



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

June 8, 2023

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of Personal Services Contract #7955 with Accela Inc. for migrating the Accela on-premises software to the Accela cloud hosted SaaS platform with 5 years annual maintenance. The Total Contract Value is \$1,116,902.50. Contract execution is through June 30, 2028. Funding is through development permit fees. No County General Funds are involved.

| | | | |
|-------------------------------------|--|---------------------------|--------------|
| Previous Board Action/Review | <ul style="list-style-type: none"> 6/28/2011: The Board approved entering into an Agreement to upgrade the County's existing Permits Plus software system to Accela Automation Land Management. The contract included renewals. 8/15/2019: Board approval of a Replacement Renewal Order Form and Relinquishment establishing a new 5 year maintenance term for on-premise licensing. 6/6/23: Discussed at Issues | | |
| Performance Clackamas | This procurement action helps support the three strategic priorities of (1) build public trust through good government, (2) grow a vibrant economy and (3) build strong infrastructure by providing efficient, cost effective permitting services, while improving the permitting service experience for Clackamas County customers. | | |
| Counsel Review | Yes - 5/25/2023 AN | Procurement Review | Yes |
| Contact Person | Cheryl Bell, Assistant Director of Development | Contact Phone | 503-260-7124 |

EXECUTIVE SUMMARY: The Department of Transportation and Development (DTD) uses Accela Automation permitting software as the primary system for creating, routing, processing, approving and issuing permits throughout various Development Services operations. This software manages and tracks inspections, and facilitates the calculation and collection of permit fees.

For Filing Use Only

Since implementing Accela (previously Permits Plus) in the mid-1990s DTD has used various iterations. The software is currently housed on-premises and supported by Technology Services (TS) staff and servers. Our existing contract with Accela expires in June of 2025 but our current on-premises version has not kept up with vendor updates, uses old programming language, and is no longer supported by Accela. In addition, the on-premises version is housed on an outdated server, which has recently been failing, causing our permitting system to go down, on occasion, for both staff and customers.

While evaluating the scope of work and costs associated with performing an upgrade of this magnitude, it has been determined that moving to a cloud hosted, or SaaS version, of the software is more cost effective long-term, than continuing the current on-premises model. Specifically, this upgrade will:

- Remove the need to have on site servers host the software.
- Reduce demands on TS staff as the vendor will become responsible for maintaining and updating the software.
- Provide the ability to add a GIS module or enhanced support services in the future as these two options are not available to on-premises customers.

In negotiations with the vendor under the cooperative pricing agreement, DTD was able to secure incentivized pricing that is available if the cooperative contract is executed prior to June 30, 2023; which will result in a savings of \$333,419.66 over the 5-year term.

PROCUREMENT PROCESS: Approval of this purchase is being requested under the Local Contract Review Board Rule C-046-0400, Authority of Cooperative Procurement. Per LCRB C-046-0440, Public Notice was published May 3, 2023 of our intent to purchase utilizing State of Oregon contract 9412 for \$1,116,902.50, we received no comment.

RECOMMENDATION: Staff respectfully recommends that the Board approve and sign the attached Professional Services Contract with Accela Inc., for the migration of our on-premises software to Accela cloud hosted SaaS platform with 5 years of annual maintenance.

Respectfully submitted,

Dan Johnson

Dan Johnson, Director
Department of Transportation & Development

CLACKAMAS COUNTY
GOVERNMENTAL CONTRACTING ADDENDUM
Contract #7955

This Oregon Governmental Contracting Addendum (“Addendum”) is entered into by Clackamas County, a political subdivision of the State of Oregon (“County”), on behalf of its Department of Transportation and Development (DTD), and Carahsoft Technology Corp. (“Contractor”). This Addendum shall be attached to, and incorporated into, the Carahsoft, Accela SaaS Migration Services Statement of Work and Quote (“Vendor Agreement”). County is purchasing the software and related services described in the Vendor Agreement through the State of Oregon cooperative contract, State of Oregon contract no. 9412 (“State Cooperative Contract”). As used below, "Contract" means this Addendum, the Vendor Agreement, and the State Cooperative Contract. To the extent there is any conflict between the contracts, the terms of the 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 **June 30, 2028**.
- B. Consideration.** The initial term of the Contract is from the effective date through June 30, 2024. In consideration for County’s use of the software and services described in the Vendor Agreement (the “SaaS Services”), County will pay Contractor an amount not to exceed \$259,462.50. The \$259,462.50 includes a one-time implementation fee of \$70,000. Contingent upon successful implementation of the SaaS Services, County will pay an annual fee for use of the SaaS Services.

The annual fee for use of the SaaS Services are set forth below:

- July 1, 2023 – June 30, 2024 -- \$ 189,462.50**
- July 1, 2024 – June 30, 2025 – \$198,937.35**
- July 1, 2025 – June 30, 2026 – \$208,882.55**
- July 1, 2026 – June 30, 2027 – \$219,326.85**
- July 1, 2027 – June 30, 2028 – \$230,293.25**

The total amount the County will pay to the Contractor over the life of this contract shall not exceed **\$1,116,902.50**

- C. County Contract Administrator.** The County Contract Administrator for this Contract is Assist. Director of Development
- D. Invoices and Payments.** Invoices shall be submitted to: DTDFinancial@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 checked="" 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. |

Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.

Required - Cyber Liability: Combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for network security (including data breach), privacy, interruption of business, media liability, and errors and omissions.

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.
- If this Contract is terminated by County for Contractor’s breach of the Contract, County shall have any right and remedy available to it at law, in equity, or under the Contract. In the event of termination by County for any other reason, Contractor’s sole remedy is payment for the pro rata portion of the annual fee as of the date of notice of termination, less any setoff to which the County is entitled.
- 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 and defend the County, and its officers, elected officials, agents, and employees, from and against all claims, actions, losses, liabilities, including reasonable attorney and accounting fees, and all expenses incidental to the investigation and defense thereof, arising out of or based upon Contractor’s acts or omissions in performing under this Contract. 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.

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.

Carahsoft Technology Corp.

