

STANDARD CONTRACT

1. **Parties.** This is a contract for services (“Master Agreement” or “contract”) between the State of Vermont, Office of Purchasing and Contracting on behalf of the Agency of Digital Services (hereinafter called “State” or “Customer”), and Hyland Software, Inc., with a principal place of business in Westlake, OH, (hereinafter called “Contractor” or “Hyland”). Contractor’s form of business organization is a corporation. It is Contractor’s responsibility to contact the Vermont Department of Taxes to determine if, by law, Contractor is required to have a Vermont Department of Taxes Business Account Number.

2. **Subject Matter.** The subject matter of this contract is services generally on the subject of enterprise software licensing and related services, as described in Attachment A.

**2A. Additional Purchasing Entities.** Contractor agrees that political subdivisions of the State of Vermont and any institution of higher education chartered in Vermont and accredited or holding a certificate of approval from the State Board of Education as authorized under 29 V.S.A. § 902 ( “Additional Purchasers”) may purchase any of the products or services available to the State under this Contract by executing an ordering document directly with the Contractor in a manner consistent with the Additional Purchaser’s policies and regulations. Issues concerning interpretation and eligibility of participation by an Additional Purchaser are solely within the authority of the State of Vermont Chief Procurement Officer. The State of Vermont and its officers and employees shall have no responsibility or liability for Additional Purchasers. Each Additional Purchaser is to make its own determination whether this Agreement is consistent with its procurement policies and regulations.

3. **Maximum Amount.** In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$8,000,000.00 for the Initial Term.

4. **Contract Term.** The period of Contractor’s performance shall begin on December 31, 2019 (the “Effective Date”) and shall end five years thereafter (the “Initial Term”). The contract term may be extended by the State, in its discretion, for up to five (5) additional one-year periods.

5. **Prior Approvals.** This Contract shall not be binding unless and until all requisite prior approvals have been obtained in accordance with current State law, bulletins, and interpretations. By executing this contract, the State represents to Contractor that all such approvals have been obtained.

5A. **Sole Source Contract for Services.** This Contract results from a “sole source” procurement under State of Vermont Administrative Bulletin 3.5 process and Contractor hereby certifies that it is and will remain in compliance with the campaign contribution restrictions under 17 V.S.A. § 2950.

6. **Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.

7. **Termination for Convenience.** Any time after the Initial Term, this contract may be terminated by the State at any time by giving written notice at least thirty (30) days in advance. In such event, Contractor shall be paid under the terms of this contract for all services provided to and accepted by the State prior to the effective date of termination.

8. **Attachments.** This Master Agreement contract consists of 67 pages including the following attachments which are incorporated herein:

Attachment A – Scope of Products and Services

Exhibit 1 – Form Statement of Work Exhibit

Exhibit 2 – Software Tier Description

Exhibit 3 – Existing Software Gap Analysis

Attachment B – Payment Provisions

Attachment C – “Standard State Provisions for Contracts and Grants” a preprinted form (revision date 12/15/2017)

Attachment D – Other Provisions for IT Systems Implementation (revision date 3/29/2018)

Attachment E – State of Vermont Business Associate Agreement: If required by an order made by a State Purchaser under this Agreement, the terms and conditions of the State of Vermont Business Associate Agreement, revised May 2019 (available online at: <https://bgs.vermont.gov/purchasing-contracting/forms>) shall be incorporated by reference and apply to the order.

Attachment F – Software License and Maintenance Schedule - Subscription

Attachment G – Definitions

9. **Order of Precedence.** Any ambiguity, conflict or inconsistency between the documents comprising this contract shall be resolved according to the following order of precedence:

- (1) Standard Contract
- (2) Attachment D
- (3) Attachment C (Standard State Provisions for Contracts and Grants)
- (4) Attachment A, including exhibits
- (5) Attachment B
- (6) Attachment E (when applicable)
- (7) Attachment F
- (8) Attachment G

**Contractor:** Hyland Software, Inc.

**WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT**

By the State of Vermont:

By Hyland Software, Inc.:

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: Christopher Cole

Name: Noreen B. Kilbane

Commissioner

Title: Buildings & General Services

Title: Vice President

**ATTACHMENT A – SCOPE OF PRODUCTS AND SERVICES**

The Contractor shall provide the State all Software, Work Products, Maintenance and Support, and Professional Services as specified herein and as may be requested by State from time to time (including any Statement of Work Exhibit that may be entered into under this Agreement). Contractor shall provide:

**1. Available Products and Services**

- a. **Software Products.** Subject to payment of the Subscription Fees set forth in Attachment B, the Software licensed under this contract, and for which Contractor will provide implementation and Maintenance and Support services shall include the Software listed on Exhibit 2 to this Attachment A, which describes the Software tiers in effect as of the Effective Date, and the description of functionality included within each tier. For the avoidance of doubt, the Software listed on Exhibit 3 to this Attachment A, contains a description of the Software modules licensed by the initial agencies listed below immediately prior to the Effective Date (and shall be delicensed upon Effective Date) (as denoted in italicized bold type text within such Exhibit) pursuant to the terms of separate end user license agreements with Hyland (collectively, the “Existing Software”); such Exhibit 3 also includes a listing of the additional functionality, which shall be licensed to the State upon the Effective Date under the terms of this Agreement for the initial Subscription Fees described herein (as denoted in plain type text within such Exhibit). The parties also acknowledge and agree that during the term of this Agreement, the State also be able to license: (1) new and emerging technologies and functionality which are released by Hyland generally to all of its customers into one of the Software tiers for which the State owns a license; and (2) functionality which during the term of this Agreement was present within one of the included Software tiers above, but was subsequently re-positioned by Hyland under a different Software tier. The Software shall include tools and utilities that may be provided by Contractor as part of the Software package, as well as any fixes, enhancements, additions, and other modifications to the Software that may be provided under Maintenance and Support. References to Software shall be deemed to include the documentation but exclude the source code for such Software unless otherwise specifically indicated.

The parties acknowledge and agree that during the term of this Agreement, the terms of the end user license agreements which govern the Existing Software prior to the Effective Date shall be of no force or effect, and the licenses to the Existing Software granted thereunder shall not be applicable, and such Existing Software shall be governed by the terms of this Agreement. The parties further acknowledge and agree that, in the event the Agreement is terminated for any reason, other than a termination by Hyland for cause based on a breach by Customer of Section 4.1 of Attachment D of this Agreement, the State shall have the option to reinstate the perpetual licenses to the Existing Software as granted under such end user license agreements for no additional Software license fees and should the State elect such option, the terms of the end user license agreements governing such Existing Software shall be reinstated in full (the “Perpetual Reinstatement Option”). The State further acknowledges and agrees that should the State elect the Perpetual Reinstatement Option, Maintenance and Support for such Existing Software shall not be available to the State from Hyland.

**Contractor:** Hyland Software, Inc.

- b. **Professional Services.** Professional Services shall only be engaged pursuant to a Statement of Work (SOW) Exhibit entered into under this Agreement in the form attached as Exhibit 1 to this Attachment A. Examples of the services include, but are not limited to: (a) installation of the Software; (b) consulting, implementation and integration projects related to the Software, including but not limited to the customized configuration of Software integration modules or business process automation modules; (c) project management; (d) development projects in connection with the integration of Software with other applications utilizing any Software application programming interface (API).

The parties acknowledge and agree that with respect to any Configuration Work Products created by Hyland in connection with Hyland's performance of Professional Services, and to the extent mandated by Federal Government entities as a result of usage of Federal funding by the State in connection with payment for the creation of the same, in addition to the license to such Configuration Work Product granted under Attachment F to the Agreement, the State shall be permitted to share the applicable code for such Configuration Work Product with other agencies as mandated by such Federal requirements. The parties acknowledge and agree that should the State require any assistance from Hyland in connection with the foregoing usage, the State may engage Hyland to perform Professional Services related to the same under the terms of a mutually agreed upon SOW.

- c. **Maintenance and Support.** Contractor shall provide Maintenance and Support for all Software licensed under this Contract in accordance with Attachment F to this Contract.

## 2. *Purchasing Additional Products and Services*

- a. Products. The State may purchase additional Named User tiers in accordance with the pricing set forth in Attachment B. The parties agree that any and all such purchases will be made by an amendment to the relevant section within Attachment B of this Contract, to specify:

- i. the State agency/department;
- ii. Named User tier(s);
- iii. quantity of users; and
- iv. total subscription fees.

- b. Services Proposal. For any and all requests for Professional Services under this Agreement the Parties agree to amend this Contract to document the requirements specific to the new agency/department in a separate, numbered exhibit added to the end of this Attachment A, using a document substantially similar to the form attached hereto as Exhibit 1 to this Attachment A.

c. Hyland will provide Professional Services as mutually agreed under the Services Proposal. Each mutually agreed upon Services Proposal is incorporated herein by this reference as if fully rewritten herein. Hyland will provide the Professional Services described in any mutually agreed upon Services Proposal at a time and on a schedule that is mutually agreed upon by the parties. If any delays in such Professional Services occur solely as a result of any Customer supplied incorrect information, or failure of Customer to perform or fulfill its obligations in connection with any Services Proposal, the performance schedule for the applicable project may be extended. Hyland shall have no liability or responsibility for any costs or

expenses resulting from such delays. In the event that performance of any milestone set forth in any Services Proposal is not met due to a delay solely caused by Hyland, and provided that such cause is not an event of force majeure as described in Attachment D, Hyland agrees, at no additional charge to Customer, to commit such additional resources and personnel as shall be necessary to ensure that such delay does not result in the slippage of later milestones or completion of such Professional Services.

### 3. **Reporting**

- a. On an annual basis the State may request in writing, or more frequently upon additional written request, that Contractor submit reports electronically detailing the purchasing of all items by Additional Purchasers under this Agreement. Contractor's reporting shall state "no activity" for any month in which there is no activity during a reporting period. The reports shall be an excel spreadsheet transmitted electronically to: [SOV.ThePathForward@vermont.gov](mailto:SOV.ThePathForward@vermont.gov)
- b. Contractor shall conduct progress meetings as may be set forth in the applicable SOW Agreement. Contractor shall submit a project progress report to the Agency representative identified in the SOW Agreement via email and shall contain information as mutually agreed upon by the parties in such SOW, which may include the following information:
  - i. E-mail subject line: Contracting Agency name, IT service category name, reporting period and "Progress Report."
  - ii. Work accomplished during the frequency period and all tasks planned for the upcoming frequency period.
  - iii. Deliverable progress, as a percentage of completion.
  - iv. Problem areas, including scope creep, deviation from the work plan; tasks incomplete, or behind schedule in the previous week (with reasons given for those behind schedule); and the status of any corrective actions undertaken and other unresolved issues and requirements to resolve unresolved issues.
  - v. Planned activities for the next reporting period.
  - vi. Gantt chart updated from the original to show actual progress; as applicable, explanations for variances and plan for completion on schedule.
  - vii. An accounting report for the current reporting period and a cumulative summary of the totals for both the current and previous reporting periods. The accounting report shall include amounts invoiced-to-date and paid-to-date.
  - viii. Significant changes to Contractor's organization or method of operation or to the Project management team, where applicable.

### 4. **Resources**

- a. Contractor Resources.
  - i. All Contractor employees, independent contractors or agents proposed for each Services Proposal ("Key Personnel") may be identified in each SOW Agreement, to the extent mutually agreed upon. Contractor shall use reasonable efforts to make available all Key Personnel for the entire life of the SOW Project. Contractor shall not change Key

Personnel without providing the State written justification and obtaining prior written approval of the State. State approvals for replacement of Key Personnel will not be unreasonably withheld. The replacement of Key Personnel shall have comparable or greater skills and applied experience than being replaced and be subject to reference and background checks described above. If Contractor removes Key Personnel for any reason without the State's approval, Contractor agrees to provide replacement Key Personnel and shall provide the first five (5) days of such replacement resource(s) with equivalent skill at no charge as the State's exclusive monetary remedy for the same. In addition, Contractor shall also not charge the State during the period of time, as reasonably determined by Hyland, in which knowledge transition between resources is occurring.

- ii. Notwithstanding the foregoing, the State acknowledges that Key Personnel may become unavailable due to termination of employment for any reason, through disability or death, illness, or through leave of absence such as FMLA or National Guard duty for example. In such circumstances, Contractor shall promptly notify the State in writing of the impending or actual departure of any Key Personnel and of the qualifications and identity of proposed replacement Key Personnel. The State has the right to reasonably disapprove of any replacement Key Personnel.
  - iii. If Key Personnel does not perform up to acceptable or professional standards as required in this Master Agreement or the SOW Agreement, Contractor shall, when notified by the State, either replace the employees, independent contractors or agents with approved employees, independent contractors or agents or take remedial action agreed by State to ensure that Contractor Resources are acceptable to the State for the SOW Agreement. The State's right to request replacement of Contractor personnel hereunder relates solely to the removal of individuals from work on this Master Agreement and/or the particular SOW Agreement and does not create any employment or principal-agent relationship with the State. Nothing in this Master Agreement or any SOW Agreement entered into hereunder authorizes the State to direct the Contractor's termination of, or other adverse action related to, the employment of any individual.
- b. Assistance and Obligations. Customer agrees that it will provide reasonable cooperation and assistance if and to the extent necessary to assist Hyland in the performance of Professional Services under any SOW Agreement. Customer acknowledges that if it fails to provide assistance and perform or fulfill its obligations in accordance with this Section and the relevant Services Proposal, Hyland's ability to provide such Professional Services, meet the performance schedule set forth in such Services Proposal and keep hours (or service fees, if applicable) reasonably in line with any estimates given in the Services Proposal may be adversely affected. During any period in which Hyland is performing services hereunder, Customer shall provide to the Hyland project team independent local (onsite) and remote (offsite) access through the use of secure connections such as a network connection, VPN connection or other similar methods and dedicated user accounts with appropriate privileges to the Software, hardware or virtual machines allocated to the Software system given all Hyland employees meet compliance requirements to the extent mutually agreed upon in a Services Proposal. Remote and local access will be granted for all provisioned environments, including production within State access control

**Contractor:** Hyland Software, Inc.

guidelines/policy, which, to the extent set forth in a Services Proposal may include, IRS Publication 1075, CMS MARS-E 2.0, HIPAA, and SSA State CMPPA Agreements. The parties acknowledge and agree that in the event access required hereunder is denied on the basis of the State's access requirements, Hyland's ability to perform its obligations that depend on such access may be delayed.

- c. Third Party Software Rights. Notwithstanding any contrary terms, if Customer requests Hyland to perform Professional Services on or with respect to any third party software (excluding any third party software provided with the Software licensed hereunder), Customer represents and warrants to Hyland that Customer has all necessary rights to allow Hyland to do so.
  - d. Protection of Customer's Systems. CUSTOMER UNDERSTANDS THAT WITH RESPECT TO ON PREMISE PRODUCTS LICENSED UNDER THIS AGREEMENT IT IS SOLELY RESPONSIBLE TO TAKE APPROPRIATE MEASURES TO ISOLATE AND BACKUP OR OTHERWISE ARCHIVE ITS COMPUTER SYSTEMS, INCLUDING ITS COMPUTER PROGRAMS, DATA AND FILES.
5. Contractor shall be responsible for successful performance and compliance with all requirements in accordance with the terms and conditions set forth by this Agreement. Contractor acknowledges that each and all of the promises it makes herein apply to all products and services provided hereunder, regardless of who is providing or licensing the product or performing the work.



## Exhibit 1 Form Statement of Work (SOW) Exhibit

### INTRODUCTION

This document (the “SOW Exhibit” or “Services Proposal”) is defines the Professional Services requested by the State for the project specified herein. This document must identify, as applicable, the goals, scope, hours, and other important details supporting the delivery of software products and professional services for one or more projects defined in the Project Areas section.

The content of this Services Proposal is subject to review and revision by both Hyland and the State until fully executed by both parties as an amendment to the parties Agreement (SOV# 37937 Hyland# EU-0000-17518586).

Once the Services Proposal is finalized, the Hyland project manager will coordinate with the Agency of Digital Services (ADS) to discuss project logistics and potential start dates. At this time, Hyland resource availability will be reviewed and presented to the State. Start times can vary based on existing work volumes. The project will begin upon a mutually agreed upon date as soon as resource availability and State availability allow.

Once the project start date has been determined, resources will be assigned and scheduled to begin delivery of the services described in this proposal.

Any changes to this Services Proposal will follow the Project Change Control Process identified below.

### PROJECT AREAS

Hyland will provide the following services described within this proposal.

#### Project 1 - Name

#### Scope

Hyland will provide services to the State to implement the “x” solution.

<Insert scope here>

- Data Categorization and Type:** For purposes of this Statement of Work (SOW) the parties have conferred and determined that the Contractor will hold, store, or process **High Risk Data, Moderate Risk Data and/or Low Risk Data.** In particular, the types of data that will be used by Contractor under this Order, include the following:

Type of Data	Applicable State & Federal Standards, Policies, and Laws
<input type="checkbox"/> Publicly available information	<ul style="list-style-type: none"> <li>▪ <a href="#">NIST 800-171</a></li> </ul>
<input type="checkbox"/> Confidential Personally Identifiable Information (PII)	<ul style="list-style-type: none"> <li>▪ <a href="#">State law on Notification of Security Breaches</a></li> <li>▪ <a href="#">State Law on Social Security Number Protection</a></li> <li>▪ <a href="#">State law on the Protection of Personal Information</a></li> <li>▪ National Institute of Standards &amp; Technology: <a href="#">NIST SP 800-53</a> Revision 4 “Moderate” risk controls</li> <li>▪ <a href="#">Privacy Act of 1974, 5 U.S.C. 552a.</a></li> </ul>

Contractor: Hyland Software, Inc.

