



BOARD OF SUPERVISORS AGENDA ITEM REPORT

CONTRACTS / AWARDS / GRANTS

☒ Award ☐ Contract ☐ Grant

Requested Board Meeting Date: 11/06/18

* = Mandatory, information must be provided

or Procurement Director Award ☐

***Contractor/Vendor Name/Grantor (DBA):**

ZyLAB North America, LLC. (Headquarters: McLean, VA)

***Project Title/Description:**

eDiscovery Software

***Purpose:**

Amendment of Award: Master Agreement No. MA-PO-19-067. This amendment of award cancels the original award from the highest scoring proposal, Exterro, Inc. under MA-PO-18-304, and awards to the second highest scoring proposal, ZyLAB North America, LLC., under MA-PO-19-067 for the reasons stated in the attached memorandum. The initial term of this award is for one (1) year with four (4) one-year renewal options in the not-to-exceed award amount of \$1,037,533.09, which consists of an initial expenditure amount of \$491,180.00 (including sales tax), and subsequent annual expenses in the not-to-exceed amount of \$146,000.00 for years 2 through 5.

Administering Department: Information Technology.

***Procurement Method:**

Pursuant to Pima County Procurement Code 11.12.020, Competitive sealed proposals, On 07/03/18, the Board of Supervisors approved an award to Exterro, Inc. for an initial term of one (1) year in the annual award amount of \$353,000.00 (including sales tax) and included four (4) one-year renewal options.

PRCUID: 287802

Attachments: Departmental Memorandum and Master Agreement.

***Program Goals/Predicted Outcomes:**

Implementation of a public records request and litigation hold software system that provides processing, efficiency and tools to streamline the public records and litigation process.

***Public Benefit:**

Improved performance by the County in response to public records requests. Further, improved litigation hold and document production processes will save County resources and ensure compliance with court rules.

***Metrics Available to Measure Performance:**

Response time to fully satisfy a request as well as response standardization by using structured tools and workflows.

***Retroactive:**

No

Contract / Award Information

Document Type: MA Department Code: PO Contract Number (i.e., 15-123): 19-067
Effective Date: 11/06/18 Termination Date: 11/05/19 Prior Contract Number (Synergen/CMS): _____
☒ Expense Amount: \$* 1,037,533.09 ☐ Revenue Amount: \$ _____

*Funding Source(s) required: ITD Internal Service Fund

Funding from General Fund? ☐ Yes ☒ No If Yes \$ _____ % _____

Contract is fully or partially funded with Federal Funds? ☐ Yes ☒ No

*Is the Contract to a vendor or subrecipient? Vendor

Were insurance or indemnity clauses modified? ☐ Yes ☒ No

If Yes, attach Risk's approval

Vendor is using a Social Security Number? ☐ Yes ☒ No

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment / Revised Award Information

Document Type: _____ Department Code: _____ Contract Number (i.e., 15-123): _____

Amendment No.: _____ AMS Version No.: _____

Effective Date: _____ New Termination Date: _____

Prior Contract No. (Synergen/CMS): _____

☐ Expense or ☐ Revenue ☐ Increase ☐ Decrease Amount This Amendment: \$ _____

Is there revenue included? ☐ Yes ☐ No If Yes \$ _____

*Funding Source(s) required: _____

Funding from General Fund? ☐ Yes ☐ No If Yes \$ _____ % _____

Grant/Amendment Information (for grants acceptance and awards) ☐ Award ☐ Amendment

Document Type: _____ Department Code: _____ Grant Number (i.e., 15-123): _____

Effective Date: _____ Termination Date: _____ Amendment Number: _____

☐ Match Amount: \$ _____ ☐ Revenue Amount: \$ _____

*All Funding Source(s) required: _____

*Match funding from General Fund? ☐ Yes ☐ No If Yes \$ _____ % _____

*Match funding from other sources? ☐ Yes ☐ No If Yes \$ _____ % _____

*Funding Source: _____

*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?

Contact: Stephen Romero, Principal Buyer

Department: Procurement

Department Director Signature/Date: _____

Deputy County Administrator Signature/Date: _____

County Administrator Signature/Date: _____

(Required for Board Agenda/Addendum Items)



Date: October 23, 2018

To: C.H. Huckelberry
County Administrator

From: Dan Hunt
Chief Information Officer

Through: Tom Burke
Deputy County Administrator

Re: Electronic Discovery (eDiscovery) Vendor Selection

Pima County awarded a contract to Exterro for an Electronic Discovery (eDiscovery) software system. This system will be utilized by staff from the Clerk of the Board and the County Attorney to search electronic media meeting the criteria of a Public Records Request or a Litigation Hold.

All vendors who submitted bids were required to respond to a detailed questionnaire that provided an in depth view into the capabilities of their system as compared to the documented needs of the County, demonstrate the system's capabilities, and provide detailed pricing proposals. Based on these criteria, Exterro was the successful bidder. During implementation planning sessions it became apparent that Exterro could not perform consistent with its responses to the solicitation. These discrepancies are documented in the attached letter to Exterro from Mary Jo Furphy on behalf of Pima County Procurement.

Exterro misrepresented their products and in an effort to retain the business of Pima County, they attempted to negate the conditions of the RFP by proposing a cloud-hosted solution for all aspects of the offering. Due to the deficiencies, Pima County Procurement informed Exterro on August 3, 2018, that they needed to remediate the deficiencies or the award would be rescinded. Exterro was unable or unwilling to remediate the deficiencies.

The second highest respondent to the RFP was ZyLAB. We recommend the contract be awarded to ZyLAB.

Attachment

Copy: Julie Castaneda, Clerk of the Board
Mary Jo Furphy, Procurement Director
Ana Wilber, Procurement Administrative Support Services Manager
Mark Hayes, ITD Chief Deputy Director



PIMA COUNTY PROCUREMENT DEPARTMENT
130 W. CONGRESS ST., 3RD FLOOR, TUCSON, AZ 85701-1207
PHONE: (520) 724-8161 FAX: (520) 222-1484

Mary Jo Furphy
Procurement Director

Via Email Only: kipp.mitchell@exterro.com

August 3, 2018

Mr. Kipp Mitchell, Account Executive
Exterro, Inc.
4145 SW Watson Ave., Ste. 400
Beaverton, OR 97005

RE: Contract No. MA-PO-18-304 eDiscovery Software Notice of Intent and Ability to Perform

Dear Mr. Mitchell:

Pima County requires Exterro, Inc. to acknowledge their intent and ability to perform to the requirements of Contract No. MA-PO-18-304 eDiscovery Software. The contract award was made effective July 3, 2018, and based on post award discussions, the County has reason to question Exterro, Inc.'s intent and ability to perform pursuant to the contract.

The lack of clarity in recent technical discussions and Exterro's appearance of inability to meet the required contractual specifications have delayed the implementation of eDiscovery within Pima County. In order to ensure that the issues are fully and completely addressed, and to ensure that Exterro can in fact meet the required system specifications and requirements in accordance with MA-PO-18-304, County is requesting a comprehensive response to the following issues of concern related to eDiscovery implementation:

Issue of Concern # 1:

The RFP required system configuration guides to be included in proposals. Exterro responded with a deferral to protect their IP until we had an agreement in place. However, Exterro did assert in their written response full compliance with our technical environment standards. We proceeded with the evaluation on that basis. The documentation Pima County received after the award showed Exterro's solution was not compliant.

Issue of Concern # 2:

The RFP clearly stipulated Pima County's intent to source a fully on-premise solution. County requirements included a public facing portal. Exterro, Inc. responded in writing that they complied with the requirements. At the time of Exterro's proposal, their public facing portal was not a shipping product. We had direct conversation about the state of portal development and forecasted availability. Throughout those discussions, Exterro never stated their public portal offering would be an exclusively cloud-hosted service.

Issue of Concern # 3:

The RFP detailed Operational Environment Compliance requirements. They established Pima County as having an exclusively Microsoft foundation for our enterprise applications. Exterro, Inc. responded

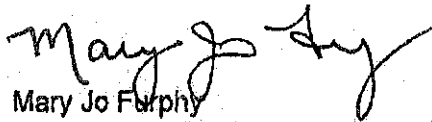
that they complied with the requirements. The system specifications Exterro delivered post award showed the Exterro solution is built on a Linux foundation. The Linux foundation does not meet the contractual requirements.

This contract award relied on Exterro's assurances that it fully complied with the contract specifications. If that is not the case, Pima County, at its discretion, may rescind the award.

Exterro is required to respond to all items stated above and submit a written response to Pima County. Exterro's response should also include written confirmation that they can and intend to perform and meet all technical requirements related to this contract.

Your response must be emailed to me at maryjo.furphy@pima.gov no later than 5:00 PM (Arizona time) on August 8, 2018.