Clackamas County

Kristina Smith

5/24/23

Authorized Signature

Date


Chair

Kristina Smith , Contracts Director

Name/Title (Printed)

Recording Secretary

Approved As To Form:



05/25/2023

Clackamas County Counsel

Date

GOVERNMENT - PRICE QUOTATION



ACCELA GOVERNMENT AT CARAHSOFT



11493 SUNSET HILLS ROAD | SUITE 100 | RESTON, VIRGINIA 20190
 PHONE (703) 871-8500 | FAX (703) 871-8505 | TOLL FREE (888) 66CARAH
 WWW.CARAHSOFT.COM

TO: Diedre Landon
 Administrative Services Manager Snr.
 Clackamas County Department of Transportation &
 Development
 150 Beavercreek Road
 Oregon City, OR 97045 USA

FROM: Casey Oesterle
 Carahsoft Technology Corp.
 11493 Sunset Hills Road
 Reston, Virginia 20190

EMAIL: DLandon@clackamas.us

EMAIL: Casey.Oesterle@carahsoft.com

PHONE: (971) 413-8728

PHONE: (571) 662-3010

FAX: (703) 871-8505

TERMS: Contract Number: 9412
 NASPO Master Contract Number: AR2472
 Contract Term: 04/01/2019 to 09/16/2026
 Shipping Point: FOB Destination
 Credit Cards: VISA/MasterCard/AMEX
 Remit To: Same as Above
 Payment Terms: Net 30 (On Approved Credit)
 Sales Tax May Apply

QUOTE NO: 38838421
QUOTE DATE: 04/26/2023
QUOTE EXPIRES: 06/30/2023
RFQ NO:
SHIPPING: ESD
TOTAL PRICE: \$1,116,902.50

TOTAL QUOTE: \$1,116,902.50

| LINE NO. | PART NO. | DESCRIPTION | - | QUOTE PRICE | QTY | EXTENDED PRICE |
|---|------------------------|---|-------------|-------------|-----|---------------------|
| YEAR 1 SAAS + SERVICES | | | | | | |
| 1 | SS21000MU700 | Multi-Solution SaaS - Accela 12 Months Accela Building and Planning Accela Inc - SS21000MU700 | \$1,457.97 | COOP | 115 | \$167,666.55 |
| 2 | AS-00-DAC700 | Accela Enhanced Reporting Database 12 Months Accela Inc - AS-00-DAC700 | \$189.53 | COOP | 115 | \$21,795.95 |
| 3 | AR2472-CAR001-1004-002 | Services to support Customer Implementation - Requires SOW (up to 12 months) 50% due at contract signing Carahsoft Technology Corporation - PS-SUPP-1 | \$17,500.00 | COOP | 2 | \$35,000.00 |
| 4 | AR2472-CAR001-1004-002 | Services to support Customer Implementation - Requires SOW (up to 12 months) 50% invoiced at completion Carahsoft Technology Corporation - PS-SUPP-1 | \$17,500.00 | COOP | 2 | \$35,000.00 |
| YEAR 1 SAAS + SERVICES SUBTOTAL: | | | | | | \$259,462.50 |
| YEAR 2 SAAS | | | | | | |
| 5 | SS21000MU700R1 | Multi-Solution - Accela Annual - SaaS (1st Renewal Term) Accela Building and Planning Accela Inc - SS21000MU700R1 | \$1,530.87 | COOP | 115 | \$176,050.05 |
| 6 | AS-00-DAC700R1 | Accela Enhanced Reporting Database Annual (1st Renewal Term) Accela Inc - AS-00-DAC700R1 | \$199.02 | COOP | 115 | \$22,887.30 |
| YEAR 2 SAAS SUBTOTAL: | | | | | | \$198,937.35 |
| YEAR 3 SAAS | | | | | | |
| 7 | SS21000MU700R2 | Multi-Solution - Accela Annual - SaaS (2nd Renewal Term) Accela Building and Planning Accela Inc - SS21000MU700R2 | \$1,607.41 | COOP | 115 | \$184,852.15 |

GOVERNMENT - PRICE QUOTATION



ACCELA GOVERNMENT AT CARAHSOFT



11493 SUNSET HILLS ROAD | SUITE 100 | RESTON, VIRGINIA 20190
 PHONE (703) 871-8500 | FAX (703) 871-8505 | TOLL FREE (888) 66CARAH
 WWW.CARAHSOFT.COM

| LINE NO. | PART NO. | DESCRIPTION | - | QUOTE PRICE | COOP | QTY | EXTENDED PRICE |
|------------------------------|----------------|---|---|-------------|------|-----|-----------------------|
| 8 | AS-00-DAC700R2 | Accela Enhanced Reporting Database Annual (2nd Renewal Term) Accela Inc - AS-00-DAC700R2 | | \$208.96 | COOP | 115 | \$24,030.40 |
| YEAR 3 SAAS SUBTOTAL: | | | | | | | \$208,882.55 |
| YEAR 4 SAAS | | | | | | | |
| 9 | SS21000MU700R3 | Multi-Solution - Accela Annual - SaaS (3rd Renewal Term) Accela Building and Planning Accela Inc - SS21000MU700R3 | | \$1,687.78 | COOP | 115 | \$194,094.70 |
| 10 | AS-00-DAC700R3 | Accela Enhanced Reporting Database Annual (3rd Renewal Term) Accela Inc - AS-00-DAC700R3 | | \$219.41 | COOP | 115 | \$25,232.15 |
| YEAR 4 SAAS SUBTOTAL: | | | | | | | \$219,326.85 |
| YEAR 5 SAAS | | | | | | | |
| 11 | SS21000MU700R4 | Multi-Solution - Accela Annual - SaaS (4th Renewal Term) Accela Building and Planning Accela Inc - SS21000MU700R4 | | \$1,772.17 | COOP | 115 | \$203,799.55 |
| 12 | AS-00-DAC700R4 | Accela Enhanced Reporting Database Annual (4th Renewal Term) Accela Inc - AS-00-DAC700R4 | | \$230.38 | COOP | 115 | \$26,493.70 |
| YEAR 5 SAAS SUBTOTAL: | | | | | | | \$230,293.25 |
| SUBTOTAL: | | | | | | | \$1,116,902.50 |
| TOTAL PRICE: | | | | | | | \$1,116,902.50 |
| TOTAL QUOTE: | | | | | | | \$1,116,902.50 |

The products and services contained herein shall be governed by the Subscription Services Agreement attached hereto as provided for in NASPO Contract Number: AR2472.

