

STATE OF TEXAS)
COUNTY OF EL PASO)

ADDENDUM TO AUDIT SOFTWARE
AND HOSTING SERVICES AGREEMENT

On the __ day of _____, 201_, the County of El Paso, Texas ("County"), and Morgan Kai Limited, a corporation registered in the United Kingdom ("MKL"), enter into an Agreement for MKInsight Audit Software and Hosting Services ("Agreement"), Contract #2018-0837. The Agreement consists of County PO 21902060-00, MKL Standard Terms and Conditions of Business, Quotation USD 89498/18, and Hosting Service Agreement, all fully incorporated by this reference.

The parties wish to include an Addendum to modify their Agreement. If any provision in the Agreement conflicts with this Addendum, the Addendum controls. The Agreement and Addendum comprise the entire agreement between the parties.

The following changes are made to and supersede the Agreement:

1. MKL is legally authorized to do business in the State of Texas and in the USA and currently in good standing with an agent for service duly registered through the Texas Secretary of State.
2. The term of the Agreement is from January 6, 2019 through January 5, 2020 and the Addendum is coterminous. Customer may terminate the Agreement with 30 day prior written notice. Customer is excused from its obligations under the Agreement for the duration of any force majeure situation.
3. The parties understand Customer is a governmental entity in the State of Texas, USA and is a tax exempt political subdivision of the State of Texas that will not be liable for any taxes from which it is exempt. This Agreement is contingent on sufficient funding appropriated by Customer in any fiscal year; accordingly, any termination, liability, indemnity, or other provision to the contrary does not apply to Customer. Instead, without penalty or further payment, Customer may terminate this Agreement based on insufficient or no funding in any fiscal year by giving MKL 30 days' prior written notice. Customer will pay for satisfactory services provided through the termination date.
4. Nothing in this Agreement modifies or waives any governmental immunity (from suit or liability), lien or indemnity prohibition, or limitation of liability enjoyed by Customer, its elected officials, or employees at common law, under Texas tort or other law.
5. Under no circumstance shall Customer be liable for punitive, indirect, liquidated, special, incidental, or consequential damages, regardless of the theory of recovery and even if Customer is advised of the potential for such damages.
6. This Agreement is subject to the Public Information Act, Chapter 552 of the Texas Government Code, and any confidentiality or other provisions to the contrary do not apply to Customer. The Texas Prompt Payment Act, Texas Government Code Section 2251.001 et seq. applies to Customer and this Agreement. Payments under this Agreement shall not foreclose Customer's right to recover any over payments or wrongful payments from MKL.

7. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, its conflict of laws or choice of law provisions notwithstanding. Any dispute, action, or litigation between the parties shall be handled in the State or Federal courts sitting in El Paso County, Texas. Customer shall not be liable for MKL's attorney's fees, costs, or expenses in enforcing this Agreement only as may be duly ordered or approved by a court of competent jurisdiction.

8. MKL may from time to time increase the price of Licenses and, or Maintenance and Support Services. Any price increases will not take effect unless Customer is first allowed a 60 day grace period to decide whether to cancel its obligations under this Agreement.

9. MKL will maintain general liability and other insurance satisfactory to Customer and sufficient to protect against any claim or action concerning MKL services, products, performance and obligations under this Agreement.

10. MLK verifies it does not and will not boycott Israel, as defined in Texas Government Code Section 2270.001(1), for the duration of the Agreement.

All other terms and conditions of the Agreement remain the same.

IN WITNESS WHEREOF, the parties execute this Addendum on the ____ day of _____, 201_.

Morgan Kai Limited

THE COUNTY OF EL PASO, TX

Name
Title
(Signor must have legal authority to bind entity)

Ricardo A. Samaniego, County Judge

Approved:

County IT Department