<input type="checkbox"/> Payment Card Information	<ul style="list-style-type: none"> <li>▪ <a href="#">Payment Card Industry Data Security Standard (PCI DSS) v 3.2</a></li> </ul>
<input type="checkbox"/> Federal Tax Information	<ul style="list-style-type: none"> <li>▪ Internal Revenue Service Tax Information Security Guidelines for Federal, State and Local Agencies: <a href="#">IRS Pub 1075</a></li> </ul>
<input type="checkbox"/> Personal Health Information (PHI)	<ul style="list-style-type: none"> <li>▪ Health Insurance Portability and Accountability Act of 1996: <a href="#">HIPAA</a></li> <li>▪ The Health Information Technology for Economic and Clinical Health Act <a href="#">HITECH</a></li> <li>▪ <a href="#">Code of Federal Regulations 45 CFR 95.621</a></li> </ul>
<input type="checkbox"/> Affordable Care Act Personally Identifiable Information (PII)	<ul style="list-style-type: none"> <li>▪ Internal Revenue Service Tax Information Security Guidelines for Federal, State and Local Agencies <a href="#">IRS Pub 1075</a></li> <li>▪ Minimum Acceptable Risk Standards for Exchanges <a href="#">MARS-E 2.0</a> (Scroll down the page)</li> </ul>
<input type="checkbox"/> Medicaid Information	<ul style="list-style-type: none"> <li>▪ Medicaid Information Technology Architecture <a href="#">MITA3.0</a></li> <li>▪ <a href="#">Code of Federal Regulations 45 CFR 95.621</a></li> </ul>
<input type="checkbox"/> Prescription Information	<ul style="list-style-type: none"> <li>▪ <a href="#">State law on the Confidentiality of Prescription Information</a></li> </ul>
<input type="checkbox"/> Student Education Data	<ul style="list-style-type: none"> <li>▪ Family Educational Rights and Privacy Act: <a href="#">FERPA</a></li> </ul>
<input type="checkbox"/> Personal Information from Motor Vehicle Records	<ul style="list-style-type: none"> <li>▪ <a href="#">Driver's Privacy Protection Act</a> (Title XXX) ("DPPA") 18 U.S.C. Chapter 123, §§ 2721 – 2725</li> </ul>
<input type="checkbox"/> Criminal Records	<ul style="list-style-type: none"> <li>▪ Criminal Justice Information Security Policy: <a href="#">CJIS</a></li> </ul>
<input type="checkbox"/> Other: <i>describe</i>	<i>[List what's applicable or delete this line.]</i>

*Estimated Completion Date:**Required Resources*

<b>Resource</b>	<b>Estimated Hours</b>
Technical Consultant	Hrs
Advanced Capture Engineer	Hrs
Enterprise Consulting	Hrs
Project Manager	Hrs
Business Consultant	Hrs
Change Management Consultant	Hrs
Integration Engineer	Hrs
Database Engineer	Hrs
Conversion Consulting	Hrs
Infrastructure Analyst	Hrs
Principal Consultant	Hrs

**Project Deliverables**

**In instances where the Statement of Work (SOW) is deliverables based, the below table will be applied. In instances where services will be provided on a Time and Material basis a Statement of Objectives (SOO) will provided.**

The following table is intended to provide Customer an understanding of the deliverables produced and the associated responsibilities of both State and Hyland.

<b>Description</b>	<b>Responsible Party</b>
<b><u>Project Charter</u></b>	
Purpose: Provides a preliminary delineation of roles and responsibilities, outlines project objectives, identifies the key stakeholders, and defines the authority of the project charter.	
Delivered within the initiation phase.	Hyland and/or State
Includes the agreed upon scope, objectives, and participants in the project.	State/ Hyland
<b><u>Project Plan</u></b>	
Purpose: Define the projected schedule of project events from initiation through closure.	
Delivered within initiation / discovery phase and updated throughout project.	Hyland
A Gantt chart visualization of deliverables, activities, and assignments that need to be performed to complete the project.	State / Hyland
<b><u>Requirements Document (“RD”)</u></b>	
Purpose: Upon sign-off by Customer, the RD replaces any previous form of scope or solution estimate, and becomes the then current project scope. Any changes to the RD will be subject to review and re-estimation of the timeline, pricing, and work effort involved, and, based on such review and re-estimation, Hyland will determine whether the Project Change Control Process needs to be followed.	
RD content is composed as a result of requirements gathering.	Hyland and/or State
Contains all business requirements related to the solution.	Hyland and/or State
Describes the proposed business requirements of the Workflow solution.	Hyland and/or State
Contains a series of use cases detailing process flows that comprise the Workflow solution.	Hyland and/or State
<b><u>Discovery Activity Summary (“DAS”)</u></b>	
Purpose: Central point of reference on how the solution will meet the requirements.	
Delivered within the discovery phase	Hyland
Details conversations from discovery sessions as well as business process and technical narratives, and important project assumptions, responsibilities, and dependencies.	Hyland and/or State

<b><u>Solution Design Document (“SDD”)</u></b>	
Purpose: Central point of reference on how the solution will meet the requirements.	
Outlines and defines important details about the solution based upon the business requirements documented in the RD approved by Customer enabling them to verify key proposed functionality of the solution.	State / Hyland
<b><u>Traceability Matrix (“TM”)</u></b>	
Purpose: Ensures all approved requirements in RD have been designed and tested.	
Derived from RD, the TM lists approved requirements and associated SDD and test case cross-references.	State / Hyland
<b><u>Solution Training Guide</u></b>	
Purpose: Document is intended for use during initial training and can be updated by State’s internal Software training/education staff if solution is modified or enhanced in the future.	
A training guide in Microsoft Word format containing descriptions of user interface (“UI”) components configured for the solution.	Hyland and/or State
<b><u>Architecture Diagram</u></b>	
Purpose: Outlines recommended architecture and sizing specifications for servers (physical and virtual). Also outlines recommended storage consideration and integration points with State’s external line of business applications.	
Documents recommendations for production, test, staging/User Testing (“UT”), disaster recovery, and development environments.	Hyland and/or State
Documents recommendations based on State throughput and access requirements.	Hyland and/or State
<b><u>Software Solution</u></b>	
Purpose: The Software configuration delivered at the conclusion of the Project, as described in the RD.	
Implementation of the requirements defined in the RD.	Hyland
<b><u>Project Status Report</u></b>	
Purpose: Provides an overview of project health and important related details.	
Delivered after initiation and then regularly throughout the project in a frequency to be determined by the Hyland and State Project Managers (e.g., bi-weekly).	Hyland and/or State
Includes details about the project health, financials (budgeted vs. actuals), critical action items, upcoming key activities, outstanding deliverables, change requests, and notable issues/risks.	Hyland and/or State
Each updated report requires verification for accuracy and shared review.	State/Hyland

### KEY ASSUMPTIONS/STATE OBLIGATIONS

The following are key assumptions that impact the success of the solution, and are applicable for all Project Areas within this proposal:

- a. Services will be provided both onsite at State's location in "x" as well as remotely from Hyland granted remote access solution matches State security requirements based on data classification and related Federal mandates and employee accessing State data is authorized and verifiably trained to access protected data.
- b. To ensure anticipated timeframes are met, State will review deliverables in accordance to the agreed upon Project Plan. Failure to respond where needed within the designated timelines may result in project delays, loss of resources, and incorporation of the Project Change Control Process.
- c. Hyland and State will review remaining work effort throughout the project. If at any time the number of hours required to complete a project phase noted in the roadmap section of this document exceeds the number of hours estimated by the project teams for that phase, then Hyland will incorporate the Project Change Control Process prior to exceeding the budgeted number of hours.
- d. State is responsible for ensuring all hardware is in place and made ready as dictated by the implementation schedule. This includes full access to all environments in which Hyland is required to work including environments required for migrations, integrations, or multiple development, testing, and production environments for Software.
- e. State will provide trained technical team members to assist in supporting and maintaining all aspects of the hardware, network, and database maintenance plans throughout the project.
- f. State will designate a Software administrator who will undergo any applicable Software training recommended before the start of requirements gathering to participate in the design and implementation process effectively.
- g. State will provide appropriate access to facilities and office space for all onsite or remote work.
- h. State will provide subject matter experts who are thoroughly knowledgeable about the current business practices in their respective areas and who are capable of performing their assigned project roles.
- i. State will make reasonable efforts to maintain consistent project resources throughout the project. Any anticipated changes to the core team must be communicated in writing within five (5) business days unless termination or illness is the result of the change.
- j. Each deliverable created during this project will use a mutually agreeable standard deliverable templates.
- k. State will provide Hyland resources a properly setup environment per Hyland's prerequisites. Setup will consist of the installation, configuration and administration of, but not limited to, all hardware and operating systems, database instance(s), networking and required third-party software.
- l. State will include third-party vendors or subject matter/technical experts as required.
- m. State will assign a project sponsor, who will be actively involved in the project and is the final escalation point for all issues and decisions. The project sponsor will also ensure that the appropriate State personnel are made available to execute the project successfully.
- n. State will provide subject matter experts who are responsible for the development and execution of user test cases and associated activities.
- o. The solution is intended to be implemented in a timeframe.
- p. While onsite, the Resource will work during normal operating hours generally between 8:00 AM and 5:00 PM, Monday through Friday in the State's local time zone. When providing remote services, Hyland and State will discuss generally acceptable working hours and take into

consideration time zone differences. Issues deemed as non-critical will only be addressed during normal business hours.

- q. State is responsible for configuring the training room and ensuring that all resources participating will have the proper materials, as set forth by Hyland. If these provisions are not met, Hyland has the right to cancel and reschedule the onsite training.

### ROADMAP TO SUCCESS

The following table is intended to provide State an understanding of the roadmap to the project and associated responsibilities of both State and Hyland.

Description	Responsible Party
<b>Initiation Phase</b>	
Purpose: To set clear expectations for the project, create a plan and confirm scope and resources.	
Create Project Charter.	State/Hyland
Define project team and identify project sponsor(s).	State/Hyland
Define initial Project Plan	State/Hyland
Introduce the change management consultant.	State/Hyland
Define Discovery agenda.	State/Hyland
Define State processes prior to Discovery.	State
Arrange physical workspace and tools necessary to accommodate scheduled onsite activities.	State
Plan and provision an appropriate environment for Software, in accordance with Hyland's prerequisites.	State
Provide local and remote access to all environments identified to complete the scoped solution.	State
Approve Project Charter	State
<b>State Change Control Process</b>	
This change control process formalizes the State's requested changes and is recommended for State to record and evaluate ideas for change related to Software, and differs from the Project Change Control Process. Changes, which are evaluated by State, and are requested within the scope of the current project, which are not documented in the RD will follow the Project Change Control Process <u>set forth in this SOW Exhibit</u> .	State
<b>Discovery Phase</b>	
Purpose: Formally gather, document, and agree upon requirements to be met in the solution.	
<b>Requirements Gathering</b>	
Hyland will engage State's subject matter and technical experts to discuss the business process in detail and define the requirements.	State/Hyland
Follow up items may be discussed with the subject matter or technical experts to close any gaps in fully understanding the captured requirements.	State/Hyland

<b>Requirements Documentation</b>	
Compose formal documentation containing the use cases and associated requirements of the business using Hyland's standard requirements document format.	Hyland and/or State
<b>Requirements Validation</b>	
Review and red line (if applicable) the proposed requirements document.	State
Review the updates and determine if there is an impact on the Project Plan and scope of the solution.	State/Hyland
Introduce the Project Change Control Process for deviations, which impacts estimated work effort.	State/Hyland
Make appropriate updates to the proposed requirements document.	Hyland and/or State
Validate the finalized RD. Upon sign-off by State, the RD replaces any previous form of scope or solution estimate, and becomes the then current project scope. The RD will be subject to review and re-estimation of the timeline, pricing, and work effort involved, and, based on such review and re-estimation, Hyland will determine whether the Project Change Control Process set forth in this SOW Exhibit must be followed.	State
<b>State Test Case Development</b>	
Develops tests cases based on agreed upon business process and functionality requirements defined in the RD.	State
Each test case should minimally include ID number, functional area, prerequisite or dependency, a description, testing steps, expected outcome, pass/fail and tester comments.	State
Develop/modify test cases throughout the duration of the project.	State
Periodic review of the test case development progress with State's assigned test case writer and Hyland's Project Manager.	State/Hyland
<b>Implementation Phase</b>	
Purpose: Hyland designs, develops and functionally tests the Software solution.	
<b>Solution Design</b>	
Conduct brainstorming sessions to design the solution based on the RD.	Hyland and/or State
Create Solution Design Document that outlines and defines important details about the solution based upon the business requirements documented in the approved Requirements Document.	Hyland and/or State
<b>Prototype Review</b>	
Provide a walkthrough of the solution to State.	Hyland
Evaluate the solution and provide feedback to Hyland.	State
<b>Note:</b> Not all functionality may be present during initial prototype review.	
<b>Refine Documentation</b>	
Refine documentation based on feedback from prototype review(s) with State in accordance with the Project Change Control Process.	Hyland and/or State

<b>Solution Implementation</b>	
Configure the solution in the State's designated environment.	Hyland
Validate the solution conforms to the requirements in the RD.	Hyland
Inform State when functional unit testing is completed.	Hyland
<b>Testing and Training Phase</b>	
Purpose: To educate State's subject matter experts, designated end user trainers, and System Administrators on the specifics of the solution in preparation for User Testing. Perform User Testing to verify the solution is working as designed and to the agreed upon requirements.	
<b>Generate Training Guide</b>	
Compose a manual specific to the configured solution, which guides State's trainers on the functionality of the solution from an end-user perspective.	Hyland
Customize the training guide provided by Hyland to suit the needs for training of end users.	State
<b>Train the Trainer</b>	
Train State's designated System Administrator(s), testers and end user trainers responsible for User Testing and educating their end user communities.	Hyland
Provide super users or solution champions to attend train the trainer session(s).	State
Training is oriented towards solution specific functionality. State will be responsible for all additional end-user training.	State
<b>Solution Design Document Delivery</b>	
Finalize solution design document to serve as States solution guide to the solution build and maintenance.	Hyland
Deliver the Solution Design Document which will serve as a guide for administrators post Go-Live.	Hyland
<b>User Testing</b>	
Perform User Testing using test cases created by State.	State
Conduct at least one (1) dry run with at least one (1) end-user to identify any typos or disordered test scripts that would otherwise lead to a false negative test result.	State
Correct typos or corrections to test scripts.	State
Conduct testing with a majority of end-users.	State
Document Software issues reported by State using Hyland's issue tracking system.	State/Hyland
Classification of the issues reported by State.	State/Hyland
<b>Issue Resolution</b>	
Make necessary updates to solution as agreed to by both State and Hyland project teams.	State/Hyland
Retest all updates to the solution which Hyland project team has communicated is ready for End User Testing.	State
Repeat issue resolution steps as necessary until all test cases pass.	State
Validate completion of User Testing and production readiness.	State



<b><u>Go-Live Phase</u></b>	
Purpose: To prepare environment and end-users for Go-Live in State's production environment.	
<b>Planning and Preparation</b>	
Confirm dates and schedules and document in Go-live Checklist.	State/Hyland
Finalize Go-Live procedures and complete a thorough review of the Go-Live Checklist to verify correctness and completeness.	State/Hyland
Stabilize Production environment and ensure that all infrastructure prerequisites necessary for the full functionality of the solution are installed and/or configured.	State/Hyland
<b>Execution</b>	
Install all required modules, configure all third party applications and services and migrate the solution to Production.	State/Hyland
Activate Production environment and provide go-live support.	State/Hyland
Conduct Technical Support handoff meeting to formally introduce Technical Support team and process to State and confirm completion of the Go-Live phase.	Hyland
<b>Closure</b>	
Gather project sponsors to discuss overall project activities, future opportunities, and outstanding enhancement requests.	State/Hyland
Once all solutions are delivered, transition relationship back to Account Manager	Hyland
True-up of hours expended for the project.	Hyland (to be confirmed by the State)

**MAXIMUM LIMITING AMOUNT**

*[USE FOR FIXED PRICE ENGAGEMENTS]* For services provided on a fixed price basis, the maximum amount payable by the State under this SOW Exhibit is \$ XXXX.

*[USE FOR TIME AND MATERIALS ENGAGEMENTS]* For services provided on a time and materials basis, the amounts described herein are not guaranteed amounts and payment will be made for actual services performed. Based solely on the information provided to Hyland and referenced in the above Project Area(s), Hyland estimates the hours anticipated to complete the project(s) successfully as shown below. Hyland shall track the number of hours expended throughout the project(s) and shall provide a weekly status report to the State detailing for each project (1) a description of the work performed, the Resource who performed the work, and the number of hours expended during the prior week and (2) the total number of hours expended for the project to date.

#	Project 1 - Name	Estimated Hours	Rates
1	Total Estimated Work Hours	XXXX	
Totals		XXXX	

**PROJECT CHANGE CONTROL PROCESS**

Requested changes to the scope or duration of any project covered by this Services Proposal will be managed using the Project Change Control Process outlined below.

If any party believes that a change to this Services Proposal is warranted, the party shall issue a change request. The State's project team and Hyland project team will review the request, determine the impact on the Services Proposal, and agree to the requested changes. Once the requested change(s) is accepted, Hyland will provide a formal SOW Amendment to State outlining the change in service, the impact on hours, and the related impact on timeline.

State and Hyland will fully execute the SOW Amendment prior to the requested changes taking effect. State and Hyland acknowledge that this may affect services, timelines, and deliverables, and therefore will make commercially reasonable efforts to execute any changes to this Services Proposal with enough lead-time to minimize the influence on the project.

