



July 22, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of purchase from Structured Communications Systems, Inc. for Palo Alto firewall hardware, software, and maintenance.

Purpose/Outcomes	The purpose of this request is to take advantage of a significant sales price (available in July 2021 only) for replacing end of life firewall hardware and software needed to protect the Libraries in Clackamas County (LINCC).
Dollar Amount and Fiscal Impact	The purchase of the hardware, software and three years of maintenance totals \$261,762.84.
Funding Source	General Funds
Duration	Upon signature of both parties through July 31, 2024.
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. This purchase aligns with the Library Support Services division’s performance measure representing the percentage of time the library catalog is operational. The firewall significantly reduces the chance of unauthorized access/downtime for the online catalog which County residents rely upon to access library services. 2. The purchase aligns with the County’s strategic priority of building a strong infrastructure. A strong, effective firewall, designed to handle the volume of data going in and out of the libraries, is core to the technological infrastructure of the County.
Previous Board Action	None.
Procurement Review	Was this item processed through Procurement? <input checked="" type="checkbox"/> yes <input type="checkbox"/> no If no, provide a brief explanation:
Counsel Review	Reviewed Date: July 8, 2021; ARN
Contact Person	Kathryn Kohl, Library Network Manager, Library Support Services, kkohl@clackamas.us cell 971.201.2979 office 503.723.4889
Contract No.	4337

BACKGROUND:

Business and Community Services (BCS) – Library Support Services is requesting Board approval to purchase new replacement firewall hardware, software and maintenance by the end of July 2021.

Library Support Services must replace the LINCC library system’s end-of-life firewall hardware and software, which provide critical protection against unauthorized access to the computers and network of 13 Clackamas County libraries. As defined by the Intergovernmental Agreements between Clackamas County and each of the Library Cities, Library Support Services are required

to function as telecommunications and technical support to the member libraries in Clackamas County. The firewall service is a direct part of this function.

The firewall hardware, software and maintenance are currently on sale at \$261,762.84, almost \$40,000 cheaper than budgeted, and a savings of over \$247,000 from the listed price. This sale price is only available through the NASPO AR-3229 Cooperative Agreement and the sales price expires July 31, 2021.

PROCUREMENT PROCESS:

In accordance with LCRB Rule C-046-0440, Procurement issued a notice of intent to purchase using the NASPO Value Point Contract #AR3229 with Palo Alto on June 21, 2021 in the Daily Journal of Commerce newspaper. No comments were received. Structured Communication Systems, Inc. is an authorized reseller of the Palo Alto products and services under this cooperative opportunity.

RECOMMENDATION:

Staff recommends approval of the purchase from Structured Communication Systems, Inc. for Palo Alto firewall hardware, software and three (3) years of maintenance.

Sincerely,



Sarah Eckman
Interim Director
Business and Community Services

Placed on the BCC Agenda _____ by Procurement and Contract Services

**CLACKAMAS COUNTY
GOVERNMENTAL CONTRACTING ADDENDUM
Contract #4337**

This Oregon Governmental Contracting Addendum (“Addendum”) is entered into by Clackamas County, a political subdivision of the State of Oregon (“County”) and **Structured Communication Systems, Inc.** (“Contractor”). This Addendum shall be attached to, and incorporated into Quote # 201810-64419 R2 LINCC and Quote # 202101-79158 LINCC and the Standard Terms and Conditions (“Vendor Agreement”). This contract is purchased against the NASPO Contract with Palo Alto Networks, Inc. as **Master Agreement #AR-3229** and expires September 30, 2024. As used below, "Contract" means this Addendum and the Vendor Agreement. To the extent there is any conflict between the Addendum and the Vendor Agreement, the terms of this Addendum shall control.

- A. Term.** This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on **July 30, 2024**.
- B. Consideration.** County agrees to pay Contractor \$225,947.41 per Quote #201810-64419 R2 LINCC for the Palo Alto PA-5250 Firewall that includes 3-years of premium support, and \$35,815.43 per Quote #202101-79158 LINCC for the Palo Alto Cortex XDR that includes 3-years of support. The total Contract Compensation shall not exceed **\$261,762.84**.
- C. County Contract Administrator.** The County Contract Administrator for this Contract is **Kathryn Kohl**.
- D. Invoices and Payments.** Invoices shall be submitted to: Kathryn Kohl via email at kkohl@clackamas.us

Payment and late fees shall only be in accordance with ORS 293.462. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor.