Statement of Work

Clackamas County, Oregon SaaS Migration Services

4/26/2023

Version 1.3

Accela, Inc.
2633 Camino Ramon
Suite 120
San Ramon, CA 94583
Tel: 925-659-3200

Carahsoft Technology Corp.
11493 Sunset Hills Road
Suite 100
Reston, VA 20190
Tel: 703-871-8500

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DOCUMENT CONTROL

| Date | Author | Version | Change Reference |
|------------|----------|---------|------------------------------------|
| 6/16/2022 | J. White | 1.0 | SOW Creation |
| 9/16/2022 | J. White | 1.1 | Revised based on customer feedback |
| 12/22/2022 | J. White | 1.2 | Revised based on customer feedback |
| 4/21/2022 | J. White | 1.3 | Revised pricing and expiration |

INTRODUCTION

OVERVIEW

This Statement of Work (“SOW”) dated 4/26/2023 sets forth the scope and definition of the project-based professional services (collectively, the “Services”) to be provided by Carahsoft Technology Corp. (“Carahsoft”) and Accela, Inc., its affiliates and/or agents (“Accela”) to Clackamas County, Oregon (“Agency” or “Customer”).

The products and services contained herein shall be governed by the Subscription Services Agreement located at www.accela.com/terms/.

This statement of work represents a Fixed Fee based engagement.

SCOPE OF SERVICES

Accela will provide services to the Agency for migrating the Accela on-premise Land Management instance to the Accela Cloud based on the materials provided by the Agency in the SaaS Migration Questionnaire.

- Import/upgrade of MS SQL DBs (up to 3 environments: Support, Test, Production)
- Assistance migrating 8 specific interfaces:
 - GIS (including APO load)
 - Credit Card Payment Adapter (Elavon)
 - Contractor License Load
 - CityGovApp
 - Avolve Project Dox / OAS
 - Selectron IVR
- Migration of up to 150 SSRS reports
- Upgrade EMSE scripts to the 3.0 framework
- Assist in integrating Azure SSO
- Up to 20 hour of issue resolution and testing assistance
- Go live planning and cutover assistance

Products

The following Accela products are in scope for this Project:

- *Accela Automation*
- *Accela Citizen Access*
- *Accela GIS*
- *Accela Mobile*

PROJECT MANAGEMENT AND OVERSIGHT

Accela shall perform ongoing project management services in conjunction with the Agency project manager throughout the project in order to plan and monitor execution of the project in accordance with the activities outlined in the Statement of Work.

Accela Responsibilities:

Provide overall Accela project management support throughout implementation, included:

- Project document management via SharePoint
- Participate in project status meetings with Agency and Client stakeholders to review the projects status, risks, issues, change requests, as needed to review Accela tasks and status
- Conduct weekly plan review with Agency Project Manager to include:
 - Complete, in progress, and pending items
 - Open action items
 - Upcoming deliverables and project milestones
- Weekly project status meeting
- Facilitate executive project oversight and quality assurance
 - Support for monthly meetings with executive leadership

WORK DESCRIPTION

Accela will perform a migration of the customer's on-premise Accela environments using MS SQL (up to 3 environments: Support, Test, Production) to the Accela SaaS platform.

Steps:

1. Customer provides an updated backup of the MS SQL databases for the environments to be migrated
2. Perform the database migration (Accela, Jetspeed, AGIS, AMO, and ADS databases as required)
 - a. Copy database to Accela site
 - b. Execute preparation and remediation scripts; drop any custom objects
 - c. Import data from the MS SQL DB into Accela SaaS SQL instance
3. Execute validation scripts to confirm the schema
4. Provision tenant instance in Accela SaaS
5. Update environment specific data in the databases
6. Start Accela services and validate the system is functional i.e. login, search, create records, etc.
7. Execute automated test tool to ensure proper system functionality
8. Customer performs migration validation
9. Remediate any data issues that found from the migration
10. Provide the customer with a backup of the revised SQL DB
11. Upgrade EMSE scripts to the 3.0 framework and update Master Scripts
12. Migrate and Test integrations
 - Repoint service endpoints to new URLs
 - Adjust firewall rules and network topologies as necessary
 - Update interface EMSE scripting dependences for Azure compatibility
13. Migrate and update SSRS reports (maximum of 150)
 - Import reports into the Accela SaaS environment
 - Update reports to remove dependencies on custom objects (stored procedures, functions)
 - Facilitate customer testing and remediate any issues found resulting from migration
14. Validate Ad Hoc reports
 - Remove dependencies on custom views where possible
 - Convert to SSRS as needed
15. Develop go live plan
16. Final go-live/roll back decision
17. Execute go live plan

OUT OF SCOPE

Any Coding, conversion or additional services not specifically described in this document is the responsibility of Agency.

PROJECT ASSUMPTIONS

GENERAL PROJECT ASSUMPTIONS

- Agency will provide the necessary tools, accounts, and permissions that will enable Accela to access the Agency's internal network for remote installation and testing. This access must be provided through industry standard tools such as Virtual Private Network (VPN). Failure to provide this access in a timely fashion will result in a project delay. Such a delay will result in a Change Order.
- Agency will ensure that Accela resources have access to a Dev or Test version of the 3rd party systems for interface development. All interfaces will be developed against 1 (one), agreed upon version of the 3rd party system.
- Agency will provide source code for relevant interfaces in scope. If source code is unavailable, then the project may be delayed or addition cost may result from the re-development of a new interface.

Integration Assumptions

- Agency will be responsible for hosting custom interfaces unless otherwise specified in the Accela SaaS License Agreement.
- The agency will purchase the Enhanced Reporting Database (ERD) as part of their SaaS license. If the agency does not purchase ERD, then additional scope may be required to migrate interfaces.

PROJECT TIMELINE

The project is estimated to take 24 weeks. The projected start date for the Project is forty-five (45) calendar days after mutual acceptance and signature of this SOW.