**APPENDIX A – RESOURCE DESCRIPTIONS**

The following table is intended to provide State an understanding of all Hyland Global Services resource types and their corresponding responsibilities.

Resource Type	Responsibilities
Technical Consultant	Provides expertise on the installation and configuration of the solution. Responsible for documenting State requirements, building the solution to meet the requirements, providing administrative training, train the trainer courses, migration of the environments, and user testing and go-live issue resolution.
Advanced Capture Engineer	Provides expertise on the capture solutions. Responsible for documenting business process requirements, validating a right fit solution, configuring the capture solution to meet the documented requirements, providing administrative training, train the trainer courses, migration to additional environments, user testing issue resolution, and go-live support.
Enterprise Consultant	Provides long-term business plans and analysis to expand and support State's Software solution. Develops strategies and roll out recommendations based on State's needs resulting from enterprise assessments and coaching. Acts as a program manager which envelopes individual projects within an organization to ensure State remains educated on Software capabilities and additional opportunities.
Project Manager	Provides project management support including project initiation, developing the project charter and work breakdown plan with State, coordinating schedules and resources, discussing burn down rates, tracking issue list(s), scope creep and impact, generating change orders (if applicable), and acts as the initial escalation path.
Business Consultant	Provides expertise on the installation and configuration of both Workflow and WorkView solutions. Responsible for documenting business process requirements, building the solution to meet the documented requirements, providing administrative training, train the trainer courses, migration of the environments and user testing and go-live issue resolution.
Change Management Consultant	Educates State on effective Change Management and assists with the development of a strategy to manage change to State's organization based on the Software implementation.
Integration Engineer	Provides expertise on web service integrations and API development. Responsible for supporting and mentoring State with the creation of web services to integrate with Software and State's current systems as defined in the SRD. Provides custom scripts within Software as well as pre-processors and post-processors to meet specialized State needs.
Database Engineer	Provides expertise related to the OnBase database including best practices, maintenance plans, and disaster recovery considerations.
Conversion Consultant	Provides expertise on the conversion process. Drives conversations with State on best practices, considerations and ultimately assets in defining the conversion process to be employed to meet State conversion requirements.

**Contractor:** Hyland Software, Inc.

Infrastructure Analyst	Provides consulting on the initial setup or review of hardware infrastructure impacting the Software solution. Drives conversations with State technical teams focusing on the network, server, database, and storage level of the Software solution as well as reviews integration components that may affect overall performance.
Principal Consultant	Provides deep Software expertise to advise Hyland and State implementation teams on best practices throughout the engagement. Guides Requirements Gathering sessions and takes technical ownership of solution requirements and design.

## Exhibit 2 – Software Tier Description

FUNCTION	INCLUDED PRODUCTS	ESSENTIAL	STANDARD	PREMIER
<b>Content Repository</b>	Multi-User Server	X	X	X
	Distributed Disk Services	X	X	X
<b>Content Viewing</b>	Native feature of OnBase	X	X	X
<b>Multi-Platform Access</b>	Named User	X	X	X
	Workstation Client	X	X	X
	Mobile Access for Android	X	X	X
	Mobile Access for iPhone	X	X	X
	Mobile Access for Windows	X	X	X
	Mobile Access for iPad	X	X	X
	Unity Client Server	X	X	X
	Combined Viewer	X	X	X
	Web Server	X	X	X
	OnBase Interaction with ShareBase	X	X	X
	Gateway Caching Server	X	X	X
<b>Version Control</b>	Office Business Application	X	X	X
	EDM Services	X	X	X
<b>Records Management</b>	Records Management	X	X	X
	Document Retention	X	X	X
<b>Electronic Signature Solution</b>	Digital Signing Server		X	X
	Digital Signatures		X	X
	Signature Pad Interface (TWAIN)		X	X
<b>Document Conversion</b>	PDF Framework		X	X
	Conversion From Microsoft Office To Image Framework		X	X
	Conversion From Microsoft Office To Image Framework (Aspose)		X	X
<b>Document Knowledge Transfer, Tracking &amp; Compliance</b>	Document Knowledge Transfer & Compliance		X	X
	Document Tracking		X	X
<b>Process, Index, Store</b>	AFP Input Filter	X	X	X
	PCL Input Filter	X	X	X
	PDF Input Filter	X	X	X
	Advanced COLD/ERM	X	X	X
	COLD/ERM	X	X	X
	XML Tag Import Processor	X	X	X
	Directory Import Processor	X	X	X
<b>Standard File Import</b>		X	X	X

	Advanced Document Import Processor	X	X	X
	Document Import Processor	X	X	X
	XML Index Document Import Processor	X	X	X
<b>Document Scanning Compatibility</b>	Production Document Imaging: (ISIS) / (Kofax or Twain) / (TWAIN)	X	X	X
<b>Barcode Recognition</b>	Bar Code Recognition Server	X	X	X
<b>On Demand Ad-hoc Scanning</b>	Image Segment Archiver	X	X	X
	Front Office Scanning	X	X	X
	Web Scanning Named User	X	X	X
	Express Scanning	X	X	X
<b>High Volume Batch Scanning</b>	Disconnected Scanning	X	X	X
<b>Scan Paper Document &amp; OCR</b>	Desktop Document Imaging (Unlimited)	X	X	X
	Full-Page OCR	X	X	X
<b>Electronic Content Capture</b>	Virtual Print Driver	X	X	X
	Remittance Processor	X	X	X
<b>Automated Email Capture and Indexing</b>	Mailbox Importer	X	X	X
<b>Reporting Dashboards</b>	Reporting Dashboards	X	X	X
	StatusView	X	X	X
<b>Business Activity Monitoring and Exception Reports</b>	Business Activity Monitoring	X	X	X
	Exception Reports	X	X	X
<b>Workflow</b>	Workflow Named User Client SL		X	X
	Automated Notifications		X	X
	Workflow Approval Management		X	X
<b>Dynamic Approval Processes</b>	Business Rules Engine		X	X
<b>Collaboration</b>	Collaboration		X	X
	Document Transfer		X	X
<b>Forms</b>	E-forms		X	X
	Unity Forms		X	X

<b>Business Process Monitoring</b>	Report Mining			X
<b>Integration for Microsoft Outlook</b>	Integration for Microsoft Outlook	X	X	X
<b>Single Sign-On</b>	Single Sign-On for: Microsoft Active Directory Service / OnBase Entrust / RSA Access Manager / SAML / Microsoft Active Directory Federation Services / Central Authentication Service (CAS) / CA eTrust SiteMinder / IBM Tivoli Access Manager/ PeopleSoft Enterprise Non-Programmatic Integration	X	X	X
<b>Programmatic Integration</b>	Application Enabler	X	X	X
	Bar Code Generator	X	X	X
<b>Unity Integration Toolkit / Archival</b>	Unity Integration Toolkit / Archival API	X	X	X
<b>Custom Scripting Accessibility</b>	Line of Business and Message Broker		X	X
	Reverse API		X	X
	Enterprise Integration Server		X	X
<b>Case Management</b>	WorkView Named User Client SL			X
	WorkView Integration for Microsoft Outlook			X
	Context Search Framework			X
	OnBase Checklists for Process Control			X
	OnBase Incident Case Management			X
<b>Metadata Search (Custom Queries)</b>	Native feature of OnBase Full-Text Search	X	X	X
<b>Full-Text Search</b>	Full-Text Search	X	X	X
<b>User Authorization Management</b>	Native feature of OnBase	X	X	X
<b>Encryption (Alpha Keywords, Diskgroups)</b>	Encrypted Alpha Keywords	X	X	X
	Encrypted Diskgroups	X	X	X

## Exhibit 3 – Existing Software Gap Analysis

## AGENCY OF HUMAN SERVICES

Module	Description	Quantity
CMMPI1	Configuration Migration Utility	1
<b>DSMPI1</b>	<b>Distributed Disk Services</b>	<b>1</b>
<b>WLMPC1</b>	<b>Workflow Concurrent Client SL (1-20)</b>	<b>16</b>
<b>RPMPI1</b>	<b>Report Services</b>	<b>1</b>
<b>UNMPI1</b>	<b>Unity Client Server</b>	<b>1</b>
<b>EHMPI1</b>	<b>Encrypted Diskgroups</b>	<b>1</b>
<b>CTMPC1</b>	<b>Concurrent Client (1-100)</b>	<b>5</b>
<b>CTMPN3</b>	<b>Named User Client (201+)</b>	<b>76</b>
<b>CLMPW1</b>	<b>COLD/ERM</b>	<b>1</b>
<b>DIMPW2</b>	<b>Production Document Imaging (Kofax or Twain) (2+)</b>	<b>1</b>
<b>CTMPN3</b>	<b>Named User Client (201+)</b>	<b>10</b>
<b>CTMPN3</b>	<b>Named User Client (201+)</b>	<b>32</b>
<b>STMPI1</b>	<b>StatusView</b>	<b>1</b>
<b>DPMPW1</b>	<b>Document Import Processor</b>	<b>1</b>
<b>RIMPI1</b>	<b>Records Management</b>	<b>1</b>
<b>CTMPN3</b>	<b>Named User Client (201+)</b>	<b>20</b>
WSPMPI1	Web Services Publishing	1
WSMPI1	Web Services Toolkit	1
<b>CTMPN1</b>	<b>Named User Client (1-100)</b>	<b>100</b>
<b>CTMPC1</b>	<b>Concurrent Client (1-100)</b>	<b>6</b>
<b>ARMPI1</b>	<b>Archival API</b>	<b>1</b>
<b>DIMPW2</b>	<b>Production Document Imaging (Kofax or Twain) (2+)</b>	<b>1</b>
<b>CTMPN3</b>	<b>Named User Client (201+)</b>	<b>33</b>
<b>CTMPC1</b>	<b>Concurrent Client (1-100)</b>	<b>50</b>
<b>OBMPW1</b>	<b>Multi-User Server</b>	<b>1</b>
<b>WTMPW1</b>	<b>Web Server</b>	<b>1</b>
<b>UIMPI1</b>	<b>Unity Integration Toolkit</b>	<b>1</b>
<b>DIMPW2</b>	<b>Production Document Imaging (Kofax or Twain) (2+)</b>	<b>1</b>
<b>DIMPW2</b>	<b>Production Document Imaging (Kofax or Twain) (2+)</b>	<b>4</b>
<b>CTMPC1</b>	<b>Concurrent Client (1-100)</b>	<b>9</b>



<b>CTMPN3</b>	<b>Named User Client (201+)</b>	<b>175</b>
<b>BAMPI1</b>	<b>Business Activity Monitoring</b>	<b>1</b>
<b>DIMPW2</b>	<b>Production Document Imaging (Kofax or Twain) (2+)</b>	<b>2</b>
<b>CTMPC1</b>	<b>Concurrent Client (1-100)</b>	<b>11</b>
<b>CTMPN2</b>	<b>Named User Client (101-200)</b>	<b>20</b>
<b>WLMPC1</b>	<b>Workflow Concurrent Client SL (1-20)</b>	<b>4</b>
<b>WTMPW1</b>	<b>Web Server</b>	<b>1</b>
<b>CTMPC1</b>	<b>Concurrent Client (1-100)</b>	<b>14</b>
<b>WLMPC2</b>	<b>Workflow Concurrent Client SL (21-50)</b>	<b>30</b>
<b>WLMPC3</b>	<b>Workflow Concurrent Client SL (51-100)</b>	<b>50</b>
<b>DSMPW2</b>	<b>Disconnected Scanning (2+)</b>	<b>18</b>
<b>WTMPW1</b>	<b>Web Server</b>	<b>1</b>
<b>WTMPW1</b>	<b>Web Server</b>	<b>1</b>
<b>CTMPC2</b>	<b>Concurrent Client (101-200)</b>	<b>26</b>
<b>DIMPW2</b>	<b>Production Document Imaging (Kofax or Twain) (2+)</b>	<b>2</b>
<b>DMMPI1</b>	<b>EDM Services</b>	<b>1</b>

<b>PTMPC1</b>	<b>Virtual Print Driver</b>	<b>1</b>
<b>CTMPN3</b>	<b>Named User Client (201+)</b>	<b>40</b>
<b>RHMPI1</b>	<b>Reporting Dashboards</b>	<b>1</b>
<b>CTMPC1</b>	<b>Concurrent Client (1-100)</b>	<b>5</b>
<b>DIMPW1</b>	<b>Production Document Imaging (Kofax or Twain) (1)</b>	<b>1</b>
BMMPI1	Business Process Modeling	1
<b>DIMPW2</b>	<b>Production Document Imaging (Kofax or Twain) (2+)</b>	<b>1</b>
<b>CTMPN2</b>	<b>Named User Client (101-200)</b>	<b>80</b>
<b>DIMPW2</b>	<b>Production Document Imaging (Kofax or Twain) (2+)</b>	<b>2</b>
<b>CTMPN3</b>	<b>Named User Client (201+)</b>	<b>111</b>
<b>AEMPI1</b>	<b>Application Enabler</b>	<b>1</b>
<b>WLMPC4</b>	<b>Workflow Concurrent Client SL (101-300)</b>	<b>100</b>
UCMPI1	Unity Integration Server Controls	1
UAMPI1	Unity Automation API	1
KEYUPDATE	Keyword Update	1
CHANGEPASS-	Change Password	1

## AGENCY OF TRANSPORTATION

Module	Description	Quantity
IDMPC1	Full-Text Indexing Concurrent Client for Autonomy IDOL	10
<b>DIMPW2</b>	<b>Production Document Imaging (Kofax or Twain) (2+)</b>	<b>2</b>
<b>CTMPC1</b>	<b>Concurrent Client (1-100)</b>	<b>25</b>
<b>PIMPW1</b>	<b>PDF Input Filter</b>	<b>1</b>
<b>PTMPC1</b>	<b>Virtual Print Driver</b>	<b>1</b>
<b>DIMPW2</b>	<b>Production Document Imaging (Kofax or Twain) (2+)</b>	<b>1</b>
IDMPI1	Full-Text Indexing Server for Autonomy IDOL	1
<b>DIMPW2</b>	<b>Production Document Imaging (Kofax or Twain) (2+)</b>	<b>5</b>
<b>TIMPW2</b>	<b>Production Document Imaging (TWAIN)</b>	<b>4</b>
<b>DIMPW1</b>	<b>Production Document Imaging (Kofax or Twain) (1)</b>	<b>1</b>
<b>DIMPW2</b>	<b>Production Document Imaging (Kofax or Twain) (2+)</b>	<b>1</b>
OCMPW1	Batch OCR	1
<b>DPMPW1</b>	<b>Document Import Processor</b>	<b>1</b>
<b>CLMPW1</b>	<b>COLD/ERM</b>	<b>1</b>
<b>OBMPW1</b>	<b>Multi-User Server</b>	<b>1</b>
<b>DIMPW2</b>	<b>Production Document Imaging (Kofax or Twain) (2+)</b>	<b>5</b>
<b>DRMPI1</b>	<b>Document Retention</b>	<b>1</b>
<b>DIMPW2</b>	<b>Production Document Imaging (Kofax or Twain) (2+)</b>	<b>1</b>
<b>WTMPW1</b>	<b>Web Server</b>	<b>1</b>
<b>CTMPC1</b>	<b>Concurrent Client (1-100)</b>	<b>1</b>
UAMPI1	Unity Automation API	1
KEYUPDATE	Keyword Update	1

## Public Service Board

Module	Description	Quantity
<b>OMMPI1-ANDPH</b>	<b>Mobile Access for Android</b>	<b>1</b>
<b>WLMPC1</b>	<b>Workflow Concurrent Client SL (1-20)</b>	<b>2</b>
APMPQ4	Query API (Additional block of 500 queries/hour) (OnBase Unity/Core)	1
<b>DIMPW2</b>	<b>Production Document Imaging (Kofax or Twain) (2+)</b>	<b>1</b>
OCMPW1	Batch OCR	1

<b>DSMPW2</b>	<b>Disconnected Scanning (2+)</b>	<b>1</b>
<b>OMMPI1-IPHN</b>	<b>Mobile Access for iPhone</b>	<b>1</b>
<b>AIMPW1</b>	<b>Desktop Document Imaging (15 ppm max)</b>	<b>1</b>
<b>DIMPW1</b>	<b>Production Document Imaging (Kofax or Twain) (1)</b>	<b>1</b>
<b>OBMPW1</b>	<b>Multi-User Server</b>	<b>1</b>
<b>IDMPC1</b>	<b>Full-Text Indexing Concurrent Client for Autonomy IDOL</b>	<b>5</b>
<b>CTMPC1</b>	<b>Concurrent Client (1-100)</b>	<b>20</b>
<b>OMMPW1-IPAD</b>	<b>Mobile Access for iPad</b>	<b>1</b>
<b>WTMPW1</b>	<b>Web Server</b>	<b>1</b>
<b>OUTMPI1</b>	<b>Integration for Microsoft Outlook</b>	<b>1</b>
<b>OBAMPI2</b>	<b>Office Business Application</b>	<b>1</b>
IDMPI1	Full-Text Indexing Server for Autonomy IDOL	1
<b>CTMPN1</b>	<b>Named User Client (1-100)</b>	<b>7</b>
<b>DIMPW2</b>	<b>Production Document Imaging (Kofax or Twain) (2+)</b>	<b>2</b>
<b>PWMPI1</b>	<b>Signature Pad Interface (TWAIN)</b>	<b>1</b>
<b>BSMPW1</b>	<b>Bar Code Recognition Server</b>	<b>1</b>
APMPQ3	Query API (Initial 500 queries/hour) (OnBase Unity/Core)	1
UAMPI1	Unity Automation API	1

**ATTACHMENT B – PAYMENT PROVISIONS**

The maximum dollar amount payable under this contract is not intended as any form of a guaranteed amount.