Sincerely,



Mary Jo Furphy
Procurement Director

cc: Karthik Palani, EVP Global Operations
Bobby Jahanbani, Vice President, Sales
Dan Hunt, Chief Information Officer
Mark Sauer, ITD Relationship Manager
Ana Wilber, Materials & Services Division Manager
Sal Servin, Procurement Officer



MASTER AGREEMENT

PIMA COUNTY, ARIZONA

THIS IS NOT AN ORDER - TRANSMISSION CONSTITUTES
CONTRACT EXECUTION

Master Agreement No: 19000000000000000067

MA Version: 1

Page: 1 of 3

Description: eDiscovery Software

I S S U E R	Pima County Procurement Department	T E R M S	Initiation Date: 11-06-2018				
	130 W. Congress St. 3rd Fl		Expiration Date: 11-05-2019				
	Tucson AZ 85701						
	Issued By: STEPHEN ROMERO						
	Phone: 5207243021						
	Email: stephen.romero@pima.gov						
		<table border="1"><tr><td>NTE Amount:</td><td>\$1,037,533.09</td></tr><tr><td>Used Amount:</td><td>\$0.00</td></tr></table>		NTE Amount:	\$1,037,533.09	Used Amount:	\$0.00
NTE Amount:	\$1,037,533.09						
Used Amount:	\$0.00						

V E N D O R	ZyLAB North America LLC	Contact: Nils Nugteren
	7918 Jones Branch Suite 230	Phone: 703-442-2400
	McLean VA 22102	Email: nils.nugteren@zylab.comm
		Terms: 0.00 %
		Days: 30

Shipping Method: Vendor Method
Delivery Type: Standard Ground
FOB: FOB Dest, Freight Prepaid

Modification Reason

This Master Agreement is for an initial term is for one (1) year with four (4) one-year renewal options in the not-to-exceed award amount of \$1,037,533.09, which consists of an initial expenditure amount of \$491,180.00 (including sales tax), and subsequent annual expenses in the not-to-exceed amount of \$146,000.00 for years 2 through 5.

Attachment: Offer Agreement.

This Master Agreement incorporates the attached documents, and by reference all instructions, Standard Terms and Conditions, Special Terms and Conditions, and requirements that are included in or referenced by the solicitation documents used to establish this agreement. All transactions and conduct are required to conform to these documents.



MASTER AGREEMENT DETAILS

Master Agreement No: 1900000000000000067

MA Version: 1

Page: 2 of 3

Line	Description					
1	Collection & Processing- 32 cores					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$152,000.00			
2	Global Professional OCR engine- 32 cores					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$12,800.00			
3	Information Management Platform- 8 cores					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$17,000.00			
4	Legal Review & Production- 40 reviews					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$90,000.00			
5	Exchange Collector- 1 collector					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$2,500.00			
6	File System Collector- 1 collector					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$2,500.00			
7	Review Matter Collector- 1 collector					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$2,500.00			
8	SharePoint Collector- 1 collector					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$2,500.00			
9	GovQA Public Records Service					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$52,800.00			
10	ZyLAB Annual Software Support & Maintenance Fees YR 1					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$70,450.00			
11	On Contract signing					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$5,300.00			
12	Activity 1- Project Kick-Off Completion Criteria Completed					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$0.00			
13	Activity 2- Planning Completion Criteria Completed					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$9,950.00			
14	Activity 3- Installation Criteria Completed					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$9,950.00			
15	Activity 4- Configuration Completion Criteria Completed					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$6,000.00			
16	Activity 5- Implementation GovQA Portal					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$7,150.00			
17	Activity 6- User Acceptance Testing Support Completed					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$5,300.00			
18	Activity 7- GovQA Training Completed					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$3,300.00			
19	Activity 8- ZyLAB Training Completed					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$6,000.00			



MASTER AGREEMENT DETAILS

PIMA COUNTY

Master Agreement No: 19000000000000000067

MA Version: 1

Page: 3 of 3

Line	Description					
20	On-site Installation Travel Expense					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$2,500.00			
21	On-site Training Travel Expense					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$2,500.00			
22	ZyLAB & GovQA Annual Software/Support Fees Yr 2					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$128,356.50			
23	ZyLAB & GovQA Annual Software/Support Fees Yr 3					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$133,686.65			
24	ZyLAB & GovQA Annual Software/Support Fees Yr 4					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$139,250.67			
25	ZyLAB & GovQA Annual Software/Support Fees Yr 5					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$145,059.28			

REVISED OFFER AGREEMENT

1. INTENT:

This document is intended to establish a Master Agreement ("MA") to provide Pima County ("County") with software that will structure, expedite, and make auditable the process of fulfilling public records requests and litigation holds, eDiscovery, on an "as required basis" by issue of Delivery Order ("DO").

As defined by the Pima County Standard Terms and Conditions included herein, this contract is non-exclusive and County may terminate it for any reason without penalty or cost.

All Goods and Services that Contractor offers or provides pursuant to the contract will conform to the requirements defined by or referred to by the solicitation documents including *Solicitation Addenda*, *Instructions to Offerors*, *Standard Terms and Conditions*, and this *Revised Offer Agreement*, all of which are incorporated herein together with the *Contract Rider* (Exhibit A hereto), the modified *ZyLAB License, Maintenance and Support Conditions* (Exhibit B, hereto), the modified *ZyLAB Product Order Form* (Exhibit C, hereto), the modified *ZyLAB Professional Services Agreement* (Exhibit D, hereto), and the *ZyLAB Statement of Work* (Exhibit E, hereto).

This document, including all attachments and documents incorporated by reference, constitutes the entire contract between the parties pertaining to the subject matter hereof, and merges all prior or contemporaneous agreements and understandings, oral or written, herein.

In the event of conflict between documents, the MA will be interpreted, in descending priority, using the *Contract Rider*, this *Revised Offer Agreement*, the *Standard Terms and Conditions*, the *ZyLAB License, Maintenance, and Support Conditions*, the modified *ZyLAB Product Order Form*, the modified *ZyLAB Professional Services Agreement* (Exhibit D, hereto), and the *ZyLAB Statement of Work* (Exhibit E, hereto).

2. CONTRACT TERM, RENEWALS, EXTENSIONS & REVISIONS:

The initial term of the Master Agreement will be for a one (1) year period and includes four (4) one-year renewal options that the parties may exercise upon written agreement as follows:

Contract extensions, renewals, or revisions will occur through the issuance by County to Contractor of a revised Master Agreement document setting forth the requested changes. Failure by Contractor to object in writing to the proposed revisions, terms, conditions, scope modifications and/or specifications within ten (10) calendar days of issuance by County will signify acceptance of all such changes by Contractor and the revision will be binding upon the parties, effective on the date of issuance.

3. CONTRACTOR MINIMUM QUALIFICATIONS:

The Contractor certifies that it is competent, willing and responsible for performing the services or providing the products in accordance with all requirements of the solicitation and this contract. Contractor certifies that it possesses all licenses required by applicable Agencies to satisfy the requirements of this contract. See Exhibit C.

4. PRODUCT OR SERVICE SPECIFICATIONS & SCOPE:

A. General Definition of Products and/or Services

Contractor will provide a software solution to organize, track, process, and respond to public records requests and to comply with federal and state rules regarding litigation hold and discovery responses. Key processing steps of collecting, sorting, culling, tagging, and redacting are targets for automation. This solution must work within our existing environment and must result in substantial reduction in staff time currently dedicated to manually completing required tasks. Pima County expects the chosen vendor to lead the implementation effort, providing all necessary domain expertise to complement Pima County's subject matter experts in public records request processing and litigation hold compliance. Ongoing support is understood to be a key solution feature, providing ready access to qualified product experts when defects in software or business processes emerge, as well as when opportunities to extend the reach or capability of the solutions arise.

REVISED OFFER AGREEMENT

B. Item Specifications

Additional specifications can be found in **Exhibit A: eDiscovery Statement of Work (SOW)**.

5. OFFER ACCEPTANCE AND ORDER RELEASES:

County will accept offer(s) and execute this contract by issue of a MA (recurring requirements) to be effective on the document's date of issue without further action by either party. The MA will document the term of the agreement.

Pursuant to the executed MA, County departments requiring the goods or services defined herein will issue a DO to the Contractor. County will furnish the DO to Contractor via facsimile, e-mail or telephone. **If County gives the order verbally, the County Department issuing the order will transmit a confirming order document to Contractor within five (5) workdays of the date it gives the verbal order.**

Contractor must not supply materials or services that are not specified on the MA and are not documented or authorized by a DO at the time of provision. County accepts no responsibility for control of or payment for materials or services not documented by a County DO.

Contractor will establish, monitor, and manage an effective contract administration process that assures compliance with all requirements of this contract. In particular, Contractor will not provide goods or services in excess of the executed contract items, item quantity, item amount, or contract amount without prior written authorization by contract revision that County has properly executed and issued. Any items Contractor provides in excess of those stated in the contract are at Contractor's own risk. Contractor will decline verbal requests to deliver items in excess of the contract and will report all such requests in writing to the County Procurement Department within one (1) workday of the request. The report must include the name of the requesting individual and the nature of the request.

6. ACCEPTANCE OF GOODS AND SERVICES:

The County Department designated on the issued order (DO) will accept goods and services only in accordance with this contract. Such acceptance is a prerequisite to the commencement of payment terms.

7. COMPENSATION & PAYMENT: SEE EXHIBITS C&E FOR COSTS

Contractor will submit Request(s) for Payment or Invoices to the location and entity defined by County's DO document.

All Invoice documents will reference the County's DO number under which the services or products were ordered. **ALL** Invoice line items will utilize the item description, precise unit price and unit of measure defined by the County's order document. County may return invoices that include line items or unit prices that do not match those documented by the County's order to Contractor unprocessed for correction. **Contractor will not accept orders, or provide services or products that cumulatively exceed the contract amount.**

Standard payment terms are net thirty (30) days from the date of valid invoice document and do not commence until the later of 1) the receiving County Department receives goods or services into County's payment system or 2) County Financial Operations receives and verifies Contractor's invoice.