PROJECT COMPLETION

Upon completion of the work defined above, this contract will be closed.

PROJECTS PUT ON HOLD

It is understood that sometimes Agency priorities are revised requiring the Agency to place the Accela implementation on hold. The Agency must send a formal written request sent to Accela to put the project on hold. Delays of 2 weeks or more that have a tangible impact to Accela's resource plan are subject to change order.

If an Agency-based delay puts the project on hold for more than 90 days, Accela reserves the right to terminate the contract and negotiate new terms. If an Agency-based delay puts the project on hold past the termination period, Accela reserves the right to terminate the contract at the time of the delay. After that time, Accela can choose to cancel the rest of the Statement of Work. To finish the project will require a new Statement of Work at new pricing.

PAYMENT TERMS

PAYMENT SCHEDULE

- 50% due at contract signing \$35,000.00.
- 50% invoiced at completion \$35,000.00.

EXPENSES

There is no provision for travel expenses or travel time in this SOW because Agency does not need any onsite resources. Travel to the Agency will not be conducted unless a Change Order, inclusive of travel expense terms and conditions, is signed prior to travel commencing to cover the cost of the travel.

CONTRACT SUM

The total estimated amount payable under this SOW, as calculated from the above-mentioned fees, is \$70,000.00. This estimated price is based on the information available at time of signing and the assumptions, dependencies and constraints, and roles and responsibilities of the Parties, as stated in this SOW.

ADMINISTRATION

CHANGE ORDERS

In order to make a change to the scope of Professional Services in this SOW, and subject to the Disclaimers below, Agency must submit a written request to Accela specifying the proposed changes in detail. Accela will submit to Agency an estimate of the charges and the anticipated changes in the delivery schedule that will result from the proposed change in the Professional Services Change Order. Accela will continue performing the Professional Services in accordance with the SOW until the parties agree in writing on the change in scope of work, scheduling, and fees therefore. Any Change Order will be agreed to by the parties in writing prior to implementation of the Change Order. If Accela's effort changes due to changes in timing, roles, responsibilities, assumptions, scope, etc. or if additional support hours are required, a change order will be created that details these changes, and impact to project and cost (if any). Any change order will be signed by Accela and Agency prior to commencing any activities defined in the change order. Standard blended rate for Accela resources is \$250.00 per hour. The Change Order Template is attached hereto as [Appendix A](#).

EXPIRATION

The scope and terms of this SOW must be executed on or before 6/30/2023. If the SOW is not executed by this date, the current scope and terms can be renegotiated.

DISCLAIMERS

Accela makes no warranties in respect of the Services described in this SOW. Any configuration of or modification to the Product that can be consistently supported by Accela via APIs, does not require direct database changes and is capable of being tested and maintained by Accela will be considered a "Supported Modification". Accela's obligations and warranties in respect of its Services, Products, and maintenance and support, as set out the agreement between Accela and Agency, does not extend outside the Supported Modifications or to any Agency manipulation of implemented scripts, reports, interfaces and adaptors.

In the event Agency requires significant changes to this SOW (including cumulative revisions across any one or more Change Orders) which Accela reasonably determines (a) is a material modification of the nature or scope of Services as initially contemplated by the Parties under this SOW and/or (b) is significantly outside the Supported Modifications, Accela may, upon no less than thirty (30) days' notice to Agency, suspend or terminate this SOW and/or any Change Order issued hereunder. In the event of any such termination or suspension, the parties will work together in finalizing agreed-upon Deliverables.

SIGNATURES

This Statement of Work is agreed to by the parties and made effective upon the date of last signature. If undated by Agency, the effective date will be as of the Accela signature hereto.

Carahsoft Technology Corp.

Marissa Farr

Digitally signed by
Marissa Farr
Date: 2023.05.24
13:29:48 -04'00'

Authorized Signature

Marissa Farr

Name - Type or Print

Title

Date

Clackamas County, Oregon

Authorized Signature

Tootie Smith

Chair

Date



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Memorandum

To: Dan Johnson, DTD Director
Ryan Rice, Procurement Manager

From: Cheryl Bell, x4721; Diedre Landon, x4411

Subject: Accela Automation-Contract for SaaS Migration + 5-Years Annual Maintenance
Cooperative Purchasing Agreement

Date: April 27, 2023

BACKGROUND:

The Department of Transportation and Development (DTD) uses Accela Automation permitting software (Accela) as the primary system for creating, routing, processing, approving and issuing permits throughout various development operations. This software manages and tracks inspections, and facilitates the calculation and collection of permit fees. Accela is fully integrated throughout the development process, and is a preferred partner with the ProjectDox/Avolve electronic plan review solution that DTD recently implemented.

Since implementing Accela in the mid-1990s DTD has used various iterations. The software is currently housed on-premises and supported by Technology Services (TS) staff and servers. Our on-premises version has not kept up with vendor updates, uses old programming language, and is no longer supported by Accela. In addition, the on-premises version is housed on a very old server, which has recently been failing, causing our permitting system to go down for both staff and customers.

While evaluating the scope of work and costs associated with performing an upgrade of this magnitude, it has been determined that moving to a cloud hosted, or SaaS version, of the software is more cost effective long-term, than continuing the current on-premises model. Specifically this upgrade will:

- Remove the need to have on site servers host the software.
- Reduce embedded TS staff costs because the vendor will become responsible for maintaining and updating the software.
- Provide the ability to add a GIS module or enhanced support services in the future as these two options are not available to on-premises customers.

The current contract with Accela for ongoing maintenance of our existing on-premises system is \$112,000 for FY 2023/2024, and expires in June 2025, so we propose replacing the existing contract with a new 5-year maintenance agreement for the SaaS solution.

In negotiations with the vendor under the cooperative pricing agreement, DTD was able to secure incentivized pricing that is available if the cooperative contract is executed prior to June 30, 2023; which would result in a savings of \$333,419.66 over the 5-year term.