- E. Insurance.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us.

Required - Workers Compensation: Contractor shall comply with the workers’ compensation requirements in ORS 656.017, unless exempt under ORS 656.126.
<input type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
<input type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.

The insurance described in this section shall not be cancelled or materially changed without Contractor providing at least sixty (60) days written notice to the County. This policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it. Any obligation that County agree to a waiver of subrogation is hereby stricken.

- F. Debt Limitation.** The Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.

G. Public Contracting Requirements. Pursuant to the public contracting requirements contained in Oregon Revised Statutes (“ORS”) Chapter 279B.220 through 279B.235, Contractor shall:

1. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
2. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
3. Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished.

Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

4. As applicable, Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.

H. Governing Law; Venue. This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

I. Termination. This Contract may be terminated by mutual agreement of the parties or by the County for one of the following reasons: (i) for convenience upon thirty (30) days written notice to Contractor and, upon receipt of the written notice, Contractor shall stop performance, and County shall pay Contractor for the goods or services delivered and accepted; (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; (iii) if Contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.

J. Compliance. Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract.

K. Tax Compliance. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.

L. Indemnification. Contractor agrees to indemnify, hold harmless and defend the County, its officers, elected officials, agents and employees from and against all third-party claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of Contractor or Contractor’s employees or agents. Any obligation of the County to indemnify, hold harmless and defend Contractor, its officers, elected officials, agents and employees, or any other indemnitee, shall only be to the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300) from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based on damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the County or the County’s employee or agents.

The Indemnifying Party’s obligations under this Agreement are contingent upon the Indemnifying Party receiving: (a) reasonably prompt written notice of the claim (provided that the failure of the Indemnified Party to provide notice shall only relieve the Indemnifying Party from its indemnification obligations to the extent that such late

notice materially prejudiced the Indemnifying Party’s defense of the claim); (b) all reasonably necessary assistance, information and authority to defend the claim (using legal counsel reasonably acceptable to the Indemnified Party) and perform its obligations under the provisions of this section at the Indemnifying Party’s cost and expense; and (c) sole control of the defense and settlement of such claim and all associated negotiations. The Indemnifying Party agrees not to settle any claim for which it is indemnifying the Indemnified Party in a manner that would impose additional obligations on the Indemnified Party without first consulting the Indemnified Party and obtaining its consent thereto (which shall not be unreasonably withheld or delayed)

- M. Dispute Resolution.** No attorney fees shall be paid for or awarded to either party in the course of any dispute, indemnification, or other recovery. It is the intent of the parties that each shall bear the costs of its own legal counsel. Any requirements contained in this Contract waiving a right to a jury trial or requiring binding arbitration are void.
- N. Records.** Contractor shall maintain all accounting records relating to this Contract according to GAAP and any other records relating to Contractor’s performance (“Records”) for six (6) years from termination or as otherwise required. Contractor shall grant County, the federal government, and their duly authorized representatives access to the Records, including reviewing, auditing, copying, and making transcripts. Any documents that are requested to be maintained as confidential by either party shall only be maintained as confidential to the extent permitted by the Oregon Public Records Law ORS 192.
- O. Subcontractors.** Contractor shall ensure that its subcontractors, if any, comply with the requirements of this Addendum.
- P. Counterparts.** This Addendum may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
- Q. Waiver.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.

By their signatures below, the parties to this Addendum agree to the terms, conditions, and content expressed herein.

Structured Communication Systems, Inc.