OPTIONAL EARLY PAYMENT DISCOUNT TERM: Pima County Administrative Procedure No. 22-35 section 2.2.4 defines County's practice regarding discounts for early payment. Contractor offers the following discounts to those prices to be used for all orders issued pursuant to this contract. County will utilize the existing payment code that best matches that offered and does not exceed the offered discount percentage. Payment days cannot be less than ten (10) calendar days. Contractor must submit valid invoice document consistent with the associated DO to County Finance Department at least seven (7) calendar days prior to the date on which the discounted payment is due. If desired, for any order issued pursuant with this contract, Contractor may offer early payment discounts that exceed this Standard Early Payment Discount.

REVISED OFFER AGREEMENT

Standard Early Payment Discount Percent: 0% if payment tendered within _____ Days as above.

The MA issued to accept Contractor's offer will define the not-to-exceed amount of the contract.

The parties may negotiate and establish unit pricing in writing under the contract for items included in the scope of the contract that has not previously defined unit pricing.

Unless the parties otherwise agree in writing, all pricing will be *F.O.B. Destination & Freight Prepaid Not Billed* ("*F.O.B. Destination*"). Contractor will deliver and unload products or services at the destination(s) that the delivery article of this contract or accepted *Order* indicates. The offered Unit Price must include all freight costs.

Although an order may not fully define State and City sales tax, County will pay such taxes as are DIRECTLY applicable to Pima County and Contractor invoices such taxes as a separate line item. Contractor must not include such taxes in the item unit price.

Price Warranty. Contractor will give Pima County the benefit of any price reduction before actual time of shipment.

Price Escalation. All unit prices include compensation for Contractor to implement and actively conduct cost and price control activities. Pricing will remain firm during the initial year of the contract term after which the parties may consider price increases no more frequently than once per year. Contractor will submit a written request to County that includes supporting documents justifying requested increases at least ninety (90) days prior to the renewal date. Contractor will provide evidence, cite sources, demonstrate specific conditions and document how those conditions affect the cost of its performance, and identify specific efforts Contractor has taken to control and reduce those and other costs to avoid the need to increase prices. County will review proposed pricing and determine if it is allowable, fair and reasonable, and in the best interest of County to accept the proposal. County reserves the right to continue, accept or reject the price proposal, or terminate and re-solicit the contract.

All pricing will conform to Pima County's Living Wage ordinance if applicable, including required annual adjustments of the wage.

Quantities in this solicitation are estimates only. County reserves the right to increase or decrease quantities and amounts. County makes no guarantee regarding actual orders for items or quantities during the term of the agreement. County is not responsible for Contractor inventory or order commitment.

Contractor's unit prices must include all incidentals and associated costs required to comply with and satisfy all requirements of this solicitation, which includes the *Instructions to Offerors*, *Standard Terms and Conditions*, and Proposal Agreement. County will make no payments for items not in the contract.

Contractor will provide detailed documentation in support of payment requests, which should be consistent with and not exceed County's DO document. Contractor will bill County within one (1) month after the date on which Contractor's right to payment accrues ("Payment Accrual Date"), which, unless this contract specifically provides otherwise, is the date Contractor delivers goods, performs services or incurs costs. Invoices must assign each billed amount to an appropriate line item of County's order and document each Payment Accrual Date. County may refuse to pay any amount that Contractor bills in which does not conform to County's DO document. County will refuse to pay any amount that Contractor bills more than six (6) months after the Payment Accrual Date, pursuant to A.R.S. § 11-622(C).

8. DELIVERY:

As defined by the Standard Terms, "On-Time" delivery is an essential part of the consideration to be given to COUNTY under the contract. Delivery will be made in accordance with the Instructions to Bidders,

REVISED OFFER AGREEMENT

Standard Terms and Conditions and to the location(s) referenced on the Delivery Order or Delivery Order Maximo or Contract.

9. TAXES, FEES, EXPENSES:

County is exempt from federal excise taxes for goods. County is subject to State and City sales tax. County will pay no separate charges for delivery, drayage, express, parcel post, packing, insurance, license fees, permits, costs of bonds, surcharges, or bid preparation unless the contract expressly includes such charges and the solicitation documents itemizes them.

10. OTHER DOCUMENTS:

Contractor and COUNTY in entering into this contract have relied upon information provided or referenced by Pima County Solicitation No. 287802 including the Request for Proposal, Instructions to Offerors, Standard Terms and Conditions, Solicitation Addenda, Contractor's Proposal, documents submitted by Contractor or References to satisfy Minimum Qualifications and any other information and documents submitted by Contractor's response to County's Solicitation. These documents are hereby incorporated into and made a part of this Contract as if set forth in full herein, to the extent not inconsistent with the provisions of this contract.

11. INSURANCE:

The Insurance Requirements herein are minimum requirements for this Contract and in no way limit, the indemnity covenants contained in this Contract. Contractor's insurance shall be placed with companies licensed in the State of Arizona and the insureds shall have an "A.M. Best" rating of not less than A- VII. Pima County in no way warrants that the minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

11.1 Minimum Scope and Limits of Insurance:

Contractor shall procure and maintain, until all contractual obligations have been discharged, the insurance coverage with limits of liability not less than stated below. Pima County in no way warrants that the minimum insurance limits contained herein are sufficient to protect the Contractor from liabilities that arise out of the performance of the work under this Contract. The Contractor is free to purchase additional insurance that required by the County. If necessary, Contractor may obtain commercial umbrella or excess insurance to satisfy the County's Insurance Requirements.

11.1.1 Commercial General Liability (CGL) – Occurrence Form with limits of \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy shall include bodily injury, property damage, broad form contractual liability coverage, persona; and advertising injury and products – completed operations.

11.1.2 Business Automobile Liability – Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract with a Combined Single Limit (CSL) of \$1,000,000 each accident.

11.1.3 Workers' Compensation (WC) and Employers' Liability - Statutory requirements and benefits for Workers' Compensation. In Arizona, WC coverage is compulsory for employers of one or more employees. Employer's Liability coverage- \$1,000,000 each accident and each person - disease.

11.1.4 Claim-Made Insurance Coverage - If any part of the Required Insurance is written on a claims- made basis, any policy retroactive date must precede the effective date of this Contract, and Contractor must maintain such coverage for a period of not less than three (3) years following Contract expiration, termination or cancellation.

REVISED OFFER AGREEMENT

11.2 Additional Insurance Requirements:

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

Additional Insured: The General Liability and Business Automobile Liability Policies shall each be endorsed to include Pima County, its departments, districts, boards, commissions, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.

Subrogation: The General Liability, Business Automobile Liability and Workers' Compensation Policies shall each contain a waiver of subrogation endorsement in favor of Pima County, and its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

Primary Insurance: The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by Pima County, its agents, officials, or employees shall be excess and not contributory insurance.

Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.

Notice of Cancellation: Each Required Insurance policy must provide, and certificates specify, that County will receive not less than thirty (30) days advance written notice of any policy cancellation, except 10-days prior notice is sufficient when the cancellation is for non-payment of a premium. Notice shall include the Pima County project or contract number and project description.

11.3 Verification of Coverage:

Contractor shall furnish Pima County with certificates of insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

All certificates and endorsements, as required by this written agreement, are to be received and approved by Pima County before work commences. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance coverages or policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the appropriate County Department. The Certificate of Insurance shall include the Pima County project or contract number and project description on the certificate. Pima County reserves the right to require complete copies of all insurance policies required by this Contract at any time.

11.4 Approval and Modifications:

The Pima County Risk Manager may approve a modification of the Insurance Requirements without the necessity of a formal Contract amendment, but the approval must be in writing. Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, or the County's receipt of any other information from the Contractor, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

13. PERFORMANCE BOND: N/A

REVISED OFFER AGREEMENT

14. ACKNOWLEDGEMENT of SOLICITATION ADDENDA:

Contractor acknowledges that it incorporates the following solicitation addenda in its offer and this contract:

Addendum #	Date	Addendum #	Date	Addendum #	Date
No 01	March 20 '18				

15. SMALL BUSINESS ENTERPRISE (SBE) CERTIFICATION: [Not Applicable if not competed; Coop, SS, LC, etc.]

Is your firm SBE-certified as defined by the solicitation "*Instruction to Offerors*" section? Yes ☐ No ☒ (Select one)

If 'Yes', have you included your certification document? Yes ☐ No ☐ (Select one)

NOTE: If you do not submit the SBE Certification document with your bid, County will not apply the SBE Preference.