CONCLUSION:

With the consent of the DTD Director, please prepare a contract for the migration of our Accela Automation system to a cloud hosted SaaS environment, and 5 years of maintenance, using the Carahsoft cooperative agreement, as presented in the attached *Pricing Proposal (Quote # 38838421)*.

| | | | | | | | |
|-------------------------------------|--|-------------|----------------|---------------------------|--------------------|---------------------------|----------------------------|
| Contractor Name and Address: | CARAHSOFT TECHNOLOGY CORP. 11493 Sunset Hills Road, Suite 100 Reston, VA 20190 | | | | | | |
| Contract Amounts: | SaaS Migration Services (Fixed Fee - 50% at contract signing and 50% invoiced at completion) | | | | | | \$70,000.00 |
| | Annual SaaS and Reporting Database maintenance: 07/01/23 to 06/30/24 | | | | | | \$189,462.50 |
| | Annual SaaS and Reporting Database maintenance: 07/01/24 to 06/30/25 | | | | | | \$198,937.35 |
| | Annual SaaS and Reporting Database maintenance: 07/01/25 to 06/30/26 | | | | | | \$208,882.55 |
| | Annual SaaS and Reporting Database maintenance: 07/01/26 to 06/30/27 | | | | | | \$219,326.85 |
| | Annual SaaS and Reporting Database maintenance: 07/01/27 to 06/30/28 | | | | | | \$230,293.25 |
| | Total for maintenance | | | | | | \$1,046,902.50 |
| | TOTAL CONTRACT VALUE: | | | | | | \$ 1,116,902.50 |
| Contract Dates: | 07/01/2023 – 06/30/2028 | | | | | | |
| Account String | | | | | | | |
| | MFR Accounting Tag | Fund | Account | Service (Optional) | PC Bus Unit | Project (Optional) | Activity (Optional) |
| Building Codes | 600207 | 205 | 45130 | | | | |



ACCELA SUBSCRIPTION SERVICES AGREEMENT

This Accela Subscription Services Agreement (this "**Agreement**") is entered into as of the date of the applicable Order, as defined below, that incorporates these terms (the "**Effective Date**") by and between Accela, Inc. and the entity identified in such Order ("**Customer**").

1. DEFINITIONS.

1.1 "**Accela System**" means the information technology infrastructure used by or on behalf of Accela in performing the Subscriptions Services, including all computers, software (including but not limited to Accela Software), hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by Accela or its third party suppliers.

1.2 "**Aggregate Data**" means data and information related to Customer's use of the Subscription Services, including anonymized analysis of all data processed in the Subscription Services, that is used by Accela in an aggregate and anonymized manner, including compiling statistical and performance information related to the provision and operation of the Services.

1.3 "**Authorized User**" means one named employee, contractor or agent of Customer (each identified by a unique email address) for whom Customer has purchased a subscription to the Subscription Services and who is authorized by Customer to access and use the Services under the rights granted to Customer pursuant to this Agreement.

1.4 "**Consulting Services**" means packaged or time and materials consulting, review, training or other services (but excluding Subscription and Support Services) delivered by Accela to Customer pursuant an Order. The current Consulting Services Policy is available at www.accela.com/terms/.

1.5 "**Customer Data**" means the content, materials, and data that Customer, Authorized Users, and External Users enter into the Subscription Services. Customer Data does not include any component of the Subscription Services, material provided by or on behalf of Accela, or Aggregate Data.

1.6 "**Documentation**" means the then-current technical and functional user documentation in any form made generally available by Accela for the Subscription Services.

1.7 "**External Users**" means third party users of the Subscription Services that access the public-facing interfaces of the Subscription Services to submit queries and requests to facilitate communications between such third party and Customer.

1.8 "**Intellectual Property Rights**" means any patent rights (including, without limitation, patent applications and disclosures), copyrights, trade secrets, know-how, and any other intellectual property rights, in all cases whether or not registered or registrable and recognized in any country or jurisdiction in the world.

1.9 "**Order**" means an Accela order form or other mutually acceptable document fully executed between Customer and Accela that incorporates this Agreement.



1.10 “**Service Availability Policy**” means the Service Availability and Security Policy located at www.accela.com/terms/.

1.11 “**Subscription Services**” means the civic administration services, comprised of the Accela System, Software, and Support Services, to which Customer may license access to in accordance with the terms herein.

1.12 “**Software**” means any licensed software (including client software for Authorized Users’ devices) and Documentation that Accela uses or makes available as part of the Subscription Services.

1.13 “**Support Services**” means those technical and help services provided by Accela in accordance with the Software Support Services Policies (SaaS) located at www.accela.com/terms/.

1.14 “**Subscription Period**” means the duration of Customer’s authorized use of the Subscription Services as designated in the Order.

2. **USAGE AND ACCESS RIGHTS.**

2.1 Right to Access. Subject to the terms and conditions of this Agreement, Accela hereby grants to Customer a limited, non-exclusive, non-transferable right and license during the Subscription Period, to permit: (i) Authorized Users to access and use the internal and administrative interfaces of the Subscription Services in accordance with the Documentation to support Customer’s internal business purposes and (ii) its External Users the ability to access and use the publicly available interfaces to submit requests and information to Customer. Each instance of the Subscription Service shall be provisioned with the amount of storage set forth in the Order and additional storage may be purchased at the then-current rates.

2.2 Support Services & Service Availability. During the Subscription Period, Accela shall provide to Customer the Support Services specified in the Order and shall make all commercially reasonable efforts to attain the service levels specified in the applicable policies. The remedies set forth in the Support Services and Service Availability Policy are the sole and exclusive remedies for any breach of the service levels. Customer grants Accela a royalty-free, worldwide, transferable, sub- licensable, irrevocable, perpetual license to use or incorporate into its software or services any suggestions or other feedback provided by Customer or Authorized Users relating to the operation or features of the Subscription Services.

2.3 Purchasing Consulting Services. Customer may purchase Consulting Services from Accela by executing an Order for such services. All prices are exclusive of travel and expenses, which will be invoiced at actual cost, without markup, and will comply with the Consulting Services Policy located at www.accela.com/terms/ or as otherwise agreed in the applicable Order. If applicable, one Consulting Services day shall be equal to eight (8) hours.