Clackamas County

DocuSigned by:

 7/8/2021

Authorized Signature _____ Date _____

Casey Richmond
 Name/Title (Printed) _____

323311-83 DBC / Oregon
 Oregon Business Registry # _____

Chair _____

Recording Secretary _____ Date _____

Approved As To Form:

Clackamas County Counsel _____ Date _____

Company Name: Library Information Network of Clackamas County

Contact: George Yobst

Email: george@lincc.org

Phone: (503) 723-4890



Account Executive: Dawn White

12901 SE 97th Ave., Suite 400 - Clackamas OR, 97015 - 503.513.9979

Toll Free 800.881.0962 - Order Fax 888.729.0997

Line Item	Part Number	Description	Qty.	Unit List Price	Unit Sale Price	Ext. Sale Price
<u>Library Information Network of Clackamas County - PA-5250 Firewall 3 Year Upgrade Solution</u>						
<i>*Priced in Accordance to NASPO Contract AR-3229*</i>						
1		(Qty 1) Palo Alto PA-5250 Firewall and Onsite Spare with 3 Year Subscriptions & Premium Support		\$448,150.00		\$225,947.41
GRAND TOTAL:				<u>\$448,150.00</u>		<u>\$225,947.41</u>

Solution Line Item Detail:**(Qty 1) Palo Alto PA-5250 Firewall and Onsite Spare with 3 Year Subscriptions & Premium Support**

2	PAN-PA-5250-AC	Palo Alto Networks PA-5250 with redundant AC power supplies	1	\$105,000.00	\$68,833.33	\$68,833.33
3	PAN-PA-5250-GP-3YR	GlobalProtect subscription 3-year prepaid, PA-5250	1	\$50,400.00	\$15,120.00	\$15,120.00
4	PAN-PA-5250-DNS-3YR	DNS Security subscription 3-year prepaid, PA-5250	1	\$50,400.00	\$15,120.00	\$15,120.00
5	PAN-PA-5250-TP-3YR	Threat prevention subscription 3-year prepaid, PA-5250	1	\$50,400.00	\$15,120.00	\$15,120.00
6	PAN-PA-5250-URL4-3YR	PANDB URL filtering subscription 3-year prepaid, PA-5250	1	\$50,400.00	\$15,120.00	\$15,120.00
7	PAN-PA-5250-WF-3YR	WildFire subscription 3-year prepaid, PA-5250	1	\$50,400.00	\$15,120.00	\$15,120.00
8	PAN-SVC-PREM-5250-3YR	Premium support 3-year prepaid, PA-5250	1	\$57,000.00	\$51,302.41	\$51,302.41
9	PAN-PA-5250-AC-OSS	On-Site Spare Palo Alto Networks PA-5250 with redundant AC power supplies	1	\$39,400.00	\$35,461.67	\$35,461.67
10	PA-PRORATED-CREDIT-HW	Prorated Credit for Product Conversion	1	-\$5,250.00	-\$5,250.00	-\$5,250.00
Subtotal						<u>\$225,947.41</u>

Prepared by: Haley Voigt for Dawn White

Please contact the person listed above at Structured for any questions regarding this quotation.

Line Item	Part Number	Description	Qty.	Unit List Price	Unit Sale Price	Ext. Sale Price
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Notes:

1. Client acknowledges and agrees that the by signing this quotation, issuing a purchase order referencing this quotation, or otherwise accessing or utilizing the solution outlined in this quotation that the Structured Communication Systems, Inc. Standard Terms and Conditions, which can be found at <http://www.structured.com/terms/>, apply to this and all quotations. Further, the Client acknowledges and agrees that the use, title, interest, rights and warranties associated with the solution outlined in this quotation are governed by the applicable manufacturer end-user license agreement, software license agreement, subscription agreement, warranty terms and/or maintenance/support contract.
2. Prices do not include shipping charges. All shipping charges are FOB origin and will be added at time of invoice. Prices do not include Sales Tax. Sales tax rates are an estimate and are subject to change. Rates are dictated by the state into which the solution is being shipped. Freight may be taxable, depending upon state regulations. Please note that pricing outlined in this quotation does not include tariffs or any other international or national tax or duty (if any) that may be levied against some or all of the products by the applicable manufacturer at the time of procurement by Structured for the benefit of the Client. As such, any such tariffs, taxes or duties are the sole responsibility of the Client and will be passed through by Structured to the Client at the time of invoicing.
3. Net 20 day terms are available with approved credit. Structured will accept pre-payment or Visa/MasterCard without approved credit; please note that all credit card transaction will also incur a three percent (3%) transaction fee. All quotes and proposals are calculated using US Dollars.
4. Quotes are valid for 30 days. Structured reserves the right to adjust prices at any time according to manufacturer price changes or material changes in circumstances that affect the scope of services proposed herein. In the event that the expiration date has been exceeded, please contact your Account Representative for an updated quote.
5. **Remit To Address:** 12901 SE 97th Ave Suite 400, Clackamas OR, 97015

