natural origin in any manner prohibited by the laws of the United States.

**9.3 Insurance.** To the extent that Consultant's personnel may perform work at Client's premises, Client shall maintain comprehensive general liability insurance, including broad form property damage coverage, with limits of at least \$1 million combined single limit for personal injury and property damage for each occurrence.

**9.4 Entire Agreement of the Parties.** This agreement supersedes any and all other agreements, either oral or written, between the parties hereto with respect to the rendering of services by Consultant for Client and contains all the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this agreement acknowledges that no representation, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, that are not embodied herein, and that no other agreement, statement, or promise not contained in this agreement shall be valid or binding. Any modification of this agreement will be effective only if it is in writing signed by the party to be charged.

**9.5 Partial Invalidity.** If any provision in this agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

**9.6 Parties In Interest.** This Agreement is enforceable only by Consultant and Client. The terms of this Agreement are not a contract or assurance regarding compensation, continued employment, or benefit of any kind to any of Consultant's personnel assigned to Client's work, or any beneficiary of any such personnel, and no such personnel, or any beneficiary thereof, shall be a third-party beneficiary under or pursuant to the terms of this Agreement.

**9.7 Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Pennsylvania.

**9.8 Successors.** This agreement shall inure to the benefit of, and be binding upon, Consultant and Client, their successors and assigns.

## **Article 10**

### **RESPONSIBILITIES OF CONSULTANT**

**10.1 License Agreements.** Consultant is a partner/reseller of software from a number of product manufacturers, and as such, have the following responsibilities;

- Recommending the use of such products to Client to the degree that the individual software provides the necessary functionality to meet their documented requirements
- In such case that a software license agreement is required, ensure that said agreement, provided by each manufacturer, is executed directly between client and the manufacturer
- In such case that a software maintenance agreement is required, ensure that said agreement, provided by each manufacturer, is executed directly between client and the manufacturer

**10.2 Maintenance Support.** Under each maintenance agreement executed between a product manufacturer and Client and whereby Consultant provides Tier1 support under such agreement, Consultant shall provide the following;

- Maintenance and technical support services for the software and the delivery of generally released upgrades and enhancements with respect to such software. "Delivery" is defined as providing access to the software upgrades through distributable electronic media or downloadable mechanism
- Single point of contact to resolve all properly reported software defects and issues as Tier 1 level support
- Escalation as necessary and interface with the appropriate software manufacturer for any issue that cannot be resolved at the Tier 1 support level. Manufacturer shall serve as Tier 2 and Tier 3 support
- Answer any questions both prior to the completion of the installation of the solution and during its use as it relates to software defects

**10.3 Services Provided.** Consultant shall provide all necessary services to implement the solution defined under the Statement of Work including installation, configuration, modification, and pre and post go-live support.

**10.4 Single Point of Contact.** Consultant shall serve as the single point of contact to Client for all aspects of the solution and all third party software providers.

*Accepted By:*

**Consultant:**  
eDocs Technologies, LLC

---

*Signature*

---

*Name (printed)*

---

*Title*

---

*Date*

*Accepted By:*

**Client:**

---

*Signature*

---

*Name (printed)*

---

*Title*

---

*Date*