2.4 Restrictions on Use. Customer shall not, and shall not permit others to: (i) use or access the Subscription Services in any manner except as expressly permitted by the Agreement, including but not limited to, in a manner that circumvents contractual usage restrictions set forth in this Agreement; (ii) license, sub-license, sell, re-sell, rent, lease, transfer, distribute, time share or otherwise make any portion of the Subscription Services available for access by third parties except as otherwise expressly provided herein; (iii) use the Subscription Service in a way that: (a) violates or infringes upon the rights



of a third party; or (b) stores or transmits libelous, tortious, or otherwise unlawful material or malicious code or viruses; (iv) create derivative works, reverse engineer, decompile, disassemble, copy, or otherwise attempt to derive source code or other trade secrets from or about any of the Subscription Services (except to and only to the extent such rights are proscribed by law); (v) interfere with or disrupt the security, integrity, operation, or performance of the Subscription Services; (vi) access, use, or provide access or use to the Subscription Services or Documentation for the purposes of competitive analysis or the development, provision, or use of a competing software, SaaS or product or any other purpose that is to Accela's detriment or commercial disadvantage; (vii) provide access to the Subscription Services to competitors of Accela; (viii) access or use components of the Subscription Service not licensed by Customer; (ix) use or allow the use of the Subscription Services by anyone located in, under the control of, or that is a national or resident of a U.S. embargoed country or territory or by a prohibited end user under Export Control Laws (as defined in Section 12.3, Compliance with Laws); (x) remove, delete, alter or obscure any trademarks, Documentation, warranties, or disclaimers, or any copyright, trademark, patent or other intellectual property or proprietary rights notices from any Subscription Services; or (xi) access or use the Subscription Services in, or in association with, the design, construction, maintenance, or operation of any hazardous environments, systems or applications, any safety response systems or other safety-critical applications, or any other use or application in which the use or failure of the Subscription Services could lead to personal injury or severe physical or property damage.

2.5 Ownership. Accela retains all Intellectual Property Rights, including all rights, title and license to the Subscription Service, Software, Accela System, Support Services, Consulting Services, and Aggregate Data, any related work product of the foregoing and all derivative works thereof by whomever produced; provided however, that to the extent such materials are delivered to Customer as part of the Subscription Services, Consulting Services or Support Services then Customer shall receive a limited license consistent with the terms of Section 2 to use such materials during the Subscription Period.

2.6 Customer's Responsibilities. Customer will: (i) be responsible for meeting Accela's applicable minimum system requirements for use of the Subscription Services set forth in the Documentation; (ii) be responsible for Authorized Users' compliance with this Agreement and for any other activity (whether or not authorized by Customer) occurring under Customer's account; (iii) be solely responsible for the accuracy, quality, integrity and legality of Customer Data; (iv) use commercially reasonable efforts to prevent unauthorized access to or use of the Subscription Services and Customer Data under its account, and notify Accela promptly of any such unauthorized access or use, and; (v) use the Subscription Services only in accordance with the applicable Documentation, laws and government regulations.

3. PAYMENT TERMS.

3.1 Purchases Directly from Accela. Except as otherwise set forth in an Order, Subscription fees shall be invoiced annually in advance and such fees shall be due and payable on the first day of the Subscription and on each anniversary thereafter for each renewal, if any. All other invoices shall be due and payable net thirty (30) from the date of the applicable invoice. All amounts payable to Accela under this Agreement shall be paid by Customer in full without any setoff, deduction, debit, or withholding for any reason. Any late payments shall be subject to an additional charge of the lesser of 1.5% per month or the maximum permitted by law. All Subscription Services fees are exclusive of any taxes, levies, duties,



withholding or similar governmental assessments of any nature (collectively, "**Taxes**"). If any such Taxes are owed or payable for such transactions, they shall be paid separately by Customer without set-off to the fees due Accela.

3.2 Purchases from Authorized Resellers. In the event that Customer has purchased any products or services through a reseller, subject to these terms, any separate payment arrangements and terms shall be exclusively through such reseller and Accela is not a party to such transactions. Accela's sole obligations are set forth herein and Customer acknowledges that its rights hereunder may be terminated for non-payment to such third party.

4. **CONFIDENTIALITY.** As used herein, "**Confidential Information**" means all confidential information disclosed by a one party to this Agreement to the other party of this Agreement whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. However, Confidential Information will not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the disclosing party; (ii) was known to the receiving party prior to its disclosure without breach of any obligation owed to the disclosing party; (iii) is received without restriction from a third party without breach of any obligation owed to the disclosing party; or (iv) was independently developed by the receiving party. Each party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information except as permitted herein, and will limit access to Confidential Information to those of its employees, contractors and agents who need such access for purposes consistent with this Agreement and who are bound to protect such Confidential Information consistent with this Agreement. The receiving party may disclose Confidential Information if it is compelled by law to do so, provided the receiving party gives the disclosing party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the disclosing party's request and cost, to contest, limit, or protect the disclosure.

Notwithstanding anything to the contrary, Customer's obligations under this agreement are expressly subject to the Oregon Public Records Law, Oregon Revised Statutes ("ORS") Chapter 192 et. seq., and any other applicable state or federal law. While Customer will make good faith efforts to perform under this agreement, Customer's disclosure of Confidential Information, in whole or in part, will not be a breach of the 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 Customer is subject to such a disclosure order or receives from a third party any public records request for the disclosure of Confidential Information, Customer shall notify Accela within a reasonable period of time of the request. Accela is exclusively responsible for defending Accela's position concerning the confidentiality of the requested information. Customer is not required to assist Accela in opposing disclosure of Confidential Information, nor is Customer required to provide a legal opinion as to whether the Confidential Information is protected under ORS Chapter 192, et. seq., or other applicable state or federal law.

5. **CUSTOMER DATA.**

5.1 Ownership. Customer reserves all its rights, title, and interest in and to the Customer Data. No rights are granted to Accela hereunder with respect to the Customer Data, except as otherwise set forth explicitly in Section 5.