This quotation contains information that is privileged and confidential. The information contained in this quotation is intended only for use of the person to whom it is addressed. If the reader of this quotation is not (1) the intended recipient or (2) the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited

WHEN PLACING YOUR ORDER, PLEASE FAX OR EMAIL TO: 888-729-0997 or fax@structured.com

Please fill out all of the below information to ensure that your order is processed as efficiently as possible.

Signature: _____ Date: _____

Shipping Address:

Billing Address:

Street:

City, ST Zip:

Contact:

Phone:

Email:

Preferred Shipping Method: Ground _____ 2nd Day _____ Overnight _____

Date Needed:

Customer Reference / Purchase Order Number: _____

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Company Name: Library Information Network of Clackamas County
 Contact: George Yobst
 Email: george@lincc.org
 Phone: (503) 723-4890



Account Executive: Dawn White
 12901 SE 97th Ave., Suite 400 - Clackamas OR, 97015 - 503.513.9979
 Toll Free 800.881.0962 - Order Fax 888.729.0997

Line Item	Part Number	Description	Qty.	Unit List Price	Unit Sale Price	Ext. Sale Price
<u>Library Information Network of Clackamas County - Palo Alto Cortex XDR Prevent</u>						
<i>*Priced in Accordance to NASPO Contract AR-3229*</i>						
1		<i>Palo Alto Cortex XDR Prevent for QTY 500 Endpoints - 3 Year Term</i>		<i>\$61,200.00</i>		<i>\$35,815.43</i>
<i>GRAND TOTAL:</i>				<i><u>\$61,200.00</u></i>		<i><u>\$35,815.43</u></i>

Solution Line Item Detail:**Palo Alto Cortex XDR Prevent for QTY 500 Endpoints - 3 Year Term**

2	<i>PAN-XDR-PRVT</i>	Cortex XDR Prevent, includes 30 days of alerts retention and standard success	500	\$102.00	\$53.27	\$26,635.00
3	<i>PAN-XDR-PREM-SUCCESS</i>	Cortex XDR Premium Success	1	\$10,200.00	\$9,180.43	\$9,180.43
<i>Subtotal</i>						<i><u>\$35,815.43</u></i>

Prepared by: Haley Voigt for Dawn White

Please contact the person listed above at Structured for any questions regarding this quotation.

Line Item	Part Number	Description	Qty.	Unit List Price	Unit Sale Price	Ext. Sale Price
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- Prices do not include shipping charges. All shipping charges are FOB origin and will be added at time of invoice. Prices do not include Sales Tax. Sales tax rates are an estimate and are subject to change. Rates are dictated by the state into which the solution is being shipped. Freight may be taxable, depending upon state regulations. Please note that pricing outlined in this quotation does not include tariffs or any other international or national tax or duty (if any) that may be levied against some or all of the products by the applicable manufacturer at the time of procurement by Structured for the benefit of the Client. As such, any such tariffs, taxes or duties are the sole responsibility of the Client and will be passed through by Structured to the Client at the time of invoicing.
- Net 20 day terms are available with approved credit. Structured will accept pre-payment or Visa/MasterCard without approved credit; please note that all credit card transaction will also incur a three percent (3%) transaction fee. All quotes and proposals are calculated using US Dollars.
- Quotes are valid for 30 days. Structured reserves the right to adjust prices at any time according to manufacturer price changes or material changes in circumstances that affect the scope of services proposed herein. In the event that the expiration date has been exceeded, please contact your Account Representative for an updated quote.
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Please fill out all of the below information to ensure that your order is processed as efficiently as possible.