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REVISED OFFER AGREEMENT

16. BID/OFFER CERTIFICATION:

CONTRACTOR LEGAL NAME: ZyLAB North America LLC

BUSINESS ALSO KNOWN AS: ZyLAB

MAILING ADDRESS: 7918 Jones Branch Dr #230

CITY/STATE/ZIP: McLean, VA 22102

REMIT TO ADDRESS: (same)

CITY/STATE/ZIP: (same)

CONTACT PERSON NAME/TITLE: Nils Nugteren – EVP Sales North America

PHONE: (703) 442-2400 FAX: N/A

CONTACT PERSON EMAIL ADDRESS: Nils.Nugteren@ZyLAB.Com

EMAIL ADDRESS FOR ORDERS & CONTRACTS: Nils.Nugteren@ZyLAB.Com

CORPORATE HEADQUARTERS ADDRESS: Laarderhoogtweg 25, 1101 EB Amsterdam-Zuidoost, Netherlands

WEBSITE: www.zylab.com

By signing and submitting these Proposal Agreement documents, the undersigned certifies that they are legally authorized to represent and bind Contractor to legal agreements, that all information submitted is accurate and complete, that Contractor has reviewed the Pima County Procurement website for solicitation addenda and has incorporated all such addenda to its offer, that Contractor is qualified and willing to provide the items requested, and that Contractor will comply with all requirements of the solicitation. The Unit Pricing includes all costs incidental to the provision of the items in compliance with the above documents; no additional payment will be made. Conditional offers that modify the solicitation requirements may be deemed not 'responsive' and County may not evaluate them. Contractor's submission of a signed proposal agreement will constitute a firm offer and upon the issuance of a MA document issued by the Pima County Procurement Director or authorized designee will form a binding contract that will require Contractor to provide the goods or services and materials described in this solicitation. The undersigned hereby offers to furnish the goods or services in compliance with all terms, conditions, specifications that the solicitation defines or references, which includes Pima County Standard Terms & Conditions, this Proposal Agreement and other documents as listed in this Proposal Agreement's "Other Documents" article.

SIGNATURE: _____

DATE: 10/22/18

Nils Nugteren

PRINTED NAME & TITLE OF AUTHORIZED CONTRACTOR REPRESENTATIVE EXECUTING OFFER

PHONE AND E-MAIL: _____

Approved "As to Form"

Charles Wesselhoft
Deputy County Attorney
CHARLES WESSELHOFT

10-19-18
Date

122597 / 00617328 / v2

Offer Agreement

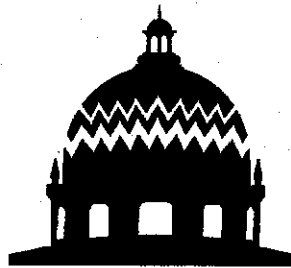
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Revised 12/15/17

Exhibit A: eDiscovery Statement of Work (SOW)

eDiscovery Statement of Work

**Public Records Request & Litigation Hold
Collection and Processing Automation**



PIMA COUNTY

Exhibit A: Statement of Work / Project Requirements

Document Summary

The purpose of this document is to describe the required capabilities of a proposed system and the project that will create it. It is the principle document made available to vendors in the RFP process.

Notices

Notice: Printed versions of this document may not be current. Verify issue date against the online document repository.

Project	Public Records Request and Litigation Hold Processing Automation
Customer	Pima County – Clerk of the Board
Document	Statement of Work
Date	Wednesday, February 21, 2018
File Name	eDiscovery SOW

Exhibit A: Statement of Work / Project Requirements

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1 Introduction

In order to fulfill public record request and litigation hold obligations in an expedient and efficient manner, Pima County is seeking an information system solution. The system will establish a public portal for submitting and gathering responses to public record requests, and will automate the issuance and maintenance of legal holds. This single, integrated system will perform data collection, automate analysis, processing, and review; as well as package results in common publish-ready or custom litigation document formats.

2 Scope

Pima County's current method of receiving and processing public records requests is entirely manual. Requests can be submitted in any manner and are recorded on a spreadsheet. A determination is made on which department(s) will satisfy the request. It is forwarded to the appropriate department(s), sometimes accompanied by large amount of manually extracted files. The processor of the request must sort through all the relevant documents, cull them by hand, reviewing each item. Redaction is a manual process. Once a request has been processed, the results are stored and typically sent to the requestor through a large-file email delivery service. Delivery methods can vary based on the requestors' preference.

The litigation hold process is also largely manual. The issuing attorney sends a hold notice to each document custodian. The Information Technology Department (ITD) receives a list of custodian names and takes a snapshot of each custodian's files. The resulting data is given to the issuing attorney to process using available means.

Pima's scope encompasses:

Identification: Identify potential sources of electronically stored information (ESI) covered by a request and determine scope, availability, and define search criteria.

Collection: Gather ESI relevant to the request.

Preservation: Ensure collected ESI is protected against inappropriate alteration or destruction

Analysis: Evaluate collected ESI for relevance, associate focus areas within collection with appropriate processing staff, and plan processing approach.

Processing: Remove duplicates, irrelevant material, and redact as necessary.

Review: Share processed collection with reviewers and gather feedback and direction to complete final processing.

Production: Prepare final collection for publication and package in target format for delivery to requestor.

Presentation: Issue results on publicly accessible platform.

Pima County's scale of operations includes:

Exhibit A: Statement of Work / Project Requirements

- 6500 Desktops
- 1500 Datacenter VMs
- 200 Non-virtualized datacenter hosts
- 1.5 PB total consumed storage, roughly half structured and half unstructured

Licensing proposal should cover:

Pima County Attorney's Office

10 fully permissioned users

15 - 20 cases per year with collections including up to 40,000 docs / case

Clerk of the Board / Departments

30 fully permissioned users

275 - 300 PRRs per year with up to 40,000 items to process per case

3 Responsibilities

3.1 Customer Responsibilities

As the owner of the supported business missions and the owner of the final solution, Customer will:

- Define the desired business outcomes, benefits and value
- Direct or perform administrative configuration of the solution to match intended use cases. Configuration tasks requiring a system administrator will be completed by ITD.
- Control the scope, contingency funds, and overall project value
- Monitor the project's progress, stakeholder's commitment, results achieved and identify emergent risks to success.
- Act to 'steer' the project into the organization, remove obstacles, manage the critical success factors and remediate project or benefit-realization shortfalls.
- Provide accessibility to subject matter experts
- Assist with testing and data validation during system development
- Create and execute a User Acceptance Test (UAT) Plan
- Sign off on each project phase, activities, and deliverables
- Provide ongoing administration and operation of the system
- Pay maintenance and support fees for vendor supplied components

Exhibit A: Statement of Work / Project Requirements

3.2 Vendor Responsibilities

As a primary provider of products and/or services in the course of the project, Vendor will:

- Provide system demos for users and answer questions
- Provide software and/or hardware and guide installation and configuration
- Make in-scope modifications or customizations to hardware and/or software
- Perform necessary data conversions
- Support system testing activities and problem resolution
- Provide ongoing technical and end user support
- Help define administrative and operational roles
- Provide administrator and end user training
- Meet all project timelines for vendor responsibilities

3.3 Information Technology Department Responsibilities

As a primary provider of enterprise technical services in the course of the project, Information Technology Department (ITD) will:

- Provide ongoing system administration and operational support of the platform
- Create and maintain project plans when necessary
- Document system requirements with departmental subject matter experts (SME's)
- Perform testing and data validation during system implementation
- Assist with UAT
- Sign off on each project phase, activities, and deliverables
- Provide ongoing technical support as needed

4 Regulatory Requirements

Arizona Revised Statutes, Title 39, Ch. 1, Article 2 Searches and Copies

<http://www.azleg.gov/ArizonaRevisedStatutes.asp?Title=39>

39-121 Inspection of public records

39-121.01 Definitions; maintenance of records; copies, printouts or photographs of public records; examination by mail; index

39-121.02 Action on denial of access; costs and attorney fees; damages

39-121.03 Request for copies, printouts or photographs; statement of purpose; commercial purpose as abuse of public record; determination by governor; civil penalty; definition

39-121.04 Public access to law enforcement records depicting certain witnesses or crime victims; victim rights

Exhibit A: Statement of Work / Project Requirements

39-122 Free searches for and copies of public records to be used in claims against United States; liability for noncompliance

39-123 Information identifying eligible persons; confidentiality; definitions

39-123.01 Personal identifying information of crime witnesses; confidentiality; definition

39-124 Releasing information identifying an eligible person; violations; classification; definitions

39-125 Information relating to location of archaeological discoveries and places or objects included or eligible for inclusion on the Arizona register of historic places; confidentiality

39-126 Federal risk assessments of infrastructure; confidentiality

39-126.01 Local government; telecommunications infrastructure records; nondisclosure; exceptions

39-127 Free copies of police reports and transcripts for crime victims; definition

39-128 Disciplinary records of public officers and employees; disclosure; exceptions

Arizona Rules of Civil Procedure

Federal Rules of Civil Procedure

Exhibit A: Statement of Work / Project Requirements

5 System Requirements

The following Requirements describe what behaviors the system will demonstrate.