5.2 Usage. Customer shall be responsible for Customer Data as entered in to, applied or used in the Subscription Services. Customer acknowledges that Accela generally does not have access to and cannot retrieve lost Customer Data. Customer grants to Accela the non-exclusive right to process Customer Data (including personal data) for the sole purpose of and only to the extent necessary for Accela: (i) to provide the Subscription Services; (ii) to verify Customer's compliance with the restrictions set forth in Section 2.4 (Restrictions on Use) if Accela has a reasonable belief of Customer's non-compliance; and (iii) as otherwise set forth in this Agreement. Accela may utilize the information concerning Customer's use of the Subscription Services (excluding any use of Customer's Confidential Information) to improve Subscription Services, to provide Customer with reports on its use of the Subscription Services, and to compile aggregate statistics and usage patterns by customers using the Subscription Services.

5.3 Use of Aggregate Data. Customer agrees that Accela may collect, use and disclose Aggregate Data derived from the use of the Subscription Services for industry analysis, benchmarking, analytics,



marketing and other business purposes. All Aggregate Data collected, used and disclosed will be in aggregate form only and will not identify Customer, its Authorized Users or any third parties utilizing the Subscription Services.

6. **WARRANTIES AND DISCLAIMERS.**

6.1 Subscription Services Warranty. During the Subscription Period, Accela warrants that Subscription Services shall perform materially in accordance with the applicable Documentation. As Customer's sole and exclusive remedy and Accela's entire liability for any breach of the foregoing warranty, Accela will use commercially reasonable efforts to: (a) repair the Subscription Services in question; (b) replace the Subscription Services in question with those of substantially similar functionality; or (c), after making all commercially reasonable attempts to do the foregoing, terminate the applicable Subscription Services and refund all unused, prepaid fees paid by Customer for such non-compliant Subscription Services.

6.2 Consulting Services Warranty. For ninety (90) days from the applicable delivery, Accela warrants that Consulting Services shall be performed in a professional and workmanlike manner. As Customer's sole and exclusive remedy and Accela's entire liability for any breach of the foregoing warranty, Accela will use commercially reasonable efforts to (a) re-perform the Consulting Services in a compliant manner; or, after making all commercially reasonable attempts to do the foregoing, (b) refund the fees paid for the non-compliant Consulting Services.

6.3. Disclaimers. EXCEPT AS EXPRESSLY PROVIDED HEREIN, ACCELA MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, SECURITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

6.4. Cannabis-Related Activities. If Customer purchases any Subscription Services for use with any cannabis-related activities, the following additional disclaimers shall apply: Accela is considered a software service provider to its customers and not a cannabis related business or agent thereof. In addition to the foregoing, Accela only retains Subscription Services fees of this Agreement from its Customer for general software services, a state or local government agency, and does not retain these fees from any type of External Users. It is the sole responsibility of the Customer to offer state law compliant services, which may be coordinated and facilitated through the use of the Subscription Services. Accela makes no representations, promises, or warranties with respect to the legality, suitability, or otherwise regarding any third party provider, including partners, and have no responsibility or liability with respect to services provided to Customer by such third parties.

7. **INDEMNIFICATION.** Accela will defend (or at Accela's option, settle) any third party claim, suit or action brought against Customer to the extent that it is based upon a claim that the Subscription Services, as furnished by Accela hereunder, infringes or misappropriates the Intellectual Property Rights of any third party, and will pay any costs, damages and reasonable attorneys' fees attributable to such claim that are finally awarded against Customer, provided that Customer provides: (a) Accela notice of such claim as soon practical and in no event later than would reasonably permit Accela to respond to such claim, (b) reasonable cooperation to Accela, at Accela's expense, in the defense and/or settlement of such claim and (c) Accela the sole and exclusive control of the defense, litigation and settlement of such claim. In the event that Accela reasonably believes, in its sole discretion, that such claim may



prevail or that the usage of the Subscription Services may be joined, Accela may seek to: (a) modify the Subscription Services such that it will be non-infringing (provided such modification does not materially reduce the functionality or performance of Customer's installed instance); (b) replace the Subscription Services with a service that is non-infringing and provides substantially similar functionality and performance; or, if the first two options are not commercially practicable, (c) terminate the remainder of the Subscription Period and refund any, pre-paid, unused fees received by Accela. Accela will have no liability under this Section 7 to the extent any claims arise from (i) any combination of the Subscription Services with products, services, methods of a third party; (ii) a modification of the Subscription Services that were either implemented by anyone other than Accela or implemented by Accela in accordance with Customer specifications; (iii) any use of the Subscription Services in a manner that violates this Agreement or the instructions given to Customer by Accela; (iv) a version of the Subscription Services other than the current, fully patched version, provided such updated version would have avoided the infringement; or (v) Customer's breach of this Agreement. THIS SECTION 7 STATES THE ENTIRE OBLIGATION OF ACCELA AND ITS LICENSORS WITH RESPECT TO ANY ALLEGED OR ACTUAL INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS RELATED TO THIS AGREEMENT.

8. **LIMITATION OF LIABILITY.** EXCEPT FOR LIABILITY ARISING OUT OF EITHER PARTY'S LIABILITY FOR DEATH, PERSONAL INJURY, GROSS NEGLIGENCE, OR A PARTY'S BREACH OF SECTIONS 2, 4, 7, 9, NEITHER PARTY'S AGGREGATE LIABILITY FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR FROM THE USE OF OR INABILITY TO USE THE SERVICE, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, SHALL EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO CARAHSOFT TECHNOLOGY CORP. UNDER THE SEPARATE CONTRACT ENTERED INTO BY AND BETWEEN CUSTOMER AND CARAHSOFT TECHNOLOGY CORP. EXCEPT FOR LIABILITY ARISING OUT OF A PARTY'S BREACH OF SECTIONS 2, 4, 7, and 9, OR EITHER PARTY'S LIABILITY FOR DEATH, PERSONAL INJURY, OR GROSS NEGLIGENCE, IN NO EVENT SHALL EITHER PARTY OR ANY OTHER PERSON OR ENTITY INVOLVED IN CREATING, PRODUCING OR DELIVERING THE SERVICE BE LIABLE FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, LOSS OF DATA OR LOSS OF GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE OR SYSTEM FAILURE OR THE COST OF SUBSTITUTE PRODUCTS OR SERVICES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR FROM THE USE OF OR INABILITY TO USE THE SUBSCRIPTION SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY. THE FOREGOING EXCLUSIONS APPLY WHETHER OR NOT A PARTY HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, AND EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

9. **SECURITY.** Accela has implemented commercially viable and reasonable information security processes, policies and technology safeguards to protect the confidentiality and integrity of Customer Data, personal data protect against reasonably anticipated threats. Customer acknowledges that, notwithstanding security features of the Subscription Services, no product, hardware, software or service can provide a completely secure mechanism of electronic transmission or communication and that there are persons and entities, including enterprises, governments and quasi- governmental actors, as well as technologies, that may attempt to breach any electronic security measure. Customer further acknowledges that the Subscription Services is not guaranteed to operate without interruptions, failures, or errors. If Customer or Authorized Users use the Subscription Services



in any application or environment where failure could cause personal injury, loss of life, or other substantial harm, Customer assumes any associated risks and will indemnify Accela and hold it harmless against those risks.

