

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 03/31/2023

Contract/Lease Control #: C23-3308-PS

Procurement#: WRITTEN QUOTES

Contract/Lease Type: AGREEMENT

Award To/Lessee: OMNIGO SOFTWARE, LLC

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 03/31/2023

Expiration Date: 03/30/2026 W/2 1 YR RENEWALS

Description of: PARK RANGER REPORT WRITING SYSTEM

Department: PS

Department Monitor: MADDOX

Monitor's Telephone #: 850-651-7150

Monitor's FAX # or E-mail: PMADDOX@MYOKALOOSA.COM

Closed:

Cc: BCC RECORDS

**PROCUREMENT/CONTRACT/LEASE
INTERNAL COORDINATION SHEET**

Procurement/Contract/Lease Number: TBD Tracking Number: 4845-23
Procurement/Contractor/Lessee Name: Omnigo Software Grant Funded: YES ___ NO X
Purpose: Park Ranger Report Writing System
Date/Term: 3 YRS 1. GREATER THAN \$100,000
Department #: 0125 2. GREATER THAN \$50,000
Account #: 546900 3. \$50,000 OR LESS
Amount: \$16,013.28
Department: PS Dept. Monitor Name: Maddox

Purchasing Review

Procurement or Contract/Lease requirements are met: [Signature] Date: 2-23-23
Purchasing Manager or designee: DeRita Mason, Erin Poole, Amber Hammonds

2CFR Compliance Review (if required)

Approved as written: no federal funds Grant Name: _____ Date: _____
Grants Coordinator: Suzanne Ulloa

Risk Management Review

Approved as written: see email attached Date: 2-23-23
Risk Manager or designee: Lydia Garcia

County Attorney Review

Approved as written: see email attached Date: 3-10-23
County Attorney: Lynn Hoshihara, Kerry Parsons or Designee

Department Funding Review

Approved as written: _____ Date: _____

IT Review (if applicable)

Approved as written: _____ Date: _____

DeRita Mason

From: Lynn Hoshihara
Sent: Friday, March 10, 2023 9:05 AM
To: DeRita Mason
Cc: Parsons, Kerry; Patrick Maddox
Subject: Re: FW: Omnigo Draft Contract
Attachments: OMNIGO CONTRACT 3.10.23.docx

DeRita,

With the attached changes, this contract is approved.

Lynn

Lynn M. Hoshihara
County Attorney
Okaloosa County, Florida

Please note: Due to Florida's very broad public records laws, most written communications to or from County employees regarding County business are public records, available to the public and media upon request. Therefore, this written e-mail communication, including your e-mail address, may be subject to public disclosure.

From: DeRita Mason
Sent: Friday, March 10, 2023 8:00:35 AM
To: Lynn Hoshihara
Cc: Parsons, Kerry
Subject: FW: FW: Omnigo Draft Contract

See more from Pat with PS.

DeRita Mason



DeRita Mason, CPPO, CPPB, NIGP-CPP
Purchasing Manager
Okaloosa County Purchasing Department
5479A Old Bethel Road
Crestview, Florida 32536
(850) 689-5960
dmason@myokaloosa.com

DeRita Mason

From: Jacqueline Matichuk
Sent: Thursday, February 23, 2023 8:25 AM
To: DeRita Mason
Subject: RE: Omnigo Draft Contract

Approved as written with the Cyber insurance piece included.

Jackie

From: DeRita Mason <dmason@myokaloosa.com>
Sent: Wednesday, February 22, 2023 2:41 PM
To: Lynn Hoshihara <lhoshihara@myokaloosa.com>
Cc: Parsons, Kerry <KParsons@ngn-tally.com>; Karen Donaldson <kdonaldson@myokaloosa.com>; Jacqueline Matichuk <jmatichuk@myokaloosa.com>
Subject: Omnigo Draft Contract

Good afternoon,
Please review and approve the attached.
Thank you,

DeRita Mason



DeRita Mason, CPPO, CPPB, NIGP-CPP
Purchasing Manager
Okaloosa County Purchasing Department
5479A Old Bethel Road
Crestview, Florida 32536
(850) 689-5960
dmason@myokaloosa.com



MAY 11-12, 2023
Panama City, FL at Gulf Coast State College



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Foreign Limited Liability Company
OMNIGO SOFTWARE, LLC

Filing Information

Document Number M19000008330
FEI/EIN Number 43-1507250
Date Filed 08/27/2019
State MO
Status ACTIVE
Last Event REINSTATEMENT
Event Date Filed 06/17/2021