1. Prior to commencement of work and release of any payments, Contractor shall submit to the State:
  - a. a certificate of insurance consistent with the requirements set forth in Attachment C, Section 8 (Insurance), and with any additional requirements for insurance as may be set forth elsewhere in this contract; and
  - b. a current IRS Form W-9 (signed within the last six months).
2. Payment terms are **Net 30** days from the date the State receives an error-free invoice with all necessary and complete supporting documentation. As applicable, a copy of the notice(s) of acceptance shall accompany invoices submitted for payment. In the event any invoice contains a billing error which is discovered by Contractor, Contractor may issue a new invoice to correct the error.
3. Resolution of Invoice Disputes. If, prior to the due date for payment under any invoice, the State notifies Contractor in writing that it disputes all or any portion of an amount invoiced, both parties will use reasonable efforts to resolve the dispute within thirty (30) calendar days of Contractor's receipt of the notice. If any amount remains disputed in good faith after such (30-day period, either party may escalate the disputed items to the parties' respective executive management to attempt to resolve the dispute. The parties agree that at least one of each of their respective executives will meet (which may be by telephone or other similarly effective means of remote communication) within ten (10) calendar days of any such escalation to attempt to resolve the dispute. If the parties' executive managers are unable to resolve the dispute within ten (10) calendar days of such meeting, either party thereafter may file litigation in a court of competent jurisdiction to seek resolution of the dispute.
4. Certain Remedies For Non-Payment or For Late Payment. In the event of any default by the State in the payment of any amounts invoiced hereunder (except those amounts properly disputed in accordance with Section 3 of this Attachment B), which, following written notice by Contractor to the State, continues unremedied for at least thirty (30) calendar days after the due date of such payment, Contractor shall have the right to suspend or cease the provision of any services under this contract, including the delivery of any Upgrades and Enhancements to the State, unless and until such default shall have been cured.
5. Except with respect to Professional Services, Contractor shall submit detailed annual invoices in accordance with this Agreement including but not limited to the Contract # for this contract, the time period for which payment is being requested.
  - a. The State acknowledges and agrees that, when this Agreement is signed by both parties, Hyland will issue the initial invoice for the applicable fees due during Year 1 under this Agreement.

**Contractor:** Hyland Software, Inc.

6. Contractor shall submit invoices to the State in accordance with the schedule set forth in this Attachment. Unless a more particular schedule is provided herein, invoices shall be submitted not more frequently than monthly. All invoices shall be sent electronically by Contractor to the State of Vermont Agency of Digital Services Business Office at the following address, or to such other person or department as the State may specify from time to time by written notice to Contractor:

[ads.businessoffice@vermont.gov](mailto:ads.businessoffice@vermont.gov)

7. Purchased Software

- a. Vermont State Agency of Human Services

Additional Software Purchased	Tier	Quantity
Named Users	Standard	1,355
Unlimited, unmetered use of Enterprise Web Services Publishing		
Document Composition		1
Image Forms		1

- i. Enterprise Web Services Publishing allows for point and click creation of standard web services tailored for an organization's OnBase solution, providing a Web API for use by external users or third party applications. In addition to this license, which allows users to publish web services, Web Services Publishing normally requires a fee Per Executed Web Service Call but in this agreement that fee is waived. A built-in reporting mechanism that normally relays monthly usage data to Hyland for translation into a monthly billing amount will be disabled. The parties acknowledge and agree that the Enterprise Web Services Publishing functionality is not intended to replace the need for the State to maintain the appropriate number of Named User licenses to accommodate such usage by the State's internal users for those State users that require full OnBase client functionality.

Base Subscription Fees	Amount
Year 1	\$300,000.00/year
Year 2	\$300,000.00/year
Year 3	\$300,000.00/year
Year 4	\$309,000.00/year
Year 5	\$318,270.00/year

- b. Vermont Agency of Transportation

Additional Software Purchased	Tier	Quantity
Named Users	Standard	310

Subscription Fees	Amount
Year 1	\$40,000.00/year
Year 2	\$40,000.00/year

Contractor: Hyland Software, Inc.

Year 3	\$40,000.00/year
Year 4	\$41,200.00/year
Year 5	\$42,436.00/year

## c. Vermont Public Service Board

Additional Software Purchased	Tier	Quantity
Named Users	Essential	70
Named Users	Standard	8
Document Composition		1
Image Forms		1

Subscription Fees	Amount
Year 1	\$40,000.00/year
Year 2	\$40,000.00/year
Year 3	\$40,000.00/year
Year 4	\$41,200.00/year
Year 5	\$42,436.00/year

8. At any time during the term of this Agreement, licenses purchased by the State of Vermont under this Agreement can be transferred to different users across any Agency and/or Department of the State.
9. Following the expiration of the Initial Term, or at the commencement of a renewal term, if any, the State may decrease the aggregate amount of licenses purchased by the State under this Agreement.
10. Hyland shall provide the State with any and all license activation codes for Software products licensed under the terms of this Agreement.
11. Purchase of Additional Named Users: During the Initial Term of this Agreement, Additional Named User tiers may be purchased in accordance with the pricing in the table below. Upon expiration of the Initial Term, additional Named User tiers may be purchased in amounts as mutually agreed upon by the parties. Amounts billed per user must be prorated based on the annual subscription billing date in effect at the time of any such purchase.

TIER	ANNUAL SUBSCRIPTION FEES (per additional user)
Essential	\$468.00/year
Standard	\$708.00/year
Premier	\$1,068.00/year

## 12. Professional Services:

- a. For services performed on a time and materials basis, Contractor shall invoice the State on a monthly basis, at the applicable rates set forth in a SOW, and be paid based on documentation and itemization of work performed and included in such invoices.

Invoicing must contain a detail of services including a summary of work performed, location, dates, and hours of work performed. The parties acknowledge and agree that for a period of twenty-four (24) months from the Effective Date, the applicable hourly rate for any such remote Professional Services shall be \$215.00 per Working Hour and that this hourly rate may be subject to increase not to exceed 5% annually for years 3, 4 and 5.

- b. For fixed price deliverables, Contractor shall invoice the State, and be paid in accordance with the payment schedule included in the applicable SOW Agreement.
- c. If the State Authorized Representative approves in writing in advance Contractor Personnel working remotely, at a location other than as directed by the State, all Contractor Personnel hours worked remotely must be clearly reported as remote and invoiced at the appropriate remote rate.

13. General:

a. Training.

- i. Contractor shall provide the following State agencies with unlimited access for unlimited users to its Premium Subscription online technical training (<https://training.hyland.com/premium>) for the initial five (5) year contract term: (1) Vermont State Agency of Human Services, (2) Vermont Agency of Transportation, and (3) Vermont Public Service Board.
- ii. The State may purchase all other training, including any training recertification classes, at a twenty percent (20%) discount on the then-current price of the training courses as described on Contractor's training web portal at <https://training.onbase.com>.
- iii. Hyland shall invoice Customer for applicable training fees upon Customer's registration for each training course. In the event that Customer prepays for training, then such prepaid training shall expire twelve (12) months from the date Hyland accepts Customer's purchase order for such training.

b. Event Concessions. Contractor shall provide upon request CommunityLIVE (Hyland's User Conference) passes at the following schedule of rates:

i. Purchase 1 pass

- CommunityLIVE Five (Sun-Thurs): \$2,695/per person
- CommunityLIVE (Tues-Thurs): \$2,195/per person

c. Travel and Expense for Account Management/Sales Support. Any on-site meetings and/or trips by Contractor's account management and sales support staff shall not be the responsibility of the State.

10. If applicable, all equipment pricing is to include F.O.B. delivery to the ordering facility. No request for extra delivery cost will be honored.

11. Reimbursement of expenses is not authorized under this Contract. All rates shall be inclusive of any and all fees for travel and expenses, including mileage.

**ATTACHMENT C: STANDARD STATE PROVISIONS  
FOR CONTRACTS AND GRANTS  
REVISED DECEMBER 15, 2017**

**1. Definitions:** For purposes of this Attachment, “Party” shall mean the Contractor with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.

**2. Entire Agreement:** This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter, including but not limited to all contracts or agreements related to the Existing Software as listed in Exhibit 3 to Attachment A. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

**3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial:** This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State with regard to its performance under this Agreement. Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.

**4. Sovereign Immunity:** The State reserves all immunities, defenses, rights or actions arising out of the State’s sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State’s immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of the State’s entry into this Agreement.

**5. No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the State withhold any state or Federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

**6. Independence:** The Party will act in an independent capacity and not as officers or employees of the State.

**7. Defense and Indemnity:** The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any negligent or wrongful act or omission of the Party or of any agent of the Party in connection with the performance of Professional Services under this Agreement which result in personal injury (including death) or damage to tangible property (each, a “Claim”). The State shall notify the Party in the event of any such Claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire Claim. The State retains the right to participate at its own expense in the defense of any Claim. The State shall have the right to approve all proposed settlements of such Claims, provided that such approval shall not be unreasonably withheld.



After a final judgment or settlement, the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any Claim arising from an act or omission of the Party in connection with the performance of this Agreement.

The Party shall indemnify the State and its officers and employees if the State, its officers or employees become legally obligated to pay any damages or losses arising from any Claim, as defined above.

Notwithstanding any contrary language anywhere, in no event shall the terms of this Agreement or any document furnished by the Party in connection with its performance under this Agreement obligate the State to (1) defend or indemnify the Party or any third party, or (2) otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or other costs of the Party or any third party.

**8. Insurance:** Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State through the term of this Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

*Workers Compensation:* With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont. Vermont will accept an out-of-state employer's workers' compensation coverage while operating in Vermont provided that the insurance carrier is licensed to write insurance in Vermont and an amendatory endorsement is added to the policy adding Vermont for coverage purposes. Otherwise, the party shall secure a Vermont workers' compensation policy, if necessary to comply with Vermont law.

*General Liability and Property Damage:* With respect to all operations performed under this Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

- Premises - Operations
- Products and Completed Operations
- Personal Injury Liability
- Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

- \$1,000,000 Each Occurrence
- \$2,000,000 General Aggregate
- \$1,000,000 Products/Completed Operations Aggregate
- \$1,000,000 Personal & Advertising Injury

*Automotive Liability:* The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than \$500,000 combined single limit. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, limits of coverage shall not be less than \$1,000,000 combined single limit.

*Additional Insured.* The General Liability and Property Damage coverages required for performance of this Agreement shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, then the required Automotive Liability coverage shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

*Notice of Cancellation or Change.* There shall be no cancellation, change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written prior written notice to the State.

**9. Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all representations made by the Party in accordance with this Agreement, including but not limited to bills, invoices, progress reports and other proofs of work.

**10. False Claims Act:** The Party acknowledges that it is subject to the Vermont False Claims Act as set forth in 32 V.S.A. § 630 *et seq.* If the Party violates the Vermont False Claims Act it shall be liable to the State for civil penalties, treble damages and the costs of the investigation and prosecution of such violation, including attorney's fees, except as the same may be reduced by a court of competent jurisdiction. The Party's liability to the State under the False Claims Act shall not be limited notwithstanding any agreement of the State to otherwise limit Party's liability.

**11. Whistleblower Protections:** The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such disclosures, nor should they be required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

**12. Location of State Data:** No State data received, obtained, or generated by the Party in connection with performance under this Agreement shall be processed, transmitted, stored, or transferred by any means outside the continental United States, except with the express written permission of the State.

**13. Records Available for Audit:** The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

**14. Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement.

**15. Set Off:** The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

**16. Taxes Due to the State:**

- A. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.

- B.** Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- C.** Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- D.** Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

**17. Taxation of Purchases:** All State purchases must be invoiced tax free. An exemption certificate will be furnished upon request with respect to otherwise taxable items.

**18. Child Support:** (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date this Agreement is signed, he/she:

- A.** is not under any obligation to pay child support; or
- B.** is under such an obligation and is in good standing with respect to that obligation; or
- C.** has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

**19. Sub-Agreements:** Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party shall be responsible and liable to the State for all acts or omissions of subcontractors and any other person performing work under this Agreement pursuant to an agreement with Party or any subcontractor.

In the case this Agreement is a contract with a total cost in excess of \$250,000, the Party shall provide to the State a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54).

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 12 ("Location of State Data"); Section 14 ("Fair Employment Practices and Americans with Disabilities Act"); Section 16 ("Taxes Due the State"); Section 18 ("Child Support"); Section 20 ("No Gifts or Gratuities"); Section 22 ("Certification Regarding Debarment"); Section 30 ("State Facilities"); and Section 32.A ("Certification Regarding Use of State Funds").

**20. No Gifts or Gratuities:** Party shall not give title or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

**21. Copies:** Party shall use reasonable best efforts to ensure that all written reports prepared under this Agreement are printed using both sides of the paper.

**22. Certification Regarding Debarment:** Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in Federal programs, or programs supported in whole or in part by Federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing/debarment>

**23. Conflict of Interest:** Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.

**24. Confidentiality:** Party acknowledges and agrees that this Agreement and any and all information obtained by the State from the Party in connection with this Agreement are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq.

**25. Force Majeure:** Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control rendering performance illegal or impossible (excluding strikes or lock-outs) ("Force Majeure"). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph.

**26. Marketing:** Party shall not refer to the State in any publicity materials, information pamphlets, press releases, research reports, advertising, sales promotions, trade shows, or marketing materials or similar communications to third parties except with the prior written consent of the State.

**27. Termination:**

**A. Non-Appropriation:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, and in the event Federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.

**B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party's notice or such longer time as the non-breaching party may specify in the notice.

**C. Termination Assistance:** Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

**28. Continuity of Performance:** In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

**29. No Implied Waiver of Remedies:** Either party's delay or failure to exercise any right, power or remedy under this Agreement shall not impair any such right, power or remedy, or be construed as a waiver of any such right, power or remedy. All waivers must be in writing.

**30. State Facilities:** If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party's performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to and use of State facilities which shall be made available upon request. State facilities will be made available to Party on an "AS IS, WHERE IS" basis, with no warranties whatsoever.

**31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements:** If this Agreement is a grant that is funded in whole or in part by Federal funds:

**A. Requirement to Have a Single Audit:** The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

**B. Internal Controls:** In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

**C. Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

**32. Requirements Pertaining Only to State-Funded Grants:**

**A. Certification Regarding Use of State Funds:** If Party is an employer and this Agreement is a State-funded grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.

**B. Good Standing Certification (Act 154 of 2016):** If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify, and (ii) that it will comply with the requirements stated therein.

(End of Standard Provisions)

**ATTACHMENT D**  
**INFORMATION TECHNOLOGY SYSTEM IMPLEMENTATION**  
**TERMS AND CONDITIONS (rev. 3/29/18)**

**1. MODIFICATIONS TO CONTRACTOR DOCUMENTS**

The parties specifically agree that the Contractor Documents are hereby modified and superseded by Attachment C and this Attachment D.

“Contractor Documents” shall mean one or more document, agreement or other instrument required by Contractor in connection with the performance of the products and services being purchased by the State, regardless of format, including the license agreement, end user license agreement or similar document, any hyperlinks to documents contained in the Contractor Documents, agreement or other instrument and any other paper or “shrinkwrap,” “clickwrap,” “browsewrap” or other electronic version thereof.

**2. NO SUBSEQUENT, UNILATERAL MODIFICATION OF TERMS BY CONTRACTOR**

Notwithstanding any other provision or other unilateral license terms which may be issued by Contractor during the Term of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of an order for the products and services being purchased by the State, as applicable, the components of which are licensed under the Contractor Documents, or the fact that such other agreement may be affixed to or accompany the products and services being purchased by the State, as applicable, upon delivery, the terms and conditions set forth herein shall supersede and govern licensing and delivery of all products and services hereunder.

**3. TERM OF CONTRACTOR’S DOCUMENTS; PAYMENT TERMS**

Contractor acknowledges and agrees that, to the extent a Contractor Document provides for alternate term or termination provisions, including automatic renewals, such sections shall be waived and shall have no force and effect. All Contractor Documents shall run concurrently with the term of this Contract; provided, however, to the extent the State has purchased a perpetual license to use the Contractor’s software, hardware or other services, such license shall remain in place unless expressly terminated in accordance with the terms of this Contract. Contractor acknowledges and agrees that, to the extent a Contractor Document provides for payment terms which differ from the payment terms set forth in Attachment B, such sections shall be waived and shall have no force and effect and the terms in Attachment B shall govern.

**4. OWNERSHIP AND LICENSE IN DELIVERABLES**

**4.1 Contractor Intellectual Property.** Contractor and its suppliers own the Software, Work Products, Documentation and Innovations, including, without limitation, any and all worldwide copyrights, patents, trade secrets, trademarks and proprietary and confidential information rights in or associated with the foregoing. The Software, Documentation, and Work Products are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. No ownership rights in the Software, Innovations or Work Products are transferred to the State, unless the parties agree otherwise regarding the ownership of Work Products and Documentation in a SOW. The State agrees to take all reasonable steps to protect

all Work Products and Innovations, and any related Documentation, delivered by Contractor to the State under this Agreement from unauthorized copying or use. The State agrees that nothing in this Agreement or associated documents gives it any right, title or interest in the Software or Work Products, except for the limited express rights granted in a Software License Schedule – Perpetual or a Software License and Maintenance Schedule – Subscription or a SaaS Schedule. The State acknowledges and agrees that, with respect to Contractor’s end users generally, Contractor has the right, at any time, to change the specifications and operating characteristics of the Software, and Contractor’s policies respecting Upgrades and Enhancements (including but not limited to its release process). THIS AGREEMENT IS NOT A WORK-FOR-HIRE AGREEMENT.