Signature: _____ Date: _____

Shipping Address:

Billing Address:

Street:

City, ST Zip:

Contact:

Phone:

Email:

Preferred Shipping Method: **Ground** _____ **2nd Day** _____ **Overnight** _____

Date Needed:

Customer Reference / Purchase Order Number: _____

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DEFINITIONS. These Standard Terms and Conditions are referred to below as “**these Terms and Conditions.**” The Parties will incorporate these Terms and Conditions in their contracts for the supply of Products (defined below) and/or the provision of services by Structured Communication Systems, Inc., an Oregon corporation (“**Structured**”) for Client and each such incorporation, via a quotation (via print or on-line), Statement of Work or other agreement, shall together with the following documents pertinent to a given transaction, constitute a separate contract between the Parties: (i) these Terms and Conditions, (ii) any quotation (via print or on-line) (iii) any Statement of Work, or (iv) other documents, if any, the Parties explicitly agree should form a part of the Agreement, and (v) any exhibits referenced in any of the foregoing documents (collectively, the documents listed above in “i” through “v” shall constitute the “**Agreement**”). The client identified in the Agreement into which these Terms and Conditions are incorporated is referred to below as “**Client.**” Structured and Client are sometimes referred to below as a “**Party**” or together as the “**Parties.**”

1. PAYMENT TERMS. Structured’s standard payment terms are Net 30. Unless otherwise noted on a Structured order form, quotation or other agreement, payments for products, including (but not limited to): hardware, software, subscriptions, manufacturer maintenance and support contracts, third-party cloud and managed services, and any associated documents, manuals, specifications or other information regarding or related to such third-party products (collectively, “Third-Party Products”) and/or services provided to Client, are to be made within Structured’s standard terms of Net 30. Products will be invoiced to Client upon shipment to Client’s site or a storage facility designated by Client, which may be at a warehouse or other location of Client’s or Structured’s. Services will be invoiced to the Client weekly, unless otherwise specified. Appropriate taxes and shipping & handling charges may be added at the time of invoicing. Shipment terms are FOB origin. Time is of the essence with regard to Client’s obligations under the Agreement. In addition to any other rights or remedies available to Structured, the outstanding balance on any payment(s) not made within these Terms and Conditions will be assessed interest at the rate of one and one-half percent (1.5%), or the maximum rate allowable by law, whichever is less, and the failure by Client to make timely payment(s) shall constitute an event of default under the Agreement. Client shall furnish financial information to Structured from time to time upon request by Structured to determine Client’s credit worthiness. All sales are subject to credit approval.

2. RETURNS. Structured’s cancellation and return policies are subject to the applicable manufacturer’s cancellation and return policies and may be modified at any time without notice. NOTE: based upon the applicable manufacturer’s policies, certain software or other Third-Party Products may not be eligible for return, and some returns may be subject to a minimum re-stocking fee. All returns MUST be pre-authorized by Structured in writing with a Returned Merchandise Authorization (“**RMA**”). All Third-Party Products must be returned in their original packaging in as-new condition, along with any items originally included therein (e.g., all original boxes, manuals, etc.). Structured WILL NOT accept Third-Party Products returned without a valid RMA and/or that are not packaged in as-new condition, and Client will be obligated to pay the entire invoice due for such Third-Party Products.

3. CONFIDENTIALITY. During the performance of the Agreement the Parties may exchange certain technical and business information, intellectual property, and other information considered proprietary or confidential, the nature of which the disclosing Party makes the receiving Party aware upon disclosure (“**Confidential Information**”). Each Party agrees to protect such Confidential Information from disclosure to anyone other than the receiving Party, its affiliates and any of their directors, officers, managers, members, employees, agents and representatives who need access to such information to enable the receiving Party to perform its obligations under the Agreement (collectively “**Representatives**”), exercising the same degree of care used to protect the receiving Party’s Confidential Information of like importance and in any event no less than a reasonable degree of care. Within fourteen (14) days of a request by the disclosing Party, all Confidential Information, and all copies thereof, shall be destroyed or returned by the receiving Party or its Representatives and, upon request, the receiving Party shall furnish written confirmation that it has done so. In the event the receiving Party is ordered to disclose the disclosing Party’s Confidential Information pursuant to a judicial or governmental request, requirement or order, the receiving Party shall, if permitted by law, immediately notify the disclosing Party and take reasonable steps to assist the disclosing Party in contesting the same or otherwise protecting the disclosing Party’s rights. In the event of any threatened or unauthorized disclosure by the receiving Party or any of its Representatives, the disclosing Party shall be entitled to injunctive or other equitable relief seeking to restrain such use or disclosure without the necessity of proving actual harm or posting bond, in addition to all other rights and remedies under the Agreement or otherwise available at law or in equity.