Principal Address

10430 BAUR BLVD
ST LOUIS, MO 63132

Mailing Address

10430 BAUR BLVD
ST LOUIS, MO 63132

Registered Agent Name & Address

Plaster, Danielle
1200 SOUTH PINE ISLAND ROAD
PLANTATION, FL 33324

Name Changed: 01/31/2022

Authorized Person(s) Detail

Name & Address

Title Authorized Representative

Davis, Nikki
10366 Bancroft Lane
Frisco, TX 75035

Title Compliance Analyst

Plaster, Danielle

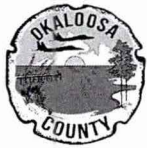
10430 BAUR BLVD
ST LOUIS, MO 63132

Annual Reports

Report Year	Filed Date
2020	06/17/2021
2021	06/17/2021
2022	01/31/2022

Document Images

<u>01/31/2022 -- ANNUAL REPORT</u>	View image in PDF format
<u>06/17/2021 -- REINSTATEMENT</u>	View image in PDF format
<u>08/27/2019 -- Foreign Limited</u>	View image in PDF format



CONTRACT: C23-3308-PS
OMNIGO SOFTWARE, LLC
PARK RANGER REPORT WRITING SYSTEM
EXPIRES: 03/30/2026 W/2 1 YR RENEWALS

AGREEMENT BETWEEN OKALOOSA COUNTY, FLORIDA
AND OMNIGO SOFTWARE, LLC
CONTRACT ID C23-3308-PS

THIS AGREEMENT (hereinafter referred to as the “Agreement”) is made this 31st, day of March, 2023, by and between Okaloosa County, a political subdivision of the State of Florida, (hereinafter referred to as the “County” or “Customer”), with a mailing address of 1250 N. Eglin Parkway, Suite 100, Shalimar, Florida, 32579, and Omnigo Software, LLC, a Foreign Limited Liability Company authorized to do business in the State of Florida (hereinafter referred to as “Contractor” or “Omnigo”) whose Federal I.D. # is 43-1507250.

RECITALS

WHEREAS, the County is in need of a contractor to provide Park Ranger Report Writing System and Services (“Services”); and

WHEREAS, pursuant to the Okaloosa County Purchasing Manual, the County obtained written quotes from contractors to perform these Services; and

WHEREAS, Contractor is a certified and insured entity with the necessary experience to provide the desired Services; and

WHEREAS, the County wishes to enter into this Agreement with Contractor to provide the Services to the County for an amount of sixteen thousand thirteen dollars and twenty-eight cents (\$16,013.28), as further detailed below.

NOW THEREFORE, in consideration of the promises and the mutual covenants herein, the parties agree as follows:

1. Recitals and Attachments. The Recitals set forth above are hereby incorporated into this Agreement and made part hereof for reference.

The following documents are attached to this Agreement and are incorporated herein:

- Attachment “A” – Contractor’s Quote;
- Attachment “B” – Insurance Requirements;
- Attachment “C” – Title VI list of pertinent nondiscrimination acts and authorities;
- Attachment “D” – Scrutinized Companies Certification.
- Attachment “E” – Software as a Service Terms

In the event of a conflict between the terms of Attachment E and the terms in the body of this Agreement or any other Attachment, the terms of Attachment E shall control.

2. Services. Contractor agrees to perform the following services, Park Ranger Report Writing System and Services. The Services to be provided are further detailed in the Contractor’s quote attached as Attachment “A” and incorporated herein by reference. The Services must be NIBRS



compliant and be browser-based rather than downloaded software. The Services shall be performed by Contractor to the full satisfaction of the County. Contractor agrees to have a qualified representative to audit and inspect the Services provided on a regular basis to ensure all Services are being performed in accordance with the County's needs and pursuant to the terms of this Agreement and shall report to the County accordingly. Contractor will require its employees to perform their work in a manner befitting the type and scope of work to be performed.

3. Term and Renewal. The term of this Agreement shall begin when all parties have signed and shall continue for a period of three (3) years from the date of full execution of this Agreement ("Initial Term"), subject to the County's ability to terminate in accordance with Section 7 of this Agreement. The terms of Section 20 entitled "Indemnification and Waiver of Liability" shall survive termination of this Agreement.

This Agreement may be renewed upon mutual written agreement of the parties for a period of up to two (2) one (1) year renewals.