Application Platform and User Interface	
Description	Additional Details
Operational Environment Compliance	
Microsoft Windows current version no more than one minor release behind current	
Microsoft Office current version (32bit)	
Browser compatibility no more than one major release behind current (Internet Explorer, Chrome, Safari, Firefox)	
Windows Server no more than one major release behind current	
Solution must work with any file name or file name length allowable by the OS	
Microsoft IIS current version	
Windows Enterprise Active Directory 2012 R2 Domain Function level Authentication only	Authentication only. Please detail how your solution could be configured to work in a multi-forest AD enterprise when two-way trust between domains isn't necessarily in place.
Solution must be fully functional within the enterprise using self-signed certificates	
SQL Server no more than one major release behind current	
Exchange 2016	
.NET Framework (latest release) no more than two minor releases behind current	
Microsoft SQL Reporting Services/Power BI on Prem no more than one major release behind current	
Virtualization on VMware ESXi 6.5 or later	
SharePoint no more than one major release behind current	
Client applications run without local administrator rights	
Client applications deployable through Microsoft System Center Configuration Manager	

Exhibit A: Statement of Work / Project Requirements

Minimal need for third-party add-ons or installation of native applications for viewing file types.	
Locally hosted solution	
Licensing should allow a non-production instance at no additional charge for routine pre-deployment testing and change validations.	
Feature and version upgrades <i>required</i> for sustaining vendor support should not be more frequent than every 24 months at a maximum. Mandatory security patches excepted.	
No deprecated or unsupported third parties technologies will be accepted	
Endpoint Agents	
Dependency on remote agents per endpoint (such as a user desktop indexing service) is limited to a per-project or per-collection basis.	Background processing and other persistently active services will be held to equally high compatibility and performance standards as the main application
System Management and Security Requirements	
User Access	
System should accommodate multitenancy.	System may be independently used by unaffiliated departments
System must enforce constraints on users which limit search scope to defined data stores or endpoints.	Users within a department should have search scope limited to that department based on AD security groups.
System must be able to support distinct groups of users with distinct work flows.	Collectors, analysts, reviewers, publishers, etc.
Security should support the ability to limit access to redactions, documents and tags to specific user's roles. Permissions should be configurable at any point in the review cycle.	
System Audit/Logging	
Ability to perform a user and access audit function that tracks all transactions by attribute. Should be sufficiently detailed to trace chain of custody and also track application administrator changes to the system.	User, location (IP address), action
Should allow for completely configurable archiving and record retention per conventional government record retention policies.	

Exhibit A: Statement of Work / Project Requirements

Security Compliance	
System must be CJIS and ACJIS compliant.	Configurable to use multiple storage locations for collection processing and collection storage, specified per project or defaulted per user role.
Collections should be encryptable as a default	
Functional Requirements: Public Facing Portal	
Information portal accessible to the public for submitting a public record request.	Include user defined keyword filtering and required fields, including identifying commercial and non-commercial use
Collection of applicable fees via request portal.	Baked in or could integrate with 3 rd party payment service
Ability to post completed request on an information portal that is publicly accessible.	
Functional Requirements: Collection	
Pre-Collection Audit Capability	
System should have the capability to run search criteria against a potentially relevant target and provide results without actually copying the underlying files.	
Structured Data Connectors	
Integrated collection capability should be included as part of the system without any additional cost of third-party tools.	<p>Minimum integrations:</p> <ul style="list-style-type: none"> • MS Exchange • MS SharePoint • File share system • OnBase eDMS • ShoreTel • MS SQL Server • SQL Server Reporting Services • ArchiveSocial <p>Please give general estimate in time and cost for custom connector development.</p>

Exhibit A: Statement of Work / Project Requirements

Integrated Litigation Hold	
System should include integrated litigation hold functionality, including ability to freeze by topic or custodian. System must be capable of automatically sweeping custodian files for newly created documents during life of hold.	Software must include: <ul style="list-style-type: none"> • Automated Privilege Log Creation • Bates Numbering Capability • Ability to handle non-standard document types • Ability to track, manage, and code email attachments • Metadata preservation for all documents • Ability to produce metadata with images of redacted documents
Targeted Collection Capability	
Collection tool should have full spectrum of collection criteria for both inclusion and exclusion based on user defined input.	Minimum criteria: <ul style="list-style-type: none"> • Keyword • Dates • By person or persons • By Folder • File extensions • File type
Incremental Collection Capability	
Solution should offer the ability to collect all modified or newly created data since the date of last acquisition.	
Functional Requirements: Analysis	
Workflow / Notifications	
System must support multiple custom workflows which support full delegation of duties. Workflow steps should be clearly broken out and allow for tasks. Customizable within the user interface.	
Customized notifications of pending tasks, approvals, and other workflow activities through email. System should provide baseline message templates as well as support full custom template development.	Should support notifications to non-users when broader stakeholder awareness is necessary.
Should allow for one or more users to be assigned to a records request and notify the assignee(s).	

Exhibit A: Statement of Work / Project Requirements

Deduplication Options	
Application should support a full range of deduplication options including user-defined identifiers. Duplicate identification should be flagged to note what items in the collection are duplicates and associate with counts.	Identifiers: <ul style="list-style-type: none"> • To: • From: • CC: • Bcc: • Subject: • Sent/Received time • Attachment count • Email Hash • Binary match • Approximate match
Near-Duplicate Capability	
Near-duplicate documents are identified and can be visually compared with highlights indicating differences.	
Email Discussion (thread) support	
Application should support a dedicated view of email data that allows for contextual understanding of the chain of communication, includes parties involved and subjects. Should support and easily navigable interface to sort according to a variety of email fields. Should automatically identify duplicates and ease management of same.	Email fields may include, but are not limited to: <ul style="list-style-type: none"> • To: (CC:, Bcc:) • From: • Subject: • Email domains • Display name • Data sent • Data received • Email with attachments • Email with replies • Internet headers (to be copied into each email record for production)
Metadata	
System must capture and be able to produce all email metadata. Processed messages should include full internet headers.	
Keyword Culling	

Exhibit A: Statement of Work / Project Requirements

System should have an efficient and effective method for analyzing and reducing a collection down to a manageable subset using keywords and keyword variations.	Filter criteria should include the following: <ul style="list-style-type: none"> • Stemming • Phonic • Synonym • Related • Fuzzy • Multi-word • Boolean Filtered results should offer in-document hit highlighting.
Pre-defined Filters	
Pre-defined filters should be available within the review interface for efficient culling of irrelevant files.	Filters could include, but are not limited to: <ul style="list-style-type: none"> • Encrypted Files • Duplicate Files • Graphics • System generated email • Email return receipts • Draft emails • Commercial email • Email sent to distribution groups
Automated Redaction	
System should offer automated redaction options by template, text pattern, or custom combinations and include text overlay for redaction masks. System should give user navigable list of redactions applied for quick review access.	
Bulk Tagging	
Auto-tagging by document type and other common attributes at the global and case level to expedite review.	
Optical Character Recognition	
Ability to analyze all image type documents creating searchable editable text.	
Functional Requirements: Reporting	
Result Set Production	
Production of result sets for publication in native format and flattened files (TIFF or PDF).	

Exhibit A: Statement of Work / Project Requirements

Tracking Record Requests	
System should capture all requestor (constituent) information for reporting, responding and tracking associated records request.	Captured info: <ul style="list-style-type: none"> • Record request unique identifier • Date of request (system generated) • Requestor (constituent) Info • Last Name • First Name • Salutation • Phone number • Address • Email address • Precinct or other custom fields • Request description • Response status (note multiple or partial responses)
General Reporting	
System should include baseline reports	Report request examples: <ul style="list-style-type: none"> • Dashboard view of current, past due requests, month to date requests • Unresolved requests • Identify number of requests by topic • Measurement of time taken to resolve request • Identify highest volume months • Adhoc query of any data captured about requests • Requests by assignee or department • Resolutions by assignee or department

6 Training

The Vendor will provide training to end users. Pima County will schedule and participate in training prior to system implementation. Pima County will create and maintain internal procedures for all aspects of system usage. Pima County will provide a means for future as-needed training for new staff or current staff in need of review. Vendor will provide system documentation and user guides in support of self-directed training.

7 Documentation

The Vendor will provide the following documentation:

- System Administration manual that covers system configuration and administration.
- Operator manual covering advanced user setup and configuration including administrating user roles and configuring complex workflows.
- User manual covering basic user operations

8 Change & Issue Management Approach

Any unplanned issue, risk, or change to project requirements may impact project cost, quality, and/or schedule. Each will be documented on the project SharePoint site and evaluated for its impact to the project. If the change request or issue resolution is deemed necessary after considering the impact to the overall project cost, quality, and/or schedule, the vendor and Pima will jointly determine how to best accommodate it.

9 Assumptions

- Adequate resources from Pima County will be retained throughout the life cycle of the project
- The software will work as represented and meet all capability and performance metric expectations as set by the vendor
- Pima will make funds available to cover approved scope increases or schedule extensions except for those resulting from vendor's or software's failure to perform as agreed.
- System implementation will be a continuous effort, uninterrupted by the demands of other customers.

10 Technical Support

Vendor technical support will be covered in the contractual negotiations with the vendor.

Additionally, ITD will assign a business analyst for this project with whom the primary stakeholders will have close contact through the project. As the project is developed further, ITD will add resources as necessary.

11 Sensitive Information

Vendors are required to have Non-Disclosure agreements in place to protect any proprietary or sensitive information.

The contents of this contract are confidential. Requests for a copy shall be submitted to the Clerk of the Board by completing a Public Records Request pursuant to County Administrative Procedure 4-4. The Public Records Request form can be located at webcms.pima.gov under the 'Quick Links' section. Release of confidential contract information involves a process above and beyond the basic Public Records Request process. This process will be performed by the Procurement Department after the Clerk of the Board receives the completed Public Records Request.

If you have any questions, please call (520)724-8161.

this Agreement. Licensee may run a non-production, no-cost instance of the solution to validate production changes.

2.2 Certain deliverables provided to Licensee may be subject to additional license terms, which license terms are set out in the applicable Product Order Form.

2.3 Any third party software provided by ZyLAB to Licensee under a Product Order Form shall be governed by the license agreement provided by the licensor of such third party software. The terms of this Agreement shall not apply to such third party software.