Notwithstanding anything to the contrary in this Agreement, both parties expressly acknowledge and agree that Clackamas County’s obligations under this Agreement are subject to the Oregon Public Records Law, Oregon Revised Statutes (“ORS”) Chapter 192 et. seq., and any other applicable state or federal law. While Clackamas County will make good faith efforts to perform under this Agreement, Client’s disclosure of Confidential Information, in whole or in part, will not be a breach of this Agreement if such disclosure was pursuant to a request under the Oregon Public Records Law, or any other state or federal law, or if such disclosure was compelled by deposition, interrogatory, request for documents, subpoena, civil investigative demand, or similar processes. If Clackamas County is subject to such a disclosure order or receives from a third party any public records request for the disclosure of Confidential Information, Clackamas County shall notify Structured within a reasonable period of time of the request. Structured is exclusively responsible for defending Structured’s position concerning the confidentiality of the requested information. Clackamas County is not required to assist Structured in opposing disclosure of Confidential Information.

4. INDEPENDENT CONTRACTORS. The Parties are independent contractors. Neither Party is an employee, agent or representative of the other Party. The Agreement does not create an association, joint venture, or partnership between the Parties nor imposes any partnership liability upon either Party. Except as otherwise specifically set forth in the Agreement, neither Party shall have any right, power, or authority to enter into any agreement for or on behalf of the other Party, or to incur any obligation or liability or otherwise bind the other Party.

5. NON-SOLICITATION. Except as otherwise provided in the Agreement, the Parties agree not to knowingly hire, induce or solicit to hire, directly

or indirectly, any of the other Party's current employees while these Terms and Conditions are in effect and for a period of one (1) year following the later of the last purchase of Third-Party Products by Client and/or completion of services for Client by Structured under the Agreement, without the prior written consent of the other Party. Notwithstanding anything herein to the contrary, publication of open positions in any media of general circulation and requisitions to recruiting firms for open positions, without identifying the other Party or its employees, will not constitute solicitation or inducement, and either Party may engage the services of any person that responds to such general advertisements or postings.

6. EVENTS OF DEFAULT. Client shall be in default immediately upon the happening of any of the following events: (a) Client fails to meet any of its payment obligations under the Agreement; (b) Client becomes insolvent, becomes the subject of a voluntary or involuntary petition in bankruptcy or any other form of judicial reorganization or supervision, has a receiver appointed for its business, enters into any arrangement with creditors or otherwise is unable to pay its debts as they become due; (c) Client violates any of the provisions of the Agreement; or (d) Client misrepresents any fact to Structured concerning Client, including but not limited to, Client's financial condition, business activities, and/or Client's performance of the Agreement.

7. Reserved.

8. LIMITED WARRANTIES.

81 THIRD-PARTY PRODUCT WARRANTY. THIRD-PARTY PRODUCT WARRANTIES (IF ANY) ARE PROVIDED BY THE MANUFACTURER OF THE THIRD-PARTY PRODUCT(S) AND, TO THE EXTENT APPLICABLE, STRUCTURED WILL PASS-THROUGH TO CLIENT ANY WARRANTIES PROVIDED BY THE MANUFACTURER. CLIENT ACKNOWLEDGES AND AGREES THAT STRUCTURED SHALL HAVE NO LIABILITY FOR THE THIRD-PARTY PRODUCTS OR THIRD-PARTY PRODUCTS WARRANTIES, THAT ANY THIRD-PARTY PRODUCTS PROVIDED TO CLIENT BY STRUCTURED ARE PROVIDED AS-IS, WHERE IS, WITH ALL FAULTS, AND THAT STRUCTURED MAKES NO PROMISE, GUARANTY OR WARRANTY THAT THE THIRD-PARTY PRODUCTS WILL PERFORM AS INTENDED OR WILL BE FREE FROM SOFTWARE GLITCHES, BUGS, BREAKDOWNS OR FAILURES.