4. Compensation. The Contractor agrees to provide the Services to the County, including materials and labor, for a total amount of sixteen thousand thirteen dollars and twenty-eight cents (\$16,013.28) during the Initial Term.

a. Contractor shall submit an invoice to the County upon completion of installation of software and yearly for maintenance services. The invoice shall indicate that all services have been completed for that invoice period. In addition, Contractor agrees to provide the County with any additional documentation requested to process the invoices.

b. Disbursement. Check one:

There are no reimbursable expenses associated with this Agreement.

c. Payment Schedule. Invoices received from the Contractor pursuant to this Agreement will be reviewed by the initiating County Department. Payment will be disbursed as set forth above. If services have been rendered in conformity with the Agreement, the invoice will be sent to the Finance Department for payment. Invoices must reference the contract number assigned by the County after execution of this Agreement. Invoices will be paid in accordance with the State of Florida Local Government Prompt Payment Act.

d. Availability of Funds. The County's performance and obligation to pay under this Agreement is contingent upon annual appropriation for its purpose by the County Commission.

Contractor shall make no other charges to the County for supplies, labor, taxes, licenses, permits, overhead or any other expenses or costs unless any such expenses or cost is incurred by Contractor with the prior written approval of the County. If the County disputes any charges on the invoices, it may make payment of the uncontested amounts and withhold payment on the contested amounts until they are resolved by agreement with the Contractor. Contractor shall not pledge the County's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment,



lien, or any form of indebtedness. The Contractor further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

5. Ownership of Documents and Equipment. All documents prepared by the Contractor pursuant to this Agreement and related Services to this Agreement are intended and represented for the ownership of the County only. Any other use by Contractor or other parties shall be approved in writing by the County. If requested, Contractor shall deliver the documents to the County within fifteen (15) calendar days.

6. Insurance. Contractor shall, at its sole cost and expense, during the period of any work being performed under this Agreement, procure and maintain the minimum insurance coverage required as set forth in Attachment "B" attached hereto and incorporated herein, to protect the County and Contractor against all loss, claims, damages and liabilities caused by Contractor, its agents, or employees.

7. Termination and Remedies for Breach.

- a. If, through any cause within its reasonable control, the Contractor shall fail to fulfill in a timely manner or otherwise violate any of the covenants, agreements or stipulations material to this Agreement, the County shall have the right to terminate the Services then remaining to be performed. Prior to the exercise of its option to terminate for cause, the County shall notify the Contractor of its violation of the particular terms of the Agreement and grant Contractor thirty (30) days to cure such default. If the default remains uncured after thirty (30) days the County may terminate this Agreement, and the County shall receive a refund from the Contractor in an amount equal to the actual cost of a third party to cure such failure. If Contractor fails, refuses or is unable to perform any term of this Agreement, County shall pay for services rendered as of the date of termination.
 - i. In the event of termination, all finished and unfinished documents, data and other work product prepared by Contractor (and sub-Contractor (s)) shall be delivered to the County and the County shall compensate the Contractor for all Services satisfactorily performed prior to the date of termination, as provided in Section 4 herein.
 - ii. Notwithstanding the foregoing, the Contractor shall not be relieved of liability to the County for damages sustained by it by virtue of a breach of the Agreement by Contractor and the County may reasonably withhold payment to Contractor for the purposes of set-off until such time as the exact amount of damages due the County from the Contractor is determined.
- b. **Termination for Insolvency.** The County also reserves the right to terminate the remaining Services to be performed in the event the Contractor is placed either in voluntary or involuntary bankruptcy or makes any assignment for the benefit of creditors.



- c. Termination for failure to adhere to the Public Records Law. Failure of the Contractor to adhere to the requirements of Chapter 119 of the Florida Statutes and Section 9 below, may result in immediate termination of this Agreement.

8. Governing Law, Venue and Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. All parties agree and accept that jurisdiction of any dispute or controversy arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder shall be brought exclusively in the First Judicial Circuit in and for Okaloosa County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. In the event it becomes necessary for the County to file a lawsuit to enforce any term or provision under this Agreement, then the County shall be entitled to its costs and attorney's fees at the pretrial, trial and appellate levels. BY ENTERING INTO THIS AGREEMENT, CONTRACTOR AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. Nothing in this Agreement is intended to serve as a waiver of sovereign immunity, or of any other immunity, defense, or privilege enjoyed by the County pursuant to Section 768.28, Florida Statutes.

9. Public Records. Any record created by either party in accordance with this Contract shall be retained and maintained in accordance with the public records law, Florida Statutes, Chapter 119. Contractor must comply with the public records laws, Florida Statute chapter 119, specifically Contractor must:

- a. Keep and maintain public records required by the County to perform the service.
- b. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119 Florida Statutes or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed by Contractor except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the County.
- d. Upon completion of the contract, transfer, at no cost, to the County all public records in possession of the contractor. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining the public records. All records stored electronically must be provided to the public agency, upon the request from the public agency's custodian of public records, in a format that is compatible with the



information technology systems of the public agency.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT OKALOOSA COUNTY RISK MANAGEMENT DEPARTMENT 302 N. WILSON ST., CRESTVIEW, FL 32536 PHONE: (850) 689-5977 riskinfo@myokaloosa.com.