The State agrees not to: (a) remove Hyland copyright, trademark or other proprietary rights notices that appear on or during the use of the Software, Work Products, Documentation; (b) sell, transfer, rent, lease or sub-license the Software, Work Products, or Documentation; (c) except as expressly permitted with respect to Work Products, alter or modify the Software, Work Products, or Documentation; or (d) reverse engineer, disassemble, decompile or attempt to derive source code from the Software, Work Products, or Documentation, or prepare derivative works therefrom.

The State’s license to the Software, Work Products, and Documentation is set forth in Attachment F.

**4.2 State Intellectual Property.** The State shall retain all right, title and interest in and to (i) all content and all property, data and information furnished by or on behalf of the State or any agency, commission or board thereof, and to all State Confidential Information, including, but not limited to, all data that is generated as a result of the use of such property, data and information by Contractor, the State or any third party of any technology systems or knowledge bases that are developed for the State and used by Contractor hereunder; and (ii) all State trademarks, trade names, logos and other State identifiers, Internet uniform resource locators, State user name or names, Internet addresses and e-mail addresses obtained or developed pursuant to this Contract (collectively, “State Intellectual Property”).

Contractor may not use State Intellectual Property for any purpose other than as specified in this Contract. Upon expiration or termination of this Contract, Contractor shall return or destroy all State Intellectual Property and all copies thereof, and Contractor shall have no further right or license to such State Intellectual Property.

Contractor acquires no rights or licenses, including, without limitation, intellectual property rights or licenses, to use State Intellectual Property for its own purposes. In no event shall the Contractor claim any security interest in State Intellectual Property.

## **5. CONFIDENTIALITY AND NON-DISCLOSURE; SECURITY BREACH REPORTING**

For purposes of this Contract, “Confidential Information” shall be such information that is marked “Proprietary” or “Confidential,” that is known by the recipient to be confidential or that is of such a nature as customarily would be confidential between business parties, except as provided in the next sentence. Confidential Information will not include information or material which (a) enters the public domain (other than as a result of a breach of this Contract); (b) was in the receiving party’s possession prior to its receipt from the disclosing party; (c) is independently

developed by the receiving party without the use of confidential information; (d) is obtained by the receiving party from a third party under no obligation of confidentiality to the disclosing party; or (e) is demonstrated by recipient to have been independently developed by recipient without reference to the other party's information.

**5.1 Confidentiality of Contractor Information.** The Contractor acknowledges and agrees that this Contract and any and all Contractor information, including Confidential Information, obtained by the State in connection with this Contract are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. The State will not disclose information for which a reasonable claim of exemption can be made pursuant to 1 V.S.A. § 317(c), including, but not limited to, trade secrets, proprietary information or financial information, including any formulae, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to the Contractor, and which gives the Contractor an opportunity to obtain business advantage over competitors who do not know it or use it.

The State shall immediately notify Contractor of any request made under the Access to Public Records Act, or any request or demand by any court, governmental agency or other person asserting a demand or request for Contractor information. Contractor may, in its discretion, seek an appropriate protective order, or otherwise defend any right it may have to maintain the confidentiality of such information under applicable State law within three business days of the State's receipt of any such request. Contractor agrees that it will not make any claim against the State if the State makes available to the public any information in accordance with the Access to Public Records Act after providing notice and an opportunity for Contractor to seek a protective order, or in response to a binding order from a court or governmental body or agency compelling its production. Contractor shall indemnify the State for any costs or expenses incurred by the State, including, but not limited to, attorneys' fees awarded in accordance with 1 V.S.A. § 320, in connection with any action brought in connection with Contractor's attempts to prevent or unreasonably delay public disclosure of Contractor's information if a final decision of a court of competent jurisdiction determines that the State improperly withheld such information and that the improper withholding was based on Contractor's attempts to prevent public disclosure of Contractor's information.

The State agrees that (a) it will use the Contractor information only as may be necessary in the course of performing duties, receiving services or exercising rights under this Contract; (b) it will provide at a minimum the same care to avoid disclosure or unauthorized use of Contractor information as it provides to protect its own similar confidential and proprietary information; (c) except as required by the Access to Records Act, it will not disclose such information orally or in writing to any third party unless that third party is subject to a written confidentiality agreement that contains restrictions and safeguards at least as restrictive as those contained in this Contract; (d) it will take all reasonable precautions to protect the Contractor's information; and (e) it will not otherwise appropriate such information to its own use or to the use of any other person or entity.

Contractor may affix an appropriate legend to Contractor information that is provided under this Contract to reflect the Contractor's determination that any such information is a trade secret, proprietary information or financial information at time of delivery or disclosure.



**5.2 Confidentiality of State Information.** In performance of this Contract, and any exhibit or schedule hereunder, the Contractor acknowledges that certain State Data (as defined below), to which the Contractor may have access may contain individual federal tax information, personal protected health information and other individually identifiable information protected by State or federal law or otherwise exempt from disclosure under the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq. (“State Data”).

State Data shall not be stored, accessed from, or transferred to any location outside the United States.

Unless otherwise instructed by the State, Contractor agrees to keep confidential all State Data. The Contractor agrees that (a) it will use the State Data only as may be necessary in the course of performing duties or exercising rights under this Contract; (b) it will provide at a minimum the same care to avoid disclosure or unauthorized use of State Data as it provides to protect its own similar confidential and proprietary information; (c) it will not publish, reproduce, or otherwise divulge any State Data in whole or in part, in any manner or form orally or in writing to any third party unless it has received written approval from the State and that third party is subject to a written confidentiality agreement that contains restrictions and safeguards at least as restrictive as those contained in this Contract; (d) it will take all reasonable precautions to protect the State’s information; and (e) it will not otherwise appropriate such information to its own use or to the use of any other person or entity. Contractor will take reasonable measures as are necessary to restrict access to State Data in the Contractor’s possession to only those employees on its staff who must have the information on a “need to know” basis. The Contractor shall not retain any State Data except to the extent required to perform the services under this Contract.

Contractor shall not access State user accounts or State Data, except in the course of data center operations, response to service or technical issues, as required by the express terms of this Contract, or at State’s written request.

Contractor may share State Data with its parent company or other affiliates that are under the ownership or control of its parent company if and only to the extent such sharing may be necessary in performance of this Contract, and provided that Contractor shall be fully responsible for such parent’s or affiliate’s compliance with the requirements of this Contract pertaining State Data. As of the Effective Date, Hyland LLC is the only affiliate of Contractor that Contractor intends to share State Data with in accordance with the preceding requirements.

The Contractor shall promptly notify the State of any request or demand by any court, governmental agency or other person asserting a demand or request for State Data to which the Contractor or any third party hosting service of the Contractor may have access, so that the State may seek an appropriate protective order.

## **6. SECURITY OF STATE INFORMATION**

**6.1 Security Standards.** To the extent the Contractor or its subcontractors, affiliates or agents handles, collects, stores, disseminates or otherwise deals with State Data, the Contractor represents that it has implemented and it shall maintain during the term of this Contract industry standard administrative, technical, and physical safeguards and controls (based on

standards such as NIST *Special Publication 800-53* (version 4 or higher), *Federal Information Processing Standards Publication 200* or ISO 27001/2) designed to (i) ensure the security and confidentiality of State Data; (ii) protect against any anticipated security threats or hazards to the security or integrity of the State Data; and (iii) protect against unauthorized access to or use of State Data. Such measures shall include at a minimum: (1) access controls on information systems, including controls to authenticate and permit access to State Data only to authorized individuals and controls to prevent the Contractor employees from providing State Data to unauthorized individuals who may seek to obtain this information (whether through fraudulent means or otherwise); (2) industry-standard firewall protection; (3) encryption of electronic State Data while in transit from the Contractor networks to external networks; (4) measures to store in a secure fashion all State Data which shall include, but not be limited to, encryption at rest and authentication; (5) dual control procedures, segregation of duties, and pre-employment criminal background checks for employees with responsibilities for or access to State Data; (6) staff training to implement the information security measures; and (7) monitoring of the security of any portions of the Contractor systems that are used in the provision of the services against intrusion on a twenty-four (24) hour a day basis.

**6.2 Security Breach Notice and Reporting.** The Contractor shall have policies and procedures in place for the effective management of Security Breaches, as defined below, which shall be made available to the State upon request.

In addition to the requirements set forth in any applicable Business Associate Agreement as may be attached to this Contract and made applicable to a specific SOW Exhibit hereunder, in the event of any actual security breach or reasonable belief of an actual security breach the Contractor either suffers or learns of that either compromises or could compromise State Data (a “Security Breach”), the Contractor shall notify the State within seventy-two hours of its discovery. Contractor shall immediately determine the nature and extent of the Security Breach, and contain the incident by, for example, stopping the unauthorized practice, recovering records, shutting down the system that was breached, or revoking access and/or correcting weaknesses in physical security. Contractor shall report to the State: (i) the nature of the Security Breach; (ii) the State Data used or disclosed; (iii) who made the unauthorized use or received the unauthorized disclosure; (iv) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and (v) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. The Contractor shall provide such other information, including a written report, as reasonably requested by the State.

In accordance with Section 9 V.S.A. §2435(b)(3), the Contractor shall notify the Office of the Attorney General, or, if applicable, Vermont Department of Financial Regulation (“DFR”), within fourteen (14) business days of the Contractor’s discovery of the Security Breach. The notice shall provide a preliminary description of the breach. The foregoing notice requirement shall be included in the subcontracts of any of Contractor’s subcontractors, affiliates or agents which may be “data collectors” hereunder.

The Contractor agrees to fully cooperate with the State and, in the case of a Security Breach caused by Contractor’s breach of its obligations under this Agreement, assume responsibility at its own expense for the following, : (i) to provide notice to affected consumers if the State

determines in its reasonable discretion to be appropriate under the circumstances of any particular Security Breach, in a form recommended by the AGO; and (ii) investigation and remediation associated with a Security Breach as may be required by law.

The Contractor agrees to comply with all applicable laws, as such laws may be amended from time to time (including, but not limited to, Chapter 62 of Title 9 of the Vermont Statutes and all applicable State and federal laws, rules or regulations) that require notification in the event of unauthorized release of personally-identifiable information or other event requiring notification.

In addition to any other indemnification obligations in this Contract, the Contractor shall fully indemnify and save harmless the State from any costs, loss or damage to the State resulting from third party claims arising out of a Security Breach caused by a breach by Contractor of its obligations under this contract or the unauthorized disclosure of State Data by the Contractor, its officers, agents, employees, and subcontractors.

### **6.3 Security Policies.**

To the extent the Contractor or its subcontractors, affiliates or agents handles, collects, stores, disseminates or otherwise deals with State Data, the Contractor will have an information security policy that protects its systems and processes and media that may contain State Data from internal and external security threats and State Data from unauthorized disclosure, and will have provided a copy of such policy to the State upon the State's request. The Contractor shall provide the State with written notice of any material amendment or modification of such policies during the prior year upon the State's request; provided however, any changes shall be consistent with Contractor's obligations with respect to security and privacy of State Data as set forth in this contract.

## **7. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES**

**7.1 General Representations and Warranties.** The Contractor represents, warrants and covenants that:

- (i) The Contractor has all requisite power and authority to execute, deliver and perform its obligations under this Contract and the execution, delivery and performance of this Contract by the Contractor has been duly authorized by the Contractor.
- (ii) There is no outstanding litigation, arbitrated matter or other dispute to which the Contractor is a party which, if decided unfavorably to the Contractor, would reasonably be expected to have a material adverse effect on the Contractor's ability to fulfill its obligations under this Contract.
- (iii) The Contractor will comply with all laws applicable to its performance of the services and otherwise to the Contractor in connection with its obligations under this Contract.
- (iv) The Contractor (a) owns, or has the right to use under valid and enforceable agreements, all intellectual property rights reasonably necessary for and related to delivery of the services and provision of the Software, Work Products, and Documentation as set forth in this Contract; (b) shall be responsible for and have

full authority to license all proprietary and/or third party software modules, including algorithms and protocols, that Contractor incorporates into its product; and (c) none of the Software, Work Products, or Documentation or other materials or technology provided by the Contractor to the State will infringe upon or misappropriate the intellectual property rights of any third party, provided that in the event of any non-compliance with the foregoing, the State's sole and exclusive remedy shall be the indemnification rights provided under Attachment F.

- (v) The Contractor has adequate resources to fulfill its obligations under this Contract.
- (vi) Neither Contractor nor Contractor's subcontractors has past state or federal violations, convictions or suspensions relating to miscoding of employees in NCCI job codes for purposes of differentiating between independent contractors and employees.

**7.2 Contractor's Performance Warranties.** Contractor represents and warrants to the State that:

- (i) Each and all of the services shall be performed in a timely, diligent, professional and skillful manner, in accordance with professional or technical industry standards applicable to such services, by qualified persons with the technical skills, training and experience to perform such services in the planned environment. This warranty specifically excludes (a) non-performance issues caused as a result of incorrect data or incorrect procedures used or provided by the State or a third party or failure of the State to perform and fulfill its obligations under this Agreement; and (b) any Professional Services that are specifically identified as staff augmentation in a SOW Exhibit.
- (ii) Any time Software is delivered to the State, whether delivered via electronic media or the internet, no portion of such Software or the media upon which it is stored or delivered will have any type of software routine or other element which is designed to facilitate (i) unauthorized access to or intrusion upon; or unrequested disabling or erasure of; or (ii) unauthorized interference with the operation of any hardware, software, data or peripheral equipment of or utilized by the State ("Harmful Code"). If the State believes that Harmful Code may be present in any software delivered hereunder, Contractor will, upon State's request, provide a new or clean install of the Software. Notwithstanding the foregoing, Contractor assumes no responsibility for the State's negligence or failure to protect data from viruses, or any unintended modification, destruction or disclosure.
- (iii) To the extent Contractor resells commercial hardware or software it purchased from a third party, Contractor will, to the extent it is legally able to do so, pass through any such third party warranties to the State and will reasonably cooperate in enforcing them. Such warranty pass-through will not relieve the Contractor from Contractor's warranty obligations set forth herein.

**7.3 Limitation on Disclaimer.** The express warranties set forth in this Contract shall be in lieu of all other warranties, express or implied. EXCEPT FOR THE WARRANTIES PROVIDED BY CONTRACTOR AS EXPRESSLY SET FORTH IN THIS MASTER AGREEMENT, CONTRACTOR AND ITS SUPPLIERS MAKE NO WARRANTIES OR REPRESENTATIONS REGARDING ANY SOFTWARE, WORK PRODUCTS, INNOVATIONS, INFORMATION, MAINTENANCE AND SUPPORT, PROFESSIONAL SERVICES OR ANY OTHER SERVICES PROVIDED UNDER THIS AGREEMENT OR ANY SERVICES PROPOSAL. CONTRACTOR AND ITS SUPPLIERS DISCLAIM AND EXCLUDE ANY AND ALL OTHER EXPRESS, IMPLIED AND STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF GOOD TITLE, WARRANTIES AGAINST INFRINGEMENT, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES THAT MAY ARISE OR BE DEEMED TO ARISE FROM ANY COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. CONTRACTOR AND ITS SUPPLIERS DO NOT WARRANT THAT ANY MAINTENANCE AND SUPPORT, PROFESSIONAL SERVICES, SOFTWARE OR WORK PRODUCTS PROVIDED WILL SATISFY CUSTOMER'S REQUIREMENTS OR ARE WITHOUT DEFECT OR ERROR, OR THAT THE OPERATION OF ANY SOFTWARE OR ANY WORK PRODUCTS PROVIDED UNDER THIS AGREEMENT WILL BE UNINTERRUPTED. WITH THE EXCEPTION OF THIRD PARTY SOFTWARE INCLUDED IN A HYLAND SOFTWARE PRODUCT, CONTRACTOR DOES NOT ASSUME ANY LIABILITY WHATSOEVER WITH RESPECT TO ANY THIRD PARTY HARDWARE, FIRMWARE, SOFTWARE OR SERVICES.

7.3.1 CUSTOMER SPECIFICALLY ASSUMES RESPONSIBILITY FOR THE SELECTION OF THE SOFTWARE, WORK PRODUCTS, MAINTENANCE AND SUPPORT, AND PROFESSIONAL SERVICES TO ACHIEVE ITS BUSINESS OBJECTIVES.

7.3.2 CONTRACTOR MAKES NO WARRANTIES WITH RESPECT TO ANY SOFTWARE OR WORK PRODUCTS USED IN ANY NON-PRODUCTION SYSTEM AND PROVIDES ANY SUCH SOFTWARE AND WORK PRODUCTS "AS IS."

No oral or written information given by Contractor, its agents, or employees shall create any additional warranty. No modification or addition to the limited warranties set forth in this Agreement is authorized unless it is set forth in writing, references this Agreement, and is signed on behalf of Contractor by a corporate officer.

**7.4 Effect of Breach of Warranty.** If, at any time during the term of this Contract, Contractor's services fail to perform according to the services warranty under Section 7.2(i) above, the State shall promptly (within at least 60 days of completion of the applicable services) notify Contractor in writing of such alleged nonconformance, and Contractor shall, at its own expense and without limiting any other rights or remedies of the State hereunder, re-perform or replace such nonconforming services, and if Contractor is not able to remedy the nonconformance, the Contractor may refund of all amounts paid by State for the nonconforming service.

## **8. PROFESSIONAL LIABILITY AND CYBER LIABILITY INSURANCE COVERAGE**

In addition to the insurance required in Attachment C to this Contract, before commencing work on this Contract and throughout the term of this Contract, Contractor agrees to procure and maintain (a) Technology Professional Liability insurance for services performed under this Contract, with minimum third party coverage of \$5,000,000.00 per claim, \$10,000,000.00 aggregate; and (b) first party Breach Notification Coverage of not less than \$5,000,000.00.