CLIENT ACKNOWLEDGES AND AGREES THAT THE USE, TITLE, INTEREST AND RIGHTS, AND WARRANTY ASSOCIATED WITH ANY THIRD-PARTY PRODUCTS ARE GOVERNED BY THE APPLICABLE MANUFACTURER END- USER LICENSE AGREEMENT, SOFTWARE LICENSE AGREEMENT, MANUFACTURER'S WARRANTY DOCUMENTATION, AND/OR MANUFACTURER'S MAINTENANCE/SUPPORT AGREEMENT (COLLECTIVELY, "**MANUFACTURER LICENSE AND SUPPORT AGREEMENTS**") AND THAT THE MANUFACTURER MAY REQUIRE CLIENT (BY WAY OF SHRINK-WRAP, CLICK THROUGH OR OTHER CONTRACT FORMATION MECHANISMS), TO ACCEPT THE TERMS OF SUCH MANUFACTURER LICENSE AND SUPPORT AGREEMENT(S) AS A CONDITION TO THE INSTALLATION AND/OR USE OF THE THIRD-PARTY PRODUCTS. STRUCTURED WILL NOT BE A PARTY TO THE LICENSE AGREEMENTS FOR ANY THIRD-PARTY PRODUCTS NOR ASSUME ANY OBLIGATION THEREUNDER.

82 SERVICE WARRANTY. Structured represents and warrants that it will perform the Services: (i) in a professional manner, exercising the degree of skill and care commensurate with standards generally associated with Structured's industry and area of expertise; (ii) in substantial conformance with any written specifications or other written

83 DISCLAIMER OF UNSTATED WARRANTIES. EXCEPT AS OTHERWISE EXPRESSLY STATED IN THE AGREEMENT, THE ABOVE LIMITED WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, STRUCTURED DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER WRITTEN OR ORAL, AND WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND/OR ANY WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.

9. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR THE "GOVERNMENT ADDENDUM", TO THE FULLEST EXTENT PERMITTED BY LAW, EXCEPT AS OTHERWISE PROVIDED IN THE AGREEMENT, AND EXCEPT FOR CLAIMS ARISING FROM STRUCTURED'S GROSSLY NEGLIGENT ACTS OR OMISSIONS, IN NO EVENT SHALL STRUCTURED BE RESPONSIBLE OR LIABLE, WHETHER IN CONTRACT, TORT, WARRANTY, UNDER ANY STATUTE, OR BASED ON ANY OTHER LEGAL OR EQUITABLE THEORY, FOR ANY PUNITIVE OR EXEMPLARY DAMAGES, OR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR SPECIAL DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF USE, PROFITS, REVENUE, DATA, OR BUSINESS), ARISING OUT OF, RELATING TO, OR IN ANY WAY IN CONNECTION WITH THE AGREEMENT, WHETHER FORESEEABLE OR NOT, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. STRUCTURED'S TOTAL AGGREGATE LIABILITY ARISING OUT OF, RELATING TO, OR IN ANY WAY IN CONNECTION WITH THE AGREEMENT, INCLUDING BUT NOT LIMITED TO, FURNISHING THIRD-PARTY PRODUCTS AND/OR SERVICES TO CLIENT SHALL BE LIMITED TO THE TOTAL AMOUNT PAID BY CLIENT TO STRUCTURED FOR THE THIRD-PARTY PRODUCTS AND/OR SERVICES GIVING RISE TO THE CLAIM(S).

10. TAXES. Fees and expenses under the Agreement are exclusive of all taxes, including without limitation, all federal, state and local use, sales, property, value added and any similar taxes (collectively, "**Taxes**"). Client shall promptly reimburse Structured, or pay directly to the applicable government or taxing authority, all applicable Taxes arising under the Agreement. Taxes may be added to each invoice for Third-Party Products and/or services rendered under the Agreement. Client will not be responsible for Taxes computed upon the income of Structured.