10. **THIRD PARTY SERVICES.** Customer may choose to obtain a product or service from a third party that is not directly produced by Accela as a component of the Subscription Services (“**Third Party Services**”) and this may include third party products resold by Accela. Accela assumes no responsibility for, and specifically disclaims any liability, warranty or obligation with respect to, any Third Party Service or the performance of the Subscription Services (including Accela’s service level commitment) when the Subscription Services are used in combination with or integrated with Third Party Services.

11. **TERM AND TERMINATION.**

11.1 Agreement Term. This Agreement shall become effective on the Effective Date and shall continue in full force and effect until the expiration of any Subscription Periods set forth in the agreement between Customer and Carahsoft Technology Corp. (“Carahsoft Contract”) entered into contemporaneously herewith.

11.2 Subscription Periods & Renewals. Subscription Periods, and termination or renewal thereof, are governed by the terms specified in the Carahsoft Contract. In the event of any non-renewal or other termination, Customer’s right to use the Subscription Services will terminate at the end of the relevant Subscription Period.

11.3 Termination or Suspension for Cause. A party may terminate this Agreement and Subscription Services license granted hereunder for cause upon thirty (30) days’ written notice to the other party of a material breach if such breach remains uncured at the expiration of such thirty (30) day period. Either party may terminate immediately if the other party files for bankruptcy or becomes insolvent. Accela may, at its sole option, suspend Customer’s or any Authorized User’s access to the Subscription Services, or any portion thereof, immediately if Accela: (i) suspects that any person other than Customer or an Authorized User is using or attempting to use Customer Data; (ii) suspects that Customer or an Authorized User is using the Subscription Services in a way that violates this Agreement and could expose Accela or any other entity to harm or legal liability; (iii) is or reasonably believes it is required to do so by law or court order or; (iv) Customer’s payment obligations are more than ninety (90) days past due, provided that Accela has provided at least thirty (30) days’ notice of such suspension for delinquent payment. Should Customer terminate this Agreement for cause, Accela will refund a pro-rata portion of unused, pre-paid fees.

11.4 Effect of Termination. If this Agreement expires or is terminated for any reason: (i) within thirty (30) calendar days following the end of Customer’s final Subscription Period, upon Customer’s request Accela provided Customer Data and associated documents in a database dump file; provided that Customer pays (a) all costs of and associated with such copying, as calculated at Accela’s then-current time-and-materials rates, and (b) any and all unpaid amounts due to Accela; (ii) licenses and use rights



granted to Customer with respect to Subscription Services and intellectual property will immediately terminate; and (iii) Accela's obligation to provide any further services to Customer under this Agreement will immediately terminate, except as mutually agreed between the parties. If the Subscription Services are nearing expiration date or are otherwise terminated, Accela will initiate its data retention processes, including the deletion of Customer Data from systems directly controlled by Accela. Accela's current Data Storage Policy can be accessed www.accela.com/terms/.

11.5 Survival. Sections 2.5 (Ownership and Proprietary Rights), 4 (Confidentiality), 6.3 (Disclaimer), 8 (Limitation of Liability), 11.4 (Effect of Termination), 11.5 (Surviving Provisions), and 12 (General Provisions) will survive any termination or expiration of this Agreement.

12. GENERAL.

12.1 Notice. Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder will be in writing and will be deemed to have been given upon: (i) personal delivery; (ii) three days after sending registered, return receipt requested, post or; (iii) one day after sending by commercial overnight carrier. Notices will be sent to the address specified by the recipient in writing when entering into this Agreement or establishing Customer's account for the Subscription Services.

12.2 Governing Law and Jurisdiction. This Agreement and any action related thereto will be governed by the laws of the State of Oregon without regard to its conflict of laws provisions. The exclusive jurisdiction and venue of any action related to the subject matter of this Agreement will be the state and federal courts located in the Oregon and each of the parties hereto waives any objection to jurisdiction and venue in such courts.

12.3 Compliance with Laws. Each party will comply with all applicable laws and regulations with respect to its activities under this Agreement including, but not limited to, export laws and regulations of the United States and other applicable jurisdictions. Further, in connection with the services performed under this Agreement and Customer's use of the Subscription Services, the parties agree to comply with all applicable anti-corruption and anti-bribery laws, statutes and regulations.

12.4 Assignment. Customer may not assign or transfer this Agreement, whether by operation of law or otherwise, without the prior written consent of Accela, which shall not be unreasonably withheld. Any attempted assignment or transfer, without such consent, will be null and void. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

12.5 Publicity. Notwithstanding anything to the contrary, each party will have the right to publicly announce the existence of the business relationship between parties without disclosing the specific terms of the Agreement.

12.6 Miscellaneous. No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement will remain in effect. Accela will not be liable for any delay or failure to perform under this Agreement to the extent such



delay or failure results from circumstances or causes beyond the reasonable control of Accela. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or similar relationship between the parties. This Agreement, including any attachments hereto as mutually agreed upon by the parties, constitute the entire agreement between the parties concerning its subject matter and it supersedes all prior communications, agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and signed by a duly authorized representative of each party against whom the modification, amendment or waiver is to be asserted. Notwithstanding the above, the parties agree that this Agreement is entered into as part the Carahsoft Contract, including Customer's Government Addendum thereto, and the terms and conditions therein are incorporated into this Agreement