Section 3 Restrictions

3.1 In addition to those prohibitions contained elsewhere in this Agreement, Licensee shall not: (a) rent, lease, loan, sell, copy (except as permitted above), or distribute the Software in whole or in part; (b) use the Software or any portion thereof as a component of or a base for products or services prepared for commercial sale, sublicense, lease, access or distribution, including without limitation to provide processing services to third parties, for commercial timesharing or for rental or sharing arrangements; (c) remove, alter, obfuscate, and/or otherwise deface any ZyLAB trademarks or notices on the Software; (d) allow any third party to access or use the Software; or (e) modify, decompile, disassemble, reverse engineer or emulate the functionality of and/or create derivative works of the Software. The Agreement and licenses hereunder are specific to Licensee and may not be shared with, used by, provided to or otherwise made available to any third party. Except as expressly provided by the Agreement, no other licenses or rights are granted, expressly, or by implication or estoppel.

Section 4 Fees; Audit Rights

4.1 Licensee shall pay all fees invoiced by ZyLAB for the Software and the Maintenance and Support Services as set out in the applicable Product Order Form net thirty (30) days from the date of invoice. All fees are stated and payable in United States dollars. All fees are non-refundable.

4.2 Any fees Licensee does not pay when due shall accrue late charges at the rate of 1.5% per month on any unpaid balance until payment is delivered, or the highest rate permitted by law, whichever is lower. Licensee shall pay ZyLAB all reasonable costs and expenses of collection, including but not limited to attorneys' fees.

4.3 Licensee shall reimburse ZyLAB for all sales, use, excise, withholding or other taxes, fees or duties not based on ZyLAB's income, arising out of this Agreement.

4.4 Licensee shall keep complete and accurate books and records of its use of the Software at its principal place of business to demonstrate its compliance with this Agreement. ZyLAB may audit Licensee's use of the Software in order to verify compliance with this Agreement. A physical audit shall occur no more frequently than once annually at ZyLAB's expense. All audits shall be conducted during regular business hours at Licensee's site and shall not unreasonably interfere with Licensee's business activities. ZyLAB shall schedule any audit at least thirty (30) days in advance. If any audit by ZyLAB yields any deficiency in the amounts that should have been paid to ZyLAB, Licensee shall promptly remit payment to ZyLAB of such amounts plus interest calculated at a rate of 1.5% per month from the date on which such payment became due or the highest rate permitted by law, whichever is lower. In addition, if an audit by ZyLAB yields a deficiency of 5% or more in the amounts that should have been paid to ZyLAB, Licensee will promptly reimburse ZyLAB for all reasonable costs of the audit.

Section 5 Term and Termination

5.1 Unless earlier terminated as provided herein, this Agreement grants a perpetual license to the Software.

5.2 ZyLAB may terminate this Agreement (i) upon thirty (30) days prior written notice if Licensee breaches any provision of this Agreement and fails to cure such breach within the thirty (30) day notice period,

including without limitation failure to pay any fees due and owing to ZyLAB for the Software; or (ii) immediately if Licensee terminates its business activities or becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors or becomes subject to direct control of a trustee, receiver or similar authority.

5.3 Termination shall become effective immediately or upon the date set forth in the written notice of termination and shall be in addition to any other rights or remedies available to ZyLAB at law or equity. Upon termination of this Agreement, Licensee shall immediately return to ZyLAB or destroy all copies of the Software and any documentation, including any copies or partial copies, and certify in writing to ZyLAB that it has done so.

5.4 Section 1, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14 and 16 shall survive termination of this Agreement.

Section 6 Software Warranty

6.1 ZyLAB warrants to Licensee that, for a period of ninety (90) days from the effective date of the applicable Product Order Form (the "Warranty Period"), the Software delivered pursuant to such Product Order Form will perform substantially in accordance with the documentation accompanying such Software. If the Software fails to perform substantially in accordance with the documentation, Licensee must notify ZyLAB in writing within the Warranty Period. If ZyLAB receives such notice within the Warranty Period, ZyLAB shall use commercially reasonable efforts to repair or replace the Software to make it perform in accordance with the documentation. If, after using commercially reasonable efforts, ZyLAB is not able to replace or repair the Software so that it performs substantially in accordance with the documentation, Licensee may terminate this Agreement upon written notice to ZyLAB and ZyLAB shall refund to Licensee the fees paid by Licensee for such nonconforming Software. The foregoing are Licensee's sole and exclusive remedies for breach of this warranty. The warranty set forth in this Section 6.1 shall not apply if: (i) the Software has not been properly installed and used at all times in accordance with the Documentation and supported platforms; (ii) Licensee (either itself or via a third party on its behalf) has modified the Software; or (iii) Licensee has combined the Software with other software or hardware not provided by ZyLAB.

6.2 EXCEPT FOR THE WARRANTY EXPRESSLY SET FORTH IN SECTION 6.1 ABOVE, THE SOFTWARE IS PROVIDED "AS IS" AND WITHOUT WARRANTY BY ZYLAB AND/OR ANY OF ITS LICENSORS OF ANY KIND. TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, ZYLAB AND/OR ANY OF ITS LICENSORS EXPRESSLY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTY OF NON-INFRINGEMENT. THERE IS NO WARRANTY THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE WILL MEET LICENSEE'S REQUIREMENTS, OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR-FREE. ZYLAB AND/OR ANY OF ITS LICENSORS DO NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE SOFTWARE WITH RESPECT TO ITS PERFORMANCE, ACCURACY, RELIABILITY, SECURITY CAPABILITY OR OTHERWISE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ANY PERSON SHALL CREATE A WARRANTY IN ANY WAY WHATSOEVER RELATING TO ZYLAB AND/OR ANY OF ITS LICENSORS.

Section 7 Limitation of Liability

7.1 IN NO EVENT WILL ZYLAB, ITS DIRECTORS, EMPLOYEES, LICENSORS OR AGENTS BE LIABLE TO LICENSEE FOR ANY INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, AND THE LIKE) ARISING OUT OF THIS AGREEMENT, EVEN IF ZYLAB AND/OR ITS AGENTS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT AS APPLIED IN A PARTICULAR CIRCUMSTANCE ANY DISCLAIMER OR LIMITATION ON DAMAGES OR LIABILITY SET FORTH HEREIN IS WHOLLY PROHIBITED BY APPLICABLE LAW, THEN ZYLAB SHALL BE ENTITLED TO THE MAXIMUM DISCLAIMERS AND/OR LIMITATIONS ON

The contents of this contract are confidential. Requests for a copy shall be submitted to the Clerk of the Board by completing a Public Records Request pursuant to County Administrative Procedure 4-4. The Public Records Request form can be located at webcms.pima.gov under the 'Quick Links' section. Release of confidential contract information involves a process above and beyond the basic Public Records Request process. This process will be performed by the Procurement Department after the Clerk of the Board receives the completed Public Records Request.

If you have any questions, please call (520)724-8161.

Convention on Contracts for the International Sale of Goods is expressly excluded from applicability to this Agreement.

16.3 If a court of competent jurisdiction finds any provision of this Agreement to be unenforceable, such provision or portion shall be enforced to the maximum extent permissible consistent with the terms hereof, and the remainder of this Agreement shall continue in full force and effect.

16.4 This Agreement may not be amended, modified, or supplemented by the parties in any manner, except by a written instrument signed by an authorized representative of ZyLAB and Licensee. No provision hereof shall be deemed waived (by any act or omission) unless such waiver is in a writing signed by an authorized representative of ZyLAB.

16.5 Licensee may not assign or transfer this Agreement, in whole or in part, or any of its rights or obligations hereunder, without the prior written consent of ZyLAB, including without limitation in connection with a merger, consolidation, sale of assets or shares or other change of control transaction involving Licensee. This Agreement will bind and inure to the benefit of each party's successors and permitted assigns.

16.6 Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be (i) delivered in person, (ii) sent by registered mail return receipt requested, (iii) sent by overnight air courier, or (iv) by facsimile, and in each case forwarded to the appropriate address set forth herein.

16.7 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument.

ATTACHMENT A – MAINTENANCE AND SUPPORT SERVICES

This Attachment A describes the Maintenance and Support Services and is attached to and incorporated by reference into the License, Maintenance and Support Agreement between ZyLAB and Licensee.

Section 1 Definitions

The following capitalized terms used in this Attachment A shall have the meanings as set out below. Capitalized terms used in the Attachment A but not defined below shall have the meaning as set out in Section 1 of the Agreement.

1.1 **"Hot Fix"**: Hot Fixes make critical updates available. Licensee may request a Hot Fix for a critical issue at any time; however, Hot Fixes are released at ZyLAB's sole discretion, taking into account technical complexity, Licensee's business requirements and schedules. Generally, a Hot Fix is only considered for the correction of blocking issues and is only made available if the issue has not been fixed in an active or mature Major Release, Minor Release or Service Pack. Hot Fixes are built and tested for a particular environment of Licensee. Hot Fixes are therefore not transferable to other environments or configurations unless explicitly stated. The README file, shipped with every Hot Fix, describes all potential dependencies of a Hot Fix on other Hot Fixes. Characteristics include:

- Hot Fixes have a number associated with the issue fixed by a Hot Fix (for example, EDRM 1.0 - CAS-04061-9VKDK6). This indicates a Hot Fix for the issue described in case number CAS-04061-9VKDK6 which is made and tested on EDRM 1.0);
- Hot Fixes are not self-contained (they require the corresponding release or Service Pack and, optionally, previous Hot Fixes to be installed in order to be successfully installed);
- Hot Fixes are not released according to a release schedule, but on a case by case basis;
- Hot Fixes are tested by Licensee itself and by ZyLAB's customer support department.