11. MISCELLANEOUS.

11.1 FORCE MAJEURE. With the exception of payment obligations, neither Party shall be considered in default or liable for any delay or failure in

performance under the Agreement to the extent such delay or failure is attributable to any act, omission or other cause beyond such Party's control and absent of fault or negligence (directly or indirectly) of such Party, which materially restricts a Party's ability to perform its obligations under the Agreement (a "**Force Majeure Event**"), including but not limited to, accidents; severe acts of nature such as fires, floods, tornadoes or earthquakes; strikes or other labor disputes; civil disturbance including war, insurrection, riots, terrorism or other acts of public enemies; and voluntary or mandatory compliance with any governmental act, regulation or request, provided the immediately effected Party notifies the other Party within fifteen (15) calendar days of becoming aware of a Force Majeure Event and the delay or failure of performance caused (or anticipated to be caused) by such event, and uses reasonable efforts to mitigate the impact of the Force Majeure Event. Notwithstanding the foregoing, in the event a Force Majeure Event results in any loss or damage relating to the Third-Party Products and/or services to be provided by Structured, Structured shall not be obligated to continue performance except to the extent agreed upon by the Parties in a written change order reflecting an adjustment to the services, schedule Services, Schedule, Fee and Expenses as necessary or appropriate for Structured to replace the Third-Party Products and complete or maintain the ability to complete (as the case may be), the services.

11.2 **Reserved.**

11.3 **ASSIGNMENT.** Neither Party may assign the Agreement or any of its rights under the Agreement, or delegate any of its obligations under the Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, either Party may assign any or all of its rights and/or obligations under the Agreement to any affiliate without the prior written approval of the other Party; provided that, such affiliate assignee has the financial, operational, technical and other necessary capabilities and resources to accomplish any and all obligations under the Agreement in a manner comparable to the expected performance of the assigning Party.

11.4 **BINDING EFFECT.** All rights, remedies, obligations and liabilities given to or imposed upon the Parties under the Agreement shall extend to, inure to the benefit of and bind, as the circumstances may require, the Parties and their respective heirs, personal representatives, successors and permitted assigns.

11.5 **GOVERNING LAW; JURISDICTION; VENUE.** The Agreement shall be governed by, interpreted, and construed in accordance with the laws of the State of Oregon, without reference to conflict of laws principles.

11.6 **NO ATTORNEYS' FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

11.7 **AMENDMENT.** No modification or amendment of the Agreement, including but not limited to, these Terms and Conditions, shall be binding on Structured unless such modification or amendment is in a writing signed by duly authorized representatives of both Parties, which specifically references the Agreement and states in definite terms that the Parties intend to modify the Agreement.

IN FURTHERANCE OF THE FOREGOING, STRUCTURED HEREBY GIVES NOTICE TO CLIENT THAT ANY ADDITIONAL OR DIFFERENT TERM OR CONDITION STATED BY CLIENT, WHETHER IN A PURCHASE ORDER, ACKNOWLEDGEMENT FORM OR OTHERWISE IN ACKNOWLEDGING OR ACCEPTING THE AGREEMENT, IS DEEMED BY STRUCTURED TO BE A MATERIAL ALTERATION OF THE AGREEMENT AND IS HEREBY OBJECTED TO BY STRUCTURED UNLESS SPECIFICALLY ACCEPTED BY STRUCTURED IN WRITING PURSUANT TO THESE TERMS AND CONDITIONS AND/OR THE AGREEMENT. STRUCTURED'S SALE OF THIRD-PARTY PRODUCTS TO CLIENT AND/OR PERFORMANCE OF SERVICES FOR CLIENT SHALL NOT CONSTITUTE ACCEPTANCE BY STRUCTURED OF ANY SUCH ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS NOT SPECIFICALLY ACCEPTED BY STRUCTURED IN WRITING AS PROVIDED HEREIN.

11.8 **HEADINGS.** The headings in these Terms and Conditions are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of these Terms and Conditions or the Agreement.