Before commencing work on this Contract the Contractor must provide certificates of insurance to show that the foregoing minimum coverages are in effect.

## **9. LIMITATION OF LIABILITY.**

CONTRACTOR'S (AND ITS THIRD PARTY SOFTWARE SUPPLIERS') LIABILITY FOR DAMAGES TO THE STATE FOR STATE CLAIMS ARISING OUT OF THE SUBJECT MATTER OF THIS CONTRACT SHALL NOT EXCEED THE MAXIMUM AMOUNT PAYABLE UNDER THIS CONTRACT (AS STATED IN SECTION 3 OF THE STANDARD CONTRACT).

THE LIMITS OF LIABILITY DESCRIBED IN THE PRECEDING PARAGRAPH AND THE PARAGRAPH BELOW FOR STATE CLAIMS SHALL NOT APPLY TO STATE CLAIMS ARISING OUT OF: (A) CONTRACTOR'S OBLIGATION TO INDEMNIFY THE STATE; (B) CONTRACTOR'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS TO THE STATE; (C) PERSONAL INJURY OR DAMAGE TO REAL OR TANGIBLE PERSONAL PROPERTY; (D) CONTRACTOR'S GROSS NEGLIGENCE, MALICE, FRAUD OR INTENTIONAL MISCONDUCT; OR (E) VIOLATIONS OF THE STATE OF VERMONT FALSE CLAIMS ACT. FOR PURPOSES OF THIS SECTION, "GROSS NEGLIGENCE" SHALL MEAN A WANT OF EVEN SCANT CARE OR EXTREME DEPARTURE FROM THE ORDINARY STANDARD OF CONDUCT.

EXCEPT AS OTHERWISE SET FORTH IN THE PRECEDING PARAGRAPHS, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, OR SPECIAL DAMAGES, DAMAGES WHICH ARE UNFORESEEABLE TO THE PARTIES AT THE TIME OF CONTRACTING, DAMAGES WHICH ARE NOT PROXIMATELY CAUSED BY A PARTY, SUCH AS LOSS OF ANTICIPATED BUSINESS, BUSINESS INTERRUPTION, OR LOST PROFITS, INCOME, GOODWILL, OR REVENUE, THE COSTS OF SUBSTITUTE SOFTWARE, WORK PRODUCTS OR SERVICES, OR LOSSES RESULTING FROM ERASURE, DAMAGE, DESTRUCTION OR OTHER LOSS OF FILES, DATA OR PROGRAMS OR THE COST OF RECOVERING SUCH INFORMATION, IN CONNECTION WITH OR ARISING OUT OF THE SUBJECT MATTER OF THIS CONTRACT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES, EXPENSES OR COSTS.

NOTWITHSTANDING ANY OF THE FOREGOING, AND FOR AS LONG AS CUSTOMER IS MAKING PRODUCTIVE USE OF THE REPORT SERVICES MODULE OF THE SOFTWARE, IN NO EVENT SHALL MICROSOFT, AS A SUPPLIER TO CONTRACTOR OF THIRD PARTY SOFTWARE BUNDLED WITH THE SOFTWARE LICENSED UNDER THIS AGREEMENT, BE LIABLE FOR ANY DIRECT DAMAGES IN EXCESS OF FIVE DOLLARS (\$5.00).

IF CUSTOMER USES THE SOFTWARE IN A CLINICAL SETTING, CUSTOMER ACKNOWLEDGES THAT THE SOFTWARE IS AN ADVISORY DEVICE AND IS NOT A SUBSTITUTE FOR THE PRIMARY DEFENSES AGAINST DEATH OR INJURY DURING MEDICAL DIAGNOSIS, TREATMENT OR SIMILAR APPLICATIONS, WHICH DEFENSES SHALL CONTINUE TO BE THE SKILL, JUDGMENT AND KNOWLEDGE OF THE CUSTOMER'S USERS OF THE SOFTWARE. IN ADDITION TO THE LIMITATIONS OF LIABILITY PROVIDED ABOVE, CONTRACTOR SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT OF THE USE OF THE SOFTWARE AS AN ADVISORY DEVICE.

The provisions of this Section shall apply notwithstanding any other provisions of this Contract or any other agreement.

#### **10. TRADE SECRET, PATENT AND COPYRIGHT INFRINGEMENT**

The State shall not be deemed to waive any of its rights or remedies at law or in equity in the event of Contractor's trade secret, patent and/or copyright infringement.

#### **11 REMEDIES FOR DEFAULT; NO WAIVER OF REMEDIES**

In the event either party is in default under this Contract, the non-defaulting party may, at its option, pursue any or all of the remedies available to it under this Contract, including termination for cause, and at law or in equity.

No delay or failure to exercise any right, power or remedy accruing to either party upon breach or default by the other under this Contract shall impair any such right, power or remedy, or shall be construed as a waiver of any such right, power or remedy, nor shall any waiver of a single breach or default be deemed a waiver of any subsequent breach or default. All waivers must be in writing.

#### **12 NO ASSUMPTION OF COSTS**

Any requirement that the State defend or indemnify Contractor or otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or license verification costs of Contractor, is hereby deleted from the Contractor Documents.

#### **13 TERMINATION**

This Agreement may only be terminated for convenience after the Initial Term. This Agreement may be terminated for cause as described in Attachment C. Upon termination of this Agreement for any reason whatsoever, Contractor shall immediately deliver to the State all State information, State Intellectual Property or State Data ("State Materials"), that are in the possession or under the control of Contractor in whatever stage of development and form of recordation such State property is expressed or embodied at that time.

In the event the Contractor ceases conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets or avails itself of or becomes subject to any proceeding under the Federal Bankruptcy Act or any statute of any state relating to insolvency or the protection of rights of creditors, the Contractor shall immediately return all State Materials to State control;

including, but not limited to, making all necessary access to applicable remote systems available to the State for purposes of downloading all State Materials.

Any transition services requested by State involving additional knowledge transfer and support may be subject to a contract amendment for a fixed fee or at rates to be mutually agreed upon by the parties.

If the State determines in its sole discretion that a documented transition plan is necessary, then no later than sixty (60) days prior to termination, Contractor and the State shall mutually prepare a transition plan identifying transition services to be provided.

Any termination of this Agreement will not discharge or otherwise affect any pre-termination obligations of either party existing under this Agreement at the time of termination, including Customer's obligation to pay to Contractor all fees and charges accrued or due for any period or event occurring on or prior to the effective date of termination or expiration of this Agreement; and all liabilities which have accrued prior to the date of termination shall survive.

All provisions of this Agreement, which by their nature extend beyond the expiration or termination of this Agreement will survive and remain in effect until all obligations are satisfied.

#### **14. DESTRUCTION OF STATE DATA**

Contractor shall securely dispose of all copies, whether in written, electronic or other form or media, of State Materials according to National Institute of Standards and Technology (NIST) approved methods and certify in writing to the State that such State Materials have been disposed of securely. Contractor shall comply with all reasonable directions provided by the State with respect to the disposal of State Materials. To the extent that any applicable law prevents Contractor from destroying or erasing State Materials as set forth herein, Contractor shall retain, in its then current state, all such State Materials then within its right of control or possession in accordance with the confidentiality, security and other requirements of this Contract, and perform its obligations under this section as soon as such law no longer prevents it from doing so.

Further, upon the relocation of State Data, Contractor shall securely dispose of such copies from the former data location and certify in writing to the State that such State Data has been disposed of securely. Contractor shall comply with all reasonable directions provided by the State with respect to the disposal of State Data.

#### **15. SECURITY AND PRIVACY OF STATE DATA**

Contractor acknowledges and agrees that, throughout the term of this Contract, its performance of Professional Services will comply with all applicable laws, rules or regulations related to data privacy and security, as may be amended from time to time, with respect to the types of data Contractor will have access to when providing Professional Services.

#### **16. CONTRACTOR BANKRUPTCY.**

Contractor acknowledges that if Contractor, as a debtor in possession, or a trustee in bankruptcy in a case under Section 365(n) of Title 11, United States Code (the "Bankruptcy Code"), rejects



this Contract, the State may seek to retain its rights under this Contract as provided in Section 365(n) of the Bankruptcy Code. Upon written request of the State to Contractor or the Bankruptcy Trustee, Contractor or such Bankruptcy Trustee shall not interfere with the rights of the State to obtain the State Intellectual Property.

## **17 SOFTWARE LICENSEE COMPLIANCE REPORT.**

In lieu of any requirement that may be in a Contractor Document that the State provide the Contractor with access to its System for the purpose of determining State compliance with the terms of the Contractor Document, upon request and not more frequently than annually, the State will provide Contractor with a certified report concerning the State's use of any software licensed for State use pursuant this Contract.

## **18 EXPORT**

The Software, Work Products and Documentation are subject to export control laws and regulations of the United States and other jurisdictions. The State agrees to comply fully with all relevant export control laws and regulations, including the regulations of the U.S. Department of Commerce and all U.S. export control laws, including, but not limited to, the U.S. Department of Commerce Export Administration Regulations (EAR), to assure that the Software, Work Products or Documentation is not exported in violation of United States of America law or the laws and regulations of other jurisdictions. The State agrees that it will not export or re-export the Software, Work Products or Documentation to any organizations or nationals in the United States embargoed territories of Cuba, Iran, North Korea, Sudan, Syria or any other territory or nation with respect to which the U.S. Department of Commerce, the U.S. Department of State or the U.S. Department of Treasury maintains any commercial activities sanctions program. The State shall not use the Software, Work Products, or Documentation for any prohibited end uses under applicable laws and regulations of the United States and other jurisdictions, including but not limited to, any application related to, or purposes associated with, nuclear, chemical or biological warfare, missile technology (including unmanned air vehicles), military application or any other use prohibited or restricted under the U.S. Export Administration Regulations (EAR) or any other relevant laws, rules or regulations of the United States of America and other jurisdictions.

## **19 IRS TERMS IF FEDERAL TAX INFO WILL BE PROCESSED OR STORED (Per IRS Publication 1075)**

To the extent expressly indicated under a SOW that the Contractor's performance under the SOW involves the processing or storage of Federal tax information, then, pursuant to IRS Publication 1075, the following provisions shall apply in addition to any other security standard or requirements set forth in this Contract:

### **A. PERFORMANCE**

In performance of this Contract, the Contractor agrees to comply with and assume responsibility for compliance by its employees with the following requirements:

1. All work will be done under the supervision of the Contractor or the Contractor's employees.

2. The Contractor and the Contractor's employees with access to or who use Federal tax information must meet the background check requirements defined in IRS Publication 1075.
3. Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract. Disclosure to anyone other than an officer or employee of the Contractor will be prohibited.
4. All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material.
5. The Contractor certifies that the data processed during the performance of this Contract will be completely purged from all data storage components of his or her computer facility, and no output will be retained by the Contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the Contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures.
6. Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the State or his or her designee. When this is not possible, the Contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the State or its designee with a statement containing the date of destruction, description of material destroyed, and the method used.
7. All computer systems processing, storing, or transmitting Federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal tax information.
8. No work involving Federal tax information furnished under this Contract will be subcontracted without prior written approval of the IRS.
9. The Contractor will maintain a list of employees authorized access. Such list will be provided to the State and, upon request, to the IRS reviewing office.
10. The State will have the right to void the Contract if the Contractor fails to provide the safeguards described above.

**B. CRIMINAL/CIVIL SANCTIONS:**

1. Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both,

together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

2. Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431, and set forth at 26 CFR 301.6103(n)-1.
3. Additionally, it is incumbent upon the Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to State records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.
4. Prior to Contractor having access to Federal tax information, Contractor shall certify that each Contractor employee or other individual with access to or who use Federal tax information on Contractor's behalf pursuant to this Contract understands the State's security policy and procedures for safeguarding Federal tax information. Contractor's authorization to access Federal tax information hereunder shall be contingent upon annual recertification. The initial certification and recertification must be documented and placed in the State's files for review. As part of the certification, and at least annually afterwards, Contractor will be advised of the provisions of IRCs 7431, 7213, and 7213A (see IRS Publication 1075 *Exhibit 4, Sanctions for Unauthorized Disclosure*, and *Exhibit 5, Civil Damages for Unauthorized Disclosure*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and

procedure for reporting unauthorized disclosures and data breaches (See Publication 1075, Section 10). For both the initial certification and the annual certification, the Contractor must sign a confidentiality statement certifying its understanding of the security requirements.

### C. INSPECTION:

The IRS and the State, with 24 hours' notice, shall have the right to send its officers, employees, and inspectors into the offices and plants of the Contractor for inspection of the facilities and operations provided for the performance of any work under this Contract for compliance with the requirements defined in IRS Publication 1075. The IRS's right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology assets that access, store, process or transmit Federal tax information. On the basis of such inspection, corrective actions may be required in cases where the Contractor is found to be noncompliant with Contract safeguards.

## 20. MODIFICATIONS TO ATTACHMENT C: STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS

**(a) Section 2 "Entire Agreement" is deleted entirely and replaced with the following language:**

**2. Entire Agreement.** This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect. The State and Contractor specifically acknowledge and agree that any other terms varying from or adding to the terms of this Agreement, whether contained in any purchase order or other electronic, written or oral communication made from either party to the other are rejected and shall be null and void and of no force or effect, unless expressly agreed to in writing by both parties. This Agreement will prevail over any conflicting stipulations contained or referenced in any other document.

**(b) The first three paragraphs of Section 7 "Independence and Liability" are deleted entirely and replaced with the following language:**

**7. Defense and Indemnity:** The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any negligent or wrongful act or omission of the Party or of any agent of the Party in connection with the performance of Professional Services under this Agreement which result in personal injury (including death) or damage to tangible property (each, a "Claim"). The State shall notify the Party in the event of any such Claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire Claim. The State retains the right to participate at its own expense in the defense of any Claim. The State shall have the right to approve all proposed settlements of such Claims, provided that such approval shall not be unreasonably withheld.

After a final judgment or settlement, the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment.

The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any Claim arising from an act or omission of the Party in connection with the performance of this Agreement.

The Party shall indemnify the State and its officers and employees if the State, its officers or employees become legally obligated to pay any damages or losses arising from any Claim, as defined above.

**(c) Section 8 “Insurance” is deleted entirely and replaced with the following language:**

**8. Insurance:** Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State through the term of this Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party’s operations. These are solely minimums that have been established to protect the interests of the State.

*Workers Compensation:* With respect to all operations performed, the Party shall carry workers’ compensation insurance in accordance with the laws of the State of Vermont. Vermont will accept an out-of-state employer’s workers’ compensation coverage while operating in Vermont provided that the insurance carrier is licensed to write insurance in Vermont and an amendatory endorsement is added to the policy adding Vermont for coverage purposes. Otherwise, the party shall secure a Vermont workers’ compensation policy, if necessary to comply with Vermont law.

*General Liability:* With respect to all operations performed under this Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

- Premises - Operations
- Products and Completed Operations
- Personal Injury Liability
- Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

- \$1,000,000 Each Occurrence
- \$2,000,000 General Aggregate
- \$1,000,000 Products/Completed Operations Aggregate
- \$1,000,000 Personal & Advertising Injury

*Automotive Liability:* The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than \$500,000 combined single limit. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, limits of coverage shall not be less than \$1,000,000 combined single limit.

*Additional Insured.* The General Liability coverages required for performance of this Agreement shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. If performance of this Agreement involves

construction, or the transport of persons or hazardous materials, then the required Automotive Liability coverage shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

*Notice of Cancellation or Change.* There shall be no cancellation of the General Liability insurance coverage without thirty (30) days written prior written notice to the State (except ten (10) days for non-payment of premium). With respect to all other required insurance coverage(s) hereunder, Contractor shall use commercially reasonable efforts to provide thirty (30) days prior written notice to the State regarding any cancellation or non-renewal of any such policy, where such policy(ies) are not being replaced with an equivalent form of coverage.

**(d) Section 10 “False Claims Act” is deleted entirely and replaced with the following language:**

**10. False Claims Act:** The Party acknowledges that it is subject to the Vermont False Claims Act as set forth in 32 V.S.A. § 630 *et seq.* If the Party violates the Vermont False Claims Act it may be liable to the State for civil penalties, treble damages and the costs of the investigation and prosecution of such violation, including attorney’s fees, except as the same may be reduced by a court of competent jurisdiction. The Party’s liability to the State under the False Claims Act shall not be limited notwithstanding any agreement of the State to otherwise limit Party’s liability.

**(e) Section 14 “Fair Employment Practices and Americans with Disabilities Act” is deleted entirely and replaced with the following language:**

**14. Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party to its employees.

**(f) Section 15 “Set Off” is deleted entirely and replaced with the following language:**

**15. Set Off:** The State may set off any taxes which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

**(g) The first paragraph of Section 19 “Sub-Agreements” is deleted entirely and replaced with the following language:**

This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. Neither Party shall assign, subcontract or subgrant the performance or rights or obligations of this Agreement or any portion thereof to any other party without the prior written approval of the other party; provided that such consent shall not be unreasonably withheld in the case of any assignment or

transfer by a party of this Agreement in its entirety to the surviving entity of any merger or consolidation or to any purchaser of substantially all of such party's assets that assumes in writing all of such party's obligations and duties under this Agreement. Any assignment made without compliance with the provisions of this Section 19 shall be null and void and of no force or effect. The State acknowledges that Contractor and/or any of its affiliates may fulfill any of Hyland's obligations contemplated by this Agreement. Party shall be responsible and liable to the State for all acts or omissions of subcontractors and any other person performing work under this Agreement pursuant to an agreement with Party or any subcontractor.