1.2 **"Major Release"**: A Major Release offers new and innovative functionality to Licensee, while providing no guarantees regarding backward compatibility. The characteristics of a Major Release are:

- Major Releases have a name created by appending a sequential number and ".0" to the corresponding product name (for example, ZyLAB Information Management Platform 7.0);
- Major Releases include enhancements in product functionality and capabilities;
- Major Releases include bug fixes and stability enhancements based on previous releases;
- Major Releases are self-contained for installation purposes (they do not require any previous release to be installed);
- Major Releases may contain non-backward-compatible changes to public programming interfaces and storage formats and thus require adaptations and migrations of Licensee's implementations;
- Major Releases may contain changes to platform support;
- Major Releases are regression tested by ZyLAB's testing department, including interoperability testing with other ZyLAB products.

1.3 **"Minor Release"**: A Minor Release offers functionality enhancements while maintaining backward compatibility with the preceding release. The characteristics of a Minor Release are:

- Minor Releases have a name created by appending a sequential decimal number to the corresponding Major Release name (for example, ZyLAB Information Management Platform 6.2);
- Minor Releases include enhancements in product functionality and capabilities;
- Minor Releases include bug fixes and stability enhancements based on previous releases;
- Minor Releases are self-contained for installation purposes (they do not require any previous release to be installed);
- Minor Releases contain only backward-compatible changes to public programming interfaces and storage formats and thus do not require major adaptations and migrations of Licensee's implementations;

- Minor Releases may contain changes to platform support;
- Minor Releases are regression tested by ZyLAB's testing department, including interoperability testing with other ZyLAB products.

1.4 **"Product"**: A Product is a unit which is priced and licensed separately.

1.5 **"Response Time"**: The Response Time is the elapsed time between Licensee contacting the ZyLAB customer support department via telephone, email or via the online ZyLAB case management system and the time ZyLAB confirms receipt of the Support Case, verbally or in writing.

1.6 **"Service Hours"**: The following are the service hours defined per territory of purchase and implementation of the Software:

European support center (*Supporting Europe, Middle East and Africa, Rest of World*):

From 8.45 a.m. to 5.45 p.m. from Monday through Friday (Central European Time), excluding the following bank holidays as observed by ZyLAB: January 1st (New Year), Easter Monday, April 27th (King's Day), Ascension Day, Pentecost Monday, December 25th (Christmas Day) and December 26th (Boxing Day).

USA support center (*Supporting the Americas*):

From 8.45 a.m. EST to 5:45 p.m. PST from Monday through Friday, excluding the following bank holidays as observed by ZyLAB: January 1st (New Year), Memorial Day, Independence Day, Labor Day, Thanksgiving, day after Thanksgiving Day, Christmas Eve, December 25th (Christmas Day). Additionally, technical assistance can be requested 24x7 by submission of a Support ticket via the ZyLAB Help Portal (<https://help.zylab.com/hc/en-us>). This portal also provides a Knowledge Base containing solutions to known issues and the portal will suggest potentially helpful articles based on the ticket subject.

1.7 **"Service Pack"**: Service Packs, based on the corresponding Major or Minor Release, contain bug fixes and stability enhancements only. The characteristics include:

- Service Packs have a name created by appending "SP" and a sequential number to the corresponding release name (for example, ZyLAB Information Management Platform 6.0 SP2);
- Service Packs contain all Hot Fixes subsequent to the previous Major Release, Minor Release or Service Pack;
- Service Packs do not include new functionality or functionality enhancements;
- Service Packs are self-contained for installation purposes (they do not require any previous release to be installed);
- Service Packs do not contain significant changes, so do not require adaptations or migrations of Licensee's implementations;
- Service Packs may contain changes to platform support;
- Service Packs are regression tested by ZyLAB's testing department.

1.8 **"Support Case"**: A Support Case means a support request being priority 1 – CRITICAL, 2 – HIGH, 3 – MEDIUM or 4 – LOW:

- "Support Case priority 1 – CRITICAL" means a business or implementation standstill, where a problem in the Software completely prevents Licensee from using the system, or prevents continuation of all system implementation services;
- "Support Case priority 2 – HIGH" means a major functionality problem in the Software that prevents the Licensee from using a crucial part of the functionality of the system in a live environment, or affects a crucial part of implementation activities;
- "Support Case priority 3 – MEDIUM" means minor defects and defects where a work-around is available;

- "Support Case priority 4 – LOW" means all other issues concerning the use of the Software, not being a priority 1 – CRITICAL, 2 – HIGH or 3 – MEDIUM Support Case. Typically, this would be an enhancement request or user questions.

1.9 **"Support Term"**: Support Term means a twelve (12) month period contracted for by Licensee for the Maintenance and Support Services.

Section 2 Maintenance and Support Services

2.1 Subject to the terms and conditions described in this Attachment A and to the full and timely payment of the applicable Maintenance and Support Services fees, ZyLAB provides Maintenance and Support Services as described below. This Attachment A will always apply to all Software licenses ordered by Licensee as described in the applicable License, Maintenance and Support Agreement and as set out in more detail in the related Product Order Form(s). Whenever Licensee decides to purchase additional Software licenses, these additional licenses will automatically fall under the scope of this Attachment A.

2.2 *"Support Services"* consist of assistance during Service Hours by telephone, email or through the ZyLAB customer support portal. Support Services include:

- Registration of the Support Case in the ZyLAB support case management system;
- Clarification of Software functions and features;
- Provision and clarification of the Software Documentation;
- Guidance in the operation of the Software;
- Error verification, analysis and reasonable correction efforts by telephone, emails and/or internet; and
- Access to the ZyLAB online support case management system, ZyLAB user forum and product downloads.

2.3 *"Maintenance Services"* means the delivery of Hot Fixes, Service Packs, Minor and Major Releases and the provision of related documentation.

2.4 ZyLAB may provide Licensee with optional support offerings as set out in Section 10 below. Fees for these optional maintenance and support offerings will consist of an increased annual Maintenance & Support Services fee which will be indicated on the appropriate Product Order Form.

2.5 ZyLAB will use the following Response Times in responding to a Support Case:

Maintenance and Support Services

- Response Time for a priority 1 – CRITICAL case: two (2) local office hours
- Response Time for a priority 2 – HIGH case: four (4) local office hours
- Response Time for a priority 3 – MEDIUM case: eight (8) local office hours
- Response Time for a priority 4 – LOW case: sixteen (16) local office hours

Section 3 Restrictions

3.1 This Attachment A is limited to the use of standard ZyLAB Software products. Modifications to or use of products or functionalities such as, but not limited to modified ZyLAB Webserver Templates, nonstandard applications of ZyINDEXImport.exe, ZySCAN, ZyINDEX and ZyFIND command line integrations or modified ZySEARCH start pages are not supported under this Attachment A. ZyLAB professional services department may provide such support on a time and material basis at the then current rates.

3.2 If technological developments clearly indicate the necessity, ZyLAB can make higher demands on the configuration required for the installation of a new release of the Software. If Licensee does not comply

with these instructions, this will invalidate the Software warranty as set out in the License, Maintenance and Support Agreement and ZyLAB will no longer be obliged to offer Maintenance and Support Services for the Software concerned.

- 3.3 In order to innovate, ZyLAB must periodically make changes to the way in which its Products function. To minimize the impact on the production environments of the Licensee, ZyLAB endeavors to maintain backward compatibility. When a guarantee of backward compatibility is provided by ZyLAB in writing, Licensee may upgrade to a new version of the Product without the immediate need to make changes to its implementations, although in order to gain maximum advantage of new functionality, Licensee is strongly advised to adapt its implementations after the upgrade. In cases of an upgrade to a Major Release, migration may be necessary directly after the upgrade. In these cases, ZyLAB will usually create an automated migration path to assist Licensee in upgrading its implementations and reduce the impact of the change. The release notes of a Product will specify whether adaptations to implementations are necessary and how ZyLAB supports Licensee in this process.
- 3.4 Although ZyLAB will make all reasonable efforts to incorporate all functional features of previous releases of the Software in new releases of the Software without modifications, ZyLAB reserves the right to deprecate functionality and eventually remove it from the Products. ZyLAB aims to announce the deprecation in the relevant release notes of the Product and in the implementation manuals provided to Licensee. When a deprecation notice is given, customers must plan to adapt their implementations correspondingly.
- 3.5 Adapting the Software to a configuration which is different from the original configuration on which the Software has been installed is not covered under this Attachment A.
- 3.6 Maintenance and Support Services that becomes necessary due to theft and other circumstances that cannot be considered as normal use of the Software, fall outside the scope of this Attachment A.
- 3.7 Requests for Maintenance and Support Services that are the result of a change in circumstances at Licensee or any other condition which bears no part in the function of the Software fall outside the scope of this Attachment A.
- 3.8 ZyLAB will not be responsible for the safeguard of driver software, configuration files and/or further essential software. Resulting problems including malfunctioning caused by changing or updating drivers and/or configuration files without permission from ZyLAB will not be covered by this Attachment A.
- 3.9 Faults caused by defects in communication lines, links with or use of products that are not covered by this agreement, dislocations, excessive heat, fire and smoke damage, excessive dust, large fluctuations in the main voltage, excessive humidity and damage by water, lightning strike, riot or war risk and acts of God are not covered under this Attachment A.
- 3.10 Alterations of configuration rendered either remotely or onsite are excluded from this Attachment A. Customizations implemented by or for Licensee are not covered by the forward compatibility provisions of this Attachment A.