10. Audit. The County and/or its designee shall have the right from time to time at its sole expense to audit the compliance by the Contractor with the terms, conditions, obligations, limitations, restrictions, and requirements of this Contract and such right shall extend for a period of three (3) years after termination of this Contract.

11. Notices. All notices and other communications required or permitted to be given under this Agreement by either party to the other shall be in writing and shall be sent (except as otherwise provided herein) (i) by certified mail, first class postage prepaid, return receipt requested, (ii) by guaranteed overnight delivery by a nationally recognized courier service, or (iii) by facsimile with confirmation receipt (with a copy simultaneously sent by certified mail, first class postage prepaid, return receipt requested or by overnight delivery by traditionally recognized courier service), addressed to such party as follows:

If to the County:	Patrick Maddox, Director 90 College Blvd E. Niceville, FL 32578 850-651-7150 pmaddox@myokaloosa.com	With a copy to: County Attorney Office 1250 N. Eglin Pkwy, Suite 100 Shalimar, FL 32579 (850) 224-4070
If to the Contractor:	Matt Griffin 10430 Baur Blvd. Saint Louis, MO 63132 800-814-4843 Matt.grillin@omnigo.com	



12. Assignment. Contractor shall not assign this Agreement or any part thereof, without the prior consent in writing of the County. If Contractor does, with approval, assign this Agreement or any part thereof, it shall require that its assignee be bound to it and to assume toward Contractor all of the obligations and responsibilities that Contractor has assumed toward the County.

13. Subcontracting. Contractor's use of a subcontractor or supplier shall not relieve Contractor of its responsibilities or liabilities under this Agreement.

14. Civil Rights. The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

15. Compliance with Nondiscrimination Requirements. During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest, agrees as follows:

a. **Compliance with Regulations:** The Contractor will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated and attached hereto as Attachment "C".

b. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

c. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.



d. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County or other governmental entity to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the County or the other governmental entity, as appropriate, and will set forth what efforts it has made to obtain the information.

e. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the County will impose such contract sanctions as it or another applicable state or federal governmental entity may determine to be appropriate, including, but not limited to:

a. Withholding payments to the Contractor under the Agreement until the Contractor complies; and/or

b. Cancelling, terminating, or suspending the Agreement, in whole or in part.

f. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the County may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the County to enter into any litigation to protect the interests of the County. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

16. Compliance with Laws. Contractor shall secure any and all permits, licenses and approvals that may be required in order to perform the Services, shall exercise full and complete authority over Contractor's personnel, shall comply with all workers' compensation, employer's liability and all other federal, state, county, and municipal laws, ordinances, rules and regulations required of an employer performing services such as the Services, and shall make all reports and remit all withholdings or other deductions from the compensation paid to Contractor's personnel as may be required by any federal, state, county, or municipal law, ordinance, rule, or regulation.

17. Conflict of Interest. The Contractor covenants that it presently has no interest and shall not acquire any interest, directly or indirectly which could conflict in any manner or degree with the performance of the Services. The Contractor further covenants that in the performance of this Agreement, no person having any such interest shall knowingly be employed by the Contractor. The Contractor guarantees that he/she has not offered or given to any member of, delegate to the Congress of the United States, any or part of this contract or to any benefit arising therefrom.



18. Independent Contractor. Contractor enters into this Agreement as, and shall continue to be, an independent contractor. All services shall be performed only by Contractor and Contractor's employees. Under no circumstances shall Contractor or any of Contractor's employees look to the County as his/her employer, or as partner, agent or principal. Neither Contractor, nor any of Contractor's employees, shall be entitled to any benefits accorded to the County's employees, including without limitation worker's compensation, disability insurance, vacation or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in Contractor's name, unemployment, disability, worker's compensation and other insurance as well as licenses and permits usual and necessary for conducting the services to be provided under this Agreement.

19. Third Party Beneficiaries. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

20. Indemnification and Waiver of Liability. The Contractor agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the County, its agents, representatives, officers, directors, officials and employees from and against claims, damages, losses and expenses (including but not limited to attorney's fees, court costs and costs of appellate proceedings) relating to, arising out of or resulting from the Contractor's negligent acts, errors, mistakes or omissions relating to professional Services performed under this Agreement. The Contractor's duty to defend, hold harmless and indemnify the County its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury; sickness; disease; death; or injury to impairment, or destruction of tangible property including loss of use resulting therefrom, caused