**(h) Section 22 "Force Majeure" is deleted entirely and replaced with the following language:**

**22. Force Majeure:** Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control ("Force Majeure"). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph. This Section shall in no way limit the right of either party to make any claim against third parties for any damages suffered due to said causes. If any performance date by a party under this Agreement is postponed or extended pursuant to this Section for longer than ninety (90) calendar days, the other party, by written notice given during the postponement or extension, and at least thirty (30) days prior to the effective date of termination, may terminate this Agreement.

**(i) Section 27.B "Termination for Cause" is deleted entirely and replaced with the following language:**

**B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party's notice or such longer time as the non-breaching party may specify in the notice; provided, that Contractor shall not be required to give the State any opportunity to cure any breach in the case of a Prohibited Act as defined in Software License and Maintenance Schedule – Subscription (Attachment F), which is considered for all purposes to be material provisions of this Agreement.

**(j) Section 27.C "Termination Assistance" is deleted entirely and replaced with the following language:**

**C. Termination Assistance:** Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. If such transition requires Professional Services, the State will pay applicable Professional Services fees for such Professional Services. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

- 21. Notice:** Unless otherwise agreed to by the parties in a writing signed by both parties, all notices required under this Agreement shall be deemed effective: (a) when sent and made in writing by either (1)(A) registered U.S. mail, (B) certified U.S. mail, return receipt requested, or (C) reputable, national overnight courier, in any such case addressed and sent to Contractor at 28500 Clemens Road, Westlake, OH 44145 Attn: General Counsel and to the State at 109 State Street, 3<sup>rd</sup> Floor, Montpelier, VT 05609-3001 Attention: Office of Purchasing & Contracting, and 109 State Street, 2<sup>nd</sup> Floor, Montpelier, VT 05633 Attention: Agency of Digital Services, or to such other address or such other person as the party entitled to receive such notice shall have notified the party sending such notice of; or (2) facsimile transmission appropriately directed to the attention of the person identified as the appropriate recipient and at the appropriate address under (a)(1) above, with a copy following by one of the other methods of notice under (a)(1) above; or (b) when personally delivered and made in writing to the person and address identified as appropriate under (a)(1) above.
- 22. Severability.** In the event that any term or provision of this Agreement is deemed by a court of competent jurisdiction to be overly broad in scope, duration or area of applicability, the court considering the same will have the power and is hereby authorized and directed to limit such scope, duration or area of applicability, or all of them, so that such term or provision is no longer overly broad and to enforce the same as so limited. Subject to the foregoing sentence, in the event any provision of this Agreement is held to be invalid or unenforceable for any reason, such invalidity or unenforceability will attach only to such provision and will not affect or render invalid or unenforceable any other provision of this Agreement.
- 23. Counterparts.** This Agreement may be executed in one or more counterparts, all of which when taken together shall constitute one and the same instrument.
- 24. Expenses.** Except as otherwise specifically provided herein, each party shall bear and pay its own expenses incurred in connection with this Agreement and the transactions contemplated hereby.
- 25. Third Parties.** Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity, other than the parties hereto, any rights or remedies by reason of this Agreement; provided, however, that third party suppliers of software products bundled with the Software are third party beneficiaries to this Agreement as it applies to their respective software products solely for purposes of enforcing the provisions pertaining to protection of their intellectual property rights.
- 26. SOV Cybersecurity Standard 19-01.** As of the Effective Date, All products and service provided to or for the use of the State under this Contract shall be in compliance with State of Vermont Cybersecurity Standard 19-01 (as drafted as of the Effective Date), which Contractor acknowledges has been provided to it, and is available on-line at the following URL: <https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>. In the event the aforementioned statute is revised, the parties will use reasonable efforts to negotiate an amendment to this Agreement to attempt to incorporate such revised statute.



## Attachment F

**SOFTWARE LICENSE AND MAINTENANCE SCHEDULE- SUBSCRIPTION**  
(Subscription License for Software, includes Maintenance and Support)

This Software License and Maintenance Schedule – Subscription is part of the Master Agreement entered into between Customer and Hyland. All capitalized terms not defined in this Schedule shall have the meaning ascribed them in the other Attachments of the Master Agreement.

**1. SOFTWARE AND WORK PRODUCTS LICENSE.**

1.1 **Grant of License.** Subject to Customer's payment in full of the Subscription Fees, and subject further to Customer's compliance with this Agreement, Hyland grants to Customer a revocable, non-exclusive, non-assignable (except as provided in Attachment C), limited license for the term of the Master Agreement to the Software, in machine-readable object code form only, and the associated Documentation; and (b) subject to payment of any services fees for Work Products, Work Products and associated Documentation; in each case solely for use:

- (a) limited to use solely for the exercise of any function of State government by any State agency, State board, or State commission solely with respect to the business, mission and goals of the state of Vermont internally, and only for storing, processing and accessing Customer's own data; and
- (b) subject to Section 1.8 below, by a third party entity retained by Customer as a provider of services to Customer ("Contractor"), but only by the Contractor for capturing, storing, processing and accessing Customer's own data in fulfillment of the Contractor's contractual obligations as a service provider to Customer; and
- (c) solely with respect to Work Products and Documentation, and only to the extent Customer is required to so by law, by other government agencies who have purchased their own separate licenses to the Software, provided that the parties mutually agree that any such use of such Work Product(s) by such other government agencies shall be governed by the terms of the applicable agreement between such government agency and Hyland or one of its authorized resellers.
- (d) The parties mutually agree that, in addition to the uses of the Software permitted under the Agreement the Software may be used by Permitted User (subject to compliance with Section 1.8 as if a Permitted User were a Contractor) solely for the purpose of capturing, storing, processing and accessing Customer's data. Except as provided above with respect to the Permitted Users, the Software may not be used for the processing of third-party data as a service bureau, application service provider or otherwise. Permitted Users shall use the Software only in compliance with all of the provisions of the Agreement. Customer agrees that it shall be responsible for compliance with the Agreement by each Permitted User, and Customer agrees to provide reasonable cooperation to Hyland to remedy any non-compliance by a Permitted User, which may include, but is not limited to, Customer revoking access to the Software for an offending Permitted User.

The Software, Work Products and associated Documentation are licensed for use as described herein and may not be used for processing of third-party data as a service bureau, application service provider or otherwise. Customer shall not make any use of the Software or associated Documentation in any manner not expressly permitted by this Agreement. Software subject to a regulatory control may only be installed in the country identified as the end user location in the purchase order.

**1.2 Modification of Work Products:**

1.2.1 **Form of Delivered Work Products.** The form in which Hyland delivers Work Products will be determined by Hyland depending on the purpose and functionality of the Work Product.

1.2.2 **Configuration Work Products.** If Hyland delivers a Work Product: (a) in the form of (1) source code which is compiled by tools in the Software to machine language form; or (2) a script; or (b) created using the configuration tools in the Software (a "Configuration Work Product"), then Hyland grants to Customer the limited right to modify the Configuration Work Product, provided such altered or the modified Configuration Work Product is used only in compliance with the terms of the limited license to such Work Product granted under Section 1.1 above.

1.2.3 **Independent Work Products.** If Hyland delivers a Work Product which is not a Configuration Work Product (an "Independent Work Product"), then, except as otherwise provided in the last sentence of this paragraph, Customer may not modify such Independent Work Product. If Hyland delivers an Independent Work Product, and Customer desires to obtain the right to modify the Independent Work Product, then the parties may mutually agree that Hyland shall deliver to Customer a

copy of the format of the source Independent Work Product that is necessary to enable the Customer to complete its modifications, subject to and upon the payment by Customer to Hyland of any additional Professional Services fees as Hyland may charge to prepare and deliver such format. In such case, Hyland grants to Customer the right to modify and, if necessary, compile the delivered format of the Independent Work Product, provided modified Independent Work Product is used only in compliance with the terms of the limited license to such Work Product granted under Section 1.1 above.

1.3 Use Restriction. Each module of the Software is licensed for a specific type of use, such as concurrently or on a specified workstation or by a specified individual and the Software may control such use. Software products that are volume-based may: (i) no longer function if applicable volume limits have been exceeded; or (ii) include functionality which monitors or tracks Customer usage and reports that usage. Upon reasonable notice to Customer, Hyland shall be permitted access to Customer's Software system to measure Customer's volume usage of such Software. Customer acknowledges and agrees that additional fees may apply based on Customer's volume usage. Customer may not circumvent or attempt to circumvent this restriction by any means, including but not limited to changing the computer calendars. Use of software or hardware that reduces the number of users directly accessing or utilizing the Software or Work Products (sometimes called "multiplexing" or "pooling" software or hardware) does not reduce the number of Software licenses required. The required number of Software licenses would equal the number of distinct inputs to the multiplexing or pooling software or hardware. Customer is prohibited from using any software other than the Software Client modules or a Software application programming interface (API) to access the Software or any data stored in the Software database for any purpose other than generating reports or statistics regarding system utilization, unless Hyland has given its prior written consent to Customer's use of such other software and Customer has paid to Hyland the Subscription Fees with respect to such access to the Software or data stored in the Software database in accordance with Hyland's licensing policies applicable to the Software modules that provide access to the Software application modules and data stored in the Software database. Customer further agrees that the Software and Work Products shall not be copied and installed on additional servers unless Customer has purchased a license therefore, and the number of users of the Software shall not exceed the number of users permitted by the Software Client licenses purchased by Customer.

1.4 Production and Test Systems. Customer shall be entitled to use up to one (1) copy of the Software and each Work Product licensed in each production environment licensed by Customer and one (1) additional copy of the production environment licensed Software and Work Products for customary remote disaster recovery purposes which may not be used as a production system concurrently with the operation of any other copy of the Software or Work Products in a production environment. In addition, Customer shall also be entitled to license a reasonable number of additional copies of the production environment licensed Software and Work Products (at a minimum of a development, test and training environment for each production environment) to be used exclusively in a non-production environment and solely for the purposes of experimenting and testing the Software and Work Products, developing integrations between the Software or Work Products and other applications that integrate to the Software or Work Products solely using integration modules of the Software licensed by Customer under this Agreement, and training Customer's employees on the Software and Work Products ("Test Systems"). Customer may be required to provide to Hyland certain information relating to Customer's intended use of such Test Systems such as the manufacturer, model number, serial number and installation site. Hyland reserves the right to further define the permitted use(s) and/or restrict the use(s) of the Test Systems. Customer's sole recourse in the event of any dissatisfaction with any Software or Work Products in any non-production system is to stop using such Software or Work Products and return it to Hyland, provided that, to the extent that Customer is using the Test System for the purposes of testing an Upgrade or Enhancement of the Software prior to implementing the same in Customer's production environment, then Customer may contact Hyland for the provision of Maintenance and Support as described in this Schedule. Customer shall not make any copies of the Software or Work Products not specifically authorized by this Section 1.4.

1.5 Evaluation Software. From time to time Customer may elect to evaluate certain Software modules ("Evaluation Software") for the purpose of determining whether or not to purchase a production license of such Evaluation Software. Evaluation Software is licensed for Customer's use in Customer's Test Systems. Notwithstanding anything to the contrary, as to any Evaluation Software, the Agreement and the limited license granted hereby will terminate on the earliest of: (a) last day of the evaluation period specified in the accepted purchase order delivered for such Evaluation Software; or (b) immediately upon the delivery of written notice to such effect by Hyland to Customer. Upon expiration or other termination of such period, Customer immediately shall either (y) discontinue any and all of use of the Evaluation Software and related Documentation and remove the Evaluation Software; or (z) deliver a purchase order for purchase of such Evaluation Software.

1.6 Third Party Licenses. The Software may be bundled with software owned by third parties, including but not limited to those manufacturers listed in the Help About screen of the Software. Such third party software is licensed solely for use within the Software and is not to be used on a stand-alone basis. Notwithstanding the above, Customer acknowledges that, depending on the modules licensed, the Software may include open source software governed by an open source license, in which case the open source license (a copy of which is provided in the Software) may grant you additional rights to such open

**Contractor:** Hyland Software, Inc.

source software. Additionally, in the case of such software to be downloaded and installed on a mobile device, if such software will be downloaded from the application market or store maintained by the manufacturer of the mobile device, then use of such software will be governed by the license terms for the software included at the applicable application store or market or presented to Customer or Customer's user in the software, and this Agreement will not govern such use.

1.7 **Integration Code.** If applicable, Software also includes all adapters created by Hyland and provided to you by Hyland as part of an integration between the Software and a third party line of business application ("Integration Code"). Such Integration Code may only be used in combination with the Software and in accordance with the terms of this Agreement.

1.8 **Contractor Use Agreement.** Customer agrees that if it desires to allow a Contractor to do any of the following:

(a) make use of the Software configuration tools, Software administrative tools or any of the Software's application programming interfaces ("APIs");

(b) make use of any training materials or attend any training courses, either online or in person, in either case related to the Software; or

(c) access any of Hyland's secure websites (including, but not limited to, users.onbase.com, teamonbase.com, training.onbase.com, demo.onbase.com, and Hyland.com/Community), either through Contractor's use of Customer's own log-in credentials or through credentials received directly or indirectly by Contractor;

then, Customer must cause such Contractor to execute a use agreement in a form available for download at Hyland's Community website ("Contractor Use Agreement"). Customer understands and agrees that: (x) Customer may not allow a Contractor that is not a Hyland-certified partner to do any of the foregoing if such Contractor has not signed a Contractor Use Agreement, and (y) Contractors may use the Software only in compliance with the terms of this Agreement, and (z) Customer is responsible for such compliance by all Contractors that do not execute a Contractor Use Agreement. Customer agrees to provide reasonable cooperation to Hyland to remedy any non-compliance by a Contractor, which may include, but is not limited to, Customer revoking access to the Software for an offending Contractor.

1.9 **No High Risk Use.** The Software is not fault-tolerant and is not guaranteed to be error free or to operate uninterrupted. The Software is not designed or intended for use in any situation where failure or fault of any kind of the Software could lead to death or serious bodily injury to any person, or to severe physical or environmental damage ("High Risk Use"). Customer is not licensed to use the Software in, or in conjunction with, High Risk Use. High Risk Use is STRICTLY PROHIBITED. High Risk Use includes, for example, the following: aircraft or other modes of human mass transportation, nuclear or chemical facilities, life support systems, implantable medical equipment, motor vehicles, or weaponry systems. High Risk Use does not include utilization of the Software for administrative purposes, to store configuration data, engineering and/or configuration tools, or other non-control applications, the failure of which would not result in death, personal injury, or severe physical or environmental damage. These non- controlling applications may communicate with the applications that perform the control, but must not be directly or indirectly responsible for the control function. Customer agrees not to use, distribute or sublicense the use of the Software in, or in connection with, any High Risk Use.

1.10 **Audit Rights.** Upon reasonable notice to Customer, Hyland shall be permitted access to audit Customer's use of the Software solely in order to determine Customer's compliance with the licensing and pricing terms this Agreement. Customer shall reasonably cooperate with Hyland with respect to its performance of such audit. Customer acknowledges and agrees that Customer is prohibited from publishing the results of any benchmark test using the Software to any third party without Hyland's prior written approval.

**2. SUBSCRIPTION FEES.** As set forth in Attachment B.

**3. U.S. GOVERNMENT END USERS.** To the extent applicable to Customer, the terms and conditions of this Agreement shall pertain to the U.S. Government's use and/or disclosure of the Software and Work Products, and shall supersede any conflicting contractual terms or conditions. By accepting the terms of this Agreement and/or the Delivery of the Software or Work Products, the U.S. Government hereby agrees that the Software and Work Products qualify as "commercial" computer software within the meaning of ALL U.S. federal acquisition regulation(s) applicable to this procurement and that the Software and Work Products are developed exclusively at private expense. If this license fails to meet the U.S. Government's needs or is inconsistent in any respect with Federal law, the U.S. Government agrees to return this Software and Work Products to Hyland. In addition to the foregoing, where DFARS is applicable, use, modification, reproduction, release, display, or disclosure of the

Software, Work Products or Documentation by the U.S. Government is subject solely to the terms of this Agreement, as stated in DFARS 227.7202, and the terms of this Agreement shall supersede any conflicting contractual term or conditions.

#### 4. MAINTENANCE AND SUPPORT FOR SUPPORTED SOFTWARE AND RETIRED SOFTWARE.

4.1 MAINTENANCE AND SUPPORT TERMS. Hyland will provide Maintenance and Support in accordance with the Maintenance and Support Prioritization Attachment attached hereto.

(a) Technical Support Services. Hyland will provide telephone or online technical support related to problems reported by Customer and associated with the operation of any Supported Software, including assistance and advice related to the operation of the Supported Software. Technical Support Services are not available for Retired Software.

(b) Error Correction Services. With respect to any Errors in the Supported Software which are reported by Customer and which are confirmed by Hyland, in the exercise of its reasonable judgment, Hyland will use its commercially reasonable efforts to correct the Error, which may be effected by a commercially reasonable workaround. Hyland shall promptly commence to confirm any reported Errors after receipt of a proper report of such suspected Error from Customer. Hyland may elect to correct the Error in the current available or in the next available commercially released version of the Supported Software and the Resolution may require the Customer to implement an Upgrade and Enhancement to obtain the correction. Error Correction Services are not available for Retired Software.

(c) Reporting Policies and Procedures Applicable to Technical Support Services and Error Correction Services.

(1) Customer Reporting Requirements. In requesting Maintenance and Support services, Customer will report through Hyland's secure end user website (currently [www.hyland.com/community](http://www.hyland.com/community)), except that Customer may call 440-788-5600 for Level 1 and Level 2 Severity Levels. In the case of reporting an Error, Customer will provide Hyland with as much information and access to systems as reasonably possible to enable Hyland to investigate and attempt to identify and verify the Error. Customer will work with Hyland support personnel during the problem isolation process, as reasonably needed. Customer will notify Hyland of any configuration changes, such as network installation/expansion, Software upgrades, relocations, etc.