Section 4 Responsibilities of Licensee

- 4.1 ZyLAB's provision of Maintenance & Support Services to Licensee is conditional upon the proper fulfilment of the following responsibilities of Licensee:
- Licensee will provide ZyLAB access as may be reasonably required to Licensee's personnel and equipment during Service Hours, or during such hours as may be otherwise agreed between Licensee and ZyLAB;
 - Licensee will adopt and utilize all Service Packs and Hot Fixes offered to Licensee;

- Licensee will document and promptly report to ZyLAB any errors or malfunctions detected in the Software;
- Licensee agrees to carry out all instructions for the rectification of such errors or malfunctions within a reasonable time after these instructions have been received from ZyLAB;
- Licensee will maintain a current backup copy of all Software and the data generated by it;
- Licensee will properly train its personnel in the use and application of the Software and will provide sufficient supervision, control and management of the use of the Software;
- If reasonably requested by ZyLAB, Licensee will provide relevant data so as to facilitate testing of upgrade scripts, performance analysis and such. If reasonably requested by ZyLAB, Licensee will provide relevant data so as to facilitate the reproduction of any Support Case received from Licensee in order to facilitate ZyLAB's correction efforts of such Support Case.

Section 5 ZyLAB Release Life Cycle

5.1 ZyLAB products are subject to the following phases in its Release Life Cycle:

- Beta
- Active
- Mature
- End of Life

5.2 Beta: during the developmental phase of the release life cycle, ZyLAB may decide to make beta releases of its products available. Beta releases are not supported; no Service Packs or Hot Fixes will be issued.

5.3 Active: upon its availability, a new release immediately enters the active phase of the release life cycle. Active releases are actively sold and supported. ZyLAB may upgrade active releases through Minor Releases, Service Packs and bring out Hot Fixes for critical updates. After a new active release becomes available the following rules apply:

5.3.1 Upon availability of the next Major Release of a product, the current active release enters the mature phase and the current mature release enters the end of life phase;

5.3.2 Upon availability of the next Minor Release of a product, the current active release enters the end of life phase;

5.3.3 Upon availability of the next Service Pack of a product, the current active release enters the end of life phase.

5.4 Mature releases are supported releases. Hot Fixes for critical updates may be released however; ZyLAB will not roll out Major Releases, Minor Releases or Service Packs. For releases in this phase, customers are advised to plan the migration to an active release.

5.5 End of Life: Releases in the end of life phase of the release life cycle are supported by ZyLAB subject to the availability of trained personnel and resources. No Service Packs or Hot Fixes will be issued.

5.6 The ZyLAB release life cycle is an integral part of the ZyLAB release Attachment A and may be subject to change.

Section 6 Fees and Payment

6.1 The fee for the Maintenance and Support Services for the initial Support Term is set out on the applicable Product Order Form. Maintenance and Support Services fees for a contracted Support Term are non-cancellable and non-refundable. For any subsequent Support Term the fees therefore are due and payable thirty (30) days before the commencement of that specific Support Term.

6.2 ZyLAB may modify the fee for Maintenance and Support Services for any Support Term. However, for a period of three (3) years from the Effective Date, the annual increase of the fee for Maintenance and Support Services for any subsequent Support Term will not be more than five (5) percent.

6.3 All prices are exclusive of all taxes as levied by the applicable tax authorities.

6.4 In case of late or incomplete payment of the Maintenance and Support Services fee, ZyLAB has the right to postpone its obligations as specified under this Attachment A until Licensee has properly fulfilled its payment obligations.

Section 7 Travel, Expenses and Accommodation

7.1 All actual travel costs and reasonable expenses made in connection with the provision of Support Services will be borne by Licensee. ZyLAB will use economy tickets wherever possible, although an urgent response may prevent this.

7.2 All accommodation costs, including hotels and meals, required in connection with the delivery of Support Services by ZyLAB at Licensee's site will be borne by Licensee, provided that these costs are reasonable and identifiable.

Section 8 Term, Termination and Non-Renewal

8.1 ZyLAB's provision of Maintenance and Support Services to Licensee will commence on the Effective Date and will continue for the first Support Term. Maintenance and Support Services will automatically renew for all available offerings at the end of the first Support Term and any subsequent Support Term unless Licensee has provided ZyLAB with a written termination notice of its intention not to renew Maintenance and Support Services at least thirty (30) days prior to the expiration of the then current Support Term. ZyLAB may terminate Maintenance and Support Services upon written notice if Licensee materially breaches this Attachment A or the Agreement and fails to correct the breach within thirty (30) days following written notice specifying the breach.

8.2 Termination of Maintenance and Support Services, or a failure to renew, will not affect the Software licenses purchased by Licensee, unless otherwise set out in the Agreement.

8.3 If Licensee sends a written termination notice or otherwise does not renew Maintenance and Support Services, and as a result does not receive Maintenance and Support Services for any period of time ("Lapse Period"), ZyLAB may thereafter renew Maintenance and Support Services at Licensee's request. In the event of such renewal, Licensee will pay the then current fees for Maintenance and Support Services, plus an amount equal to fifty percent (50%) of the fees for Maintenance and Support Services that would have been payable during the Lapse Period.

8.4 Pricing for Maintenance and Support Services is based upon the level of Maintenance and Support Services provided and the volume of licenses for which Maintenance and Support Services are ordered. In the event that Maintenance and Support Services for a certain amount of Software licenses on one specific Product Order Form is terminated, Maintenance and Support Services for the remaining licenses on that Product Order Form will be priced at ZyLAB's then current list price for Maintenance and Support Services. In no event shall the new Maintenance and Support Services fees exceed the previous Maintenance and Support Services fees paid for both the remaining Software licenses and the Software licenses being unsupported.

Section 9 Miscellaneous

9.1 Licensee may appoint individuals who are knowledgeable in the operation of the Software to serve as primary contacts between Licensee and ZyLAB regarding the registering and reporting of Support Cases. All of Licensee's support inquiries will be initialized through these authorized callers.

- 9.2 If both parties agree that a given Support Case priority 1 – CRITICAL requires Support to be given at the Licensee's site, ZyLAB will provide such on-site Support on a time and material basis at the then current rates provided ZyLAB is not responsible for causing the issue requiring Support.
- 9.3 This Attachment A reflects ZyLAB's policies with respect to the provision of Maintenance and Support Services in force on the Effective Date of this Agreement.
- 9.4 Licensee acknowledges that the terms as set out in this Attachment A are subject to change by ZyLAB, provided that any such changes will only be effective for a new Support Term, and provided that written notice of these changes is given at least thirty (30) days before the start of the new Support Term. The level of Maintenance and Support Services provided herein will not diminish in quality due to a change in the Attachment A.
- 9.5 Licensee acknowledges and agrees that ZyLAB employees who perform Maintenance and Support Services under this Attachment A are a valuable asset to ZyLAB and are difficult to replace. Accordingly, Licensee agrees that, during the provision of the Maintenance and Support Services and for a period of one (1) year after the completion of the Maintenance and Support Services, it will not solicit / offer employment to – as an employee, independent contractor or consultant – any ZyLAB employee who has performed these Maintenance and Support Services for Licensee.
- 9.6 ZyLAB has the right to contract third parties to perform the Maintenance and Support Services under the responsibility of ZyLAB.

Section 10 Optional Support Offerings

10.1 Advanced Support

Advanced Support provides Licensee increased attention and proactive support assistance for a mission critical ZyLAB implementation.

- Support during support center office hours (8:45 am - 5:45 pm).
- Unlimited support cases.
- Access to online support services.
- Access to our Knowledgebase.
- Entitled to Major Releases, Minor Releases, Service Packs and Hot Fixes of purchased software.
- Improved response times.
- Quarterly Support Management call between Licensee dedicated point of contact and ZyLAB Customer Support Management to discuss progress.
- Quarterly System Administrator briefing; ZyLAB technical support staff will contact Licensee System Administrator to transfer product knowledge and respond to technical inquiries.
- Software notification service; when new releases of software are available, ZyLAB notifies Licensee and provides release information.

Exhibit C

The contents of this contract are confidential. Requests for a copy shall be submitted to the Clerk of the Board by completing a Public Records Request pursuant to County Administrative Procedure 4-4. The Public Records Request form can be located at webcms.pima.gov under the 'Quick Links' section. Release of confidential contract information involves a process above and beyond the basic Public Records Request process. This process will be performed by the Procurement Department after the Clerk of the Board receives the completed Public Records Request.

If you have any questions, please call (520)724-8161.

Exhibit D

The contents of this contract are confidential. Requests for a copy shall be submitted to the Clerk of the Board by completing a Public Records Request pursuant to County Administrative Procedure 4-4. The Public Records Request form can be located at webcms.pima.gov under the 'Quick Links' section. Release of confidential contract information involves a process above and beyond the basic Public Records Request process. This process will be performed by the Procurement Department after the Clerk of the Board receives the completed Public Records Request.

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