(2) Hyland Response Procedures. Hyland shall respond to all Technical Support Services requests and Error Correction Services requests in accordance with the Maintenance and Support Prioritization Attachment. With respect to Errors: (a) Hyland will respond based on the confirmed severity level of an Error; (b) Hyland may reclassify Errors as it learns information about such Errors during the resolution process; and (c) Hyland's obligation for a reported Error concludes upon delivery of a Resolution in accordance with the Maintenance and Support Prioritization Attachment.

(d) Upgrades and Enhancements. Hyland will provide, in accordance with Hyland's then current policies, as set forth from time to time on Hyland's secure end user web site (currently [www.hyland.com/community](http://www.hyland.com/community)), all Upgrades and Enhancements, if and when released during the term of this Section 4. Upgrades and Enhancements are not available for Retired Software.

(e) On-line Access. Customer acknowledges and agrees that Hyland may require on-line access to the Supported Software installed on Customer's systems in order to provide Maintenance and Support. Accordingly, Customer shall install and maintain means of communication and the appropriate communications software as mutually agreed upon by Hyland and Customer and an adequate connection with Hyland to facilitate Hyland's on-line Maintenance and Support. Such right of access and use shall be provided at no cost or charge to Hyland.

#### 4.2 EXCLUSIONS.

(a) Generally. Hyland is not responsible for providing, or obligated to provide, Maintenance and Support under this Agreement: (1) in connection with any Errors or problems that result in whole or in part from any alteration, revision, change, enhancement or modification of any nature of the Software, or from any error or defect in any configuration of the Software, which activities in any such case were undertaken by any party other than Hyland; (2) in connection with any Error if Hyland has previously provided corrections for such Error which Customer fails to implement; (3) in connection with any Errors or problems that have been caused by errors, defects, problems, alterations, revisions, changes, enhancements or modifications in the database, operating system, third party software (other than third party software embedded in the Software by Hyland), hardware or any system or networking utilized by Customer; or (4) if the Software or related software or

systems have been subjected to abuse, misuse, improper handling, accident or neglect. Maintenance and Support does not include any services that Hyland may provide in connection with assisting or completing an upgrade of Supported Software with any available Upgrade and Enhancement.

(b) Work Products. Maintenance and Support is not provided for any Work Products; however, if Customer desires Maintenance and Support regarding the operation or use of such Work Products, Customer may request such Maintenance and Support and the parties may agree to enter into a Services Proposal for such Maintenance and Support in accordance with the terms of the Professional Services Schedule.

(c) Excluded Software and Hardware. This Schedule does not govern, and Hyland shall not be responsible for, the maintenance or support of any software other than Supported Software, or for any hardware or equipment of any kind or nature, whether or not obtained by Customer from Hyland.

#### 4.3 CERTAIN OTHER RESPONSIBILITIES OF CUSTOMER.

(a) Operation of the Software and Related Systems. Customer acknowledges and agrees that it is solely responsible for the operation, configuration, supervision, management and control of the Software and Work Products and all related hardware and software (including the database software). Customer is solely responsible for obtaining or providing training for its personnel; and for instituting appropriate security procedures and implementing reasonable procedures to examine and verify all output before use.

(b) Access to Premises and Systems. Customer shall make available reasonable access to and use of Customer's premises, computer hardware, peripherals, Software and other software as Hyland deems necessary to diagnose and correct any Errors or to otherwise provide Maintenance and Support Services. Such right of access and use shall be provided at no cost or charge to Hyland.

4.4 PROFESSIONAL SERVICES FOR PROJECTS NOT COVERED BY TECHNICAL SUPPORT SERVICES OR ERROR CORRECTION SERVICES. If Customer requests Professional Services which are outside the scope of Technical Support Services or Error Correction Services, Customer agrees that such services shall not be covered by this Section 4 and such services only shall be engaged pursuant to a Services Proposal.

### 5. **LIMITED WARRANTY FOR SUPPORTED SOFTWARE**

5.1 Supported Software. For a period of one (1) year from and including the date the Supported Software is first Delivered to Customer, and for a period of sixty (60) days from and including the date any other Supported Software module has been Delivered to Customer, Hyland warrants to Customer that such Supported Software module, when properly installed and properly used, will function in all material respects as described in the Documentation, including while used in an environment as described in the Documentation. The terms of this warranty shall not apply to, and Hyland shall have no liability for any non-conformity related to: (a) any Retired Software modules; or (b) any Supported Software module that has been (i) modified by Customer or a third party, (ii) used in combination with equipment or software other than that which is consistent with the Documentation, or (iii) misused or abused.

5.2 Work Products. For a period of sixty (60) days from and including the date that Hyland has delivered a completed Work Product to Customer, Hyland warrants to Customer that such Work Product, when properly installed and properly used, will function in all material respects as described in the Documentation. The terms of this warranty shall not apply to, and Hyland shall have no liability for any non-conformity related to, any Work Product that has been (a) modified or added to by Customer or a third party, (b) used in combination with equipment or software other than that which is consistent with the Documentation, or (c) misused or abused.

5.3 Remedy. Hyland's sole obligation, and Customer's sole and exclusive remedy, for any non-conformities to the express limited warranties under Sections 5.1 and 5.2 shall be as follows: provided that, within the applicable warranty period, Customer notifies Hyland in writing of the non-conformity, Hyland will either (a) repair or replace the non-conforming Supported Software module or Work Product, which may include the delivery of a commercially reasonable workaround for the non-conformity; or (b) if Hyland determines that repair or replacement of the Supported Software module or Work Product is not commercially practicable, then terminate this Agreement with respect to the non-conforming Supported Software module or with respect to the non-conforming Work Product, in which event, upon compliance by Customer with its obligations under Section 7.2 of this Schedule, Hyland will refund any portion of the Subscription Fees paid prior to the time of such termination

with respect to such Supported Software or the services fees paid prior to the time of such termination with respect to the creation and implementation of such Work Product.

## **6. INFRINGEMENT INDEMNIFICATION.**

6.1 Generally. Hyland agrees to indemnify Customer against all liability and expense, including reasonable attorneys' fees, arising from or in connection with any third party claim, action or proceeding instituted against Customer based upon any infringement or misappropriation by the Software or Work Products of any patent, registered copyright or registered trademark of a third party that is enforceable in the United States, provided that Hyland: (a) is notified immediately after Customer receives notice of such claim; (b) is solely in charge of the defense of and any settlement negotiations with respect to such claim; (c) receives Customer's reasonable cooperation in the defense or settlement of such claim; and (d) has the right, upon either the occurrence of or the likelihood (in the opinion of Hyland) of the occurrence of a finding of infringement or misappropriation, either to procure for Customer the right to continue use of the Software or Work Products, or to replace the relevant portions of the Software or Work Products with other equivalent, non-infringing portions.

6.2 Removal and Refund. If Hyland is unable to accomplish either of the options set forth in Section 6.1(d), Hyland shall remove the infringing portion of the Software and/or Work Products and refund to Customer either:

(a) the "unused portion of prepaid Subscription Fees" (as defined below) paid by Customer, with respect to the infringing portion of the Software. For these purposes, the "unused portion of the prepaid Subscription Fees" shall mean an amount equal to the total Subscription Fees paid by Customer for the infringing portion of the Software for the term (or applicable twelve-month period within the Initial Term) during which such removal occurs, multiplied by a fraction, the numerator of which shall be the number of full calendar months remaining during the term (or applicable twelve-month period within the Initial Term) during which such removal occurs, and the denominator of which shall be twelve (12); and/or

(b) the full services fees paid, if any, by Customer for the creation and implementation of the infringing Work Products.

6.3 Exclusions. Notwithstanding anything to the contrary, Hyland shall have no obligation to Customer to defend or satisfy any claims made against Customer and otherwise described in Section 6.1 that arise from: (a) use of the Software or Work Products by Customer other than as expressly permitted by this Agreement; (b) the combination of the Software or Work Products with any product not furnished by Hyland to Customer; (c) the modification or addition to of the Software or Work Products other than by Hyland or any of its authorized solution providers specifically retained by Hyland to provide such modification or addition; or (d) the Customer's business methods or processes.

6.4 THIS SECTION 6 STATES HYLAND'S ENTIRE LIABILITY AND THE SOLE AND EXCLUSIVE REMEDY OF CUSTOMER WITH RESPECT TO ANY ALLEGED INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY OR PROPRIETARY PROPERTY BY THE SOFTWARE OR WORK PRODUCTS.

## **7. TERM; TERMINATION.**

7.1 TERM. This Attachment shall be in effect as long as the Master Agreement is in effect.

7.2 Effects of Termination. Upon any termination of this Subscription Software License Schedule in its entirety, any license to use the Software, Work Products and Documentation will automatically terminate without other or further action on the part of any party; and Customer shall immediately: (a) discontinue any and all use of the Software, Work Products and Documentation; and (b) either (1) return the Software, Work Products and Documentation to Hyland, or (2) with the prior permission of Hyland, destroy the Software, Work Products and Documentation and certify in writing to Hyland that Customer has completed such destruction.

**MAINTENANCE AND SUPPORT PRIORITIZATION ATTACHMENT**

Severity Level	Description	Hyland Response
Level 1	“Level 1” means any Error that causes total or substantial Software failure, which means that the Software is down and Customer is unable to access the Software in any way within their production environment.	<p>Upon receiving notification from Customer, Hyland’s support Team Leader will immediately notify a support Manager. Within thirty (30) minutes, the Manager will notify a member of Senior Management or a Vice President.</p> <p>If there is no Resolution within two (2) hours of the Customer’s notice, Hyland will place the Customer on the High Visibility Ticker (HVT).</p> <p>If there is no Resolution within four (4) hours of the Customer’s notice or by the end of business of that day, Hyland will designate the Error as Code Blue. Designation as Code Blue means a resolution team is immediately formed for the Level 1 Error and the resolution team provides continuous updates on all issues of change or status to all C-Level Executives and Vice Presidents of Hyland, and all of Hyland employees are made aware that the Customer is on Code Blue.</p> <p>To provide a Resolution, Hyland will match the Customer’s effort, up to and including 24 hour days, 7 days a week, through holidays and weekends until there is a Resolution.</p>
Level 2	“Level 2” means an Error that causes substantial Software failure which prevents a portion of Customer’s users from accessing the Software in any way within the production environment.	<p>Upon receiving notification from Customer, Hyland’s support Team Leader will notify a support Manager within sixty (60) minutes. Within two (2) hours, the Manager will notify a member of Senior Management or Vice President.</p> <p>If there is no Resolution by the end of business on that day, Hyland will place the Customer on Hyland’s High Visibility Ticker.</p> <p>If there is no Resolution within twenty-four (24) hours of Customer’s notice, Hyland will designate the Error as Code Blue.</p> <p>To provide a Resolution, Hyland will match Customer’s efforts up to 24 hour days, 7 days a week, through holidays and weekends until there is a Resolution.</p>
Level 3	“Level 3” means that the Software is usable except that an Error causes an ongoing, system-wide, severe performance degradation.	To provide a Resolution, Hyland will match Customer’s efforts up to 5 days/week, 16 hours/day, through holidays and weekends until there is a Resolution.
Level 4	“Level 4” means that the Software is usable except that an Error prevents a specific feature or functionality from working.	To provide a Resolution, Hyland will use commercially reasonable efforts during regular support hours.
Level 5	“Level 5” means that the Software is usable except that an Error causes a trivial inconvenience and the task can be completed in another way	Standard Maintenance and Support.
Level 6	“Level 6” means Technical Support Services.	Standard Maintenance and Support.

\*Notwithstanding the above, Maintenance and Support for the Pacsgear Software is limited to the following hours:

- for Customers in Europe: 8:00-5:00 UK Time (GMT +1)

- for all other Customers: 7:00-7:00 Central Time

## **ATTACHMENT G DEFINITIONS**

“Delivery” means:

- (a) in the case of Software: (1) for any Software module included in the initial Software delivery, by the electronic downloading of such Software onto Customer’s systems, or such Software being made available by Hyland to Customer for electronic download onto Customer’s systems from a location identified by Hyland to Customer; or (2) in the case of any later licensed Software module, by the Delivery (in accordance with subparagraph (b) below) by Hyland to Customer of a Production Certificate which includes such Software module; and
- (b) in the case of a Production Certificate, by Hyland either shipping (physically or electronically) the Production Certificate to Customer or making the Production Certificate available for electronic download by Customer from a location identified by Hyland to Customer (including through one of Hyland’s authorized solution providers).

“Documentation” means: (a) in the case of the Software: (1) to the extent available, the “Help Files” included in the Software, or (2) if no such “Help Files” are included in the Software, such other documentation published by Hyland, in each case, which relate to the functional, operational or performance characteristics of the Software; or (b) in the case of any Work Product, the Specifications (if any) for the Work Product.

“Error” means any defect or condition inherent in the Software which is reported by Customer in accordance with this Agreement and which is confirmed by Hyland, that causes the Software to fail to function in any material respect as described in the Documentation.

“Error Correction Services” means Hyland’s commercially reasonable efforts to correct an Error, which may be effected by a commercially reasonable workaround.

“Innovations” means all designs, processes, procedures, methods and innovations which are developed, discovered, conceived or introduced by Hyland, working either alone or in conjunction with others, in the performance of this Agreement (including any Services Proposal).

“Maintenance and Support” means for Supported Software, (i) Error Correction Services; (ii) Technical Support Services; and (iii) the availability of Upgrades and Enhancements in accordance with Attachment F.

“Permitted User” means any third party, including but not limited to, constituents or auditors that require access to the Software solely related to fulfilling duties to the State’s use as defined in Section 1.1 of the Software License and Maintenance Schedule- Subscription (Attachment F).

“Production Certificate” means: license codes, a license certificate, or an IFM file issued by Hyland and necessary for Customer to activate Software for Customer’s production use.

“Prohibited Acts” mean any action taken by Customer that is contrary to Section 4 of Attachment D.

“Professional Services” means any professional services provided by Hyland under a Services Proposal, including but not limited to those services listed at <https://www.hyland.com/community>. Examples of the



services include: (a) installation of the Software; (b) consulting, implementation and integration projects related to the Software, including but not limited to the customized configuration of Software integration modules or business process automation modules; (c) project management; (d) development projects in connection with the integration of Software with other applications utilizing any Software application programming interface (API).

“Resolution” means Hyland provides Customer with a commercially reasonable workaround, correction, or modification that solves or mitigates a reported Error.

“Statement of Work Exhibit” or “Services Proposal” means a written proposal, statement of work issued on a form substantially similar to Exhibit 1 to Attachment A, and which sets forth the Professional Services Hyland will provide to Customer and which is signed by Customer and Hyland.

“Software” means: (a) Hyland’s proprietary software products identified in Section 1 of Attachment A and all Existing Software, including, in each case, third party software bundled by Hyland together with Hyland’s proprietary software products as a unified product; and (b) all upgrades and enhancements of the software products described in clause (a). For clarity, Software does not include Hyland’s proprietary healthcare software products or third party products that are resold and licensed by Hyland on a stand-alone basis.

“Specifications” means the definitive, final functional specifications for Work Products, if any, produced by Hyland under a Services Proposal.

“Subscription Fees” means periodic fees for the licensing of Software and for Maintenance and Support for Supported Software and payable by Customer to Hyland.

“Supported Software; Retired Software”. At any particular time during a maintenance period covered by an applicable Maintenance Schedule or Software License and Maintenance Schedule – Subscription (Attachment F): (a) “Supported Software” means the current released version of the Software licensed by Customer from Hyland and any other version of such Software that is not Retired Software; or (b) “Retired Software” means any version of the Software licensed by Customer from Hyland under this Agreement which is identified as being retired on Hyland’s applicable secure end user web site. Hyland will specify on its end user web site Software versions which become Retired Software. The effective date of such change will be twelve (12) months from the date Hyland initially posts the status change on its end user web site, and Customer will receive notice as a registered user of Hyland’s applicable secure end user web site.

“Technical Support Services” means telephone or online technical support related to problems reported by Company and associated with the operation of any Supported Software, including assistance and advice related to the operation of the Supported Software. Technical Support Services are not available for Retired Software.

“Upgrades and Enhancements” means any and all new versions, improvements, modifications, upgrades, updates, fixes and additions to Software that Hyland makes available to Customer or to Hyland’s end users generally during the term of a Maintenance Schedule or Software License and Maintenance Schedule – Subscription to correct Errors or deficiencies or enhance the capabilities of the Software, together with updates of the Documentation to reflect such new versions, improvements, modifications, upgrades, fixes or additions; provided, however, that the foregoing shall not include new, separate product offerings, new modules or re-platformed Software.

“Working Hour” means the services of one (1) person for a period of one (1) hour (or any part thereof, billed in increments of fifteen (15) minutes) during regular business hours, and shall include the travel time during which Hyland’s resource(s) is required to travel outside of the metropolitan area in which such Hyland resource(s) regularly works when not at a third party location; provided that time spent commuting from a local place of residence (including a hotel) to a work location in the same metropolitan area will not be included in travel time; provided that, the parties agree that travel time shall be billed at one-half (1/2) the applicable hourly rate for such resource, and shall not exceed eight (8) hours for a single resource.

“Work Products” means all items in the nature of computer software, including source code, object code, scripts, and any components or elements of the foregoing, or items created using the configuration tools of the Software, together with any and all design documents associated with items in the nature of computer software, in each case which are created, developed, discovered, conceived or introduced by Hyland, working either alone or in conjunction with others, in the performance of services under this Agreement. If applicable, Work Products shall include any pre-configured templates or VBScripts which have been or may be created or otherwise provided by Hyland to Customer as part of the configuration of the advance capture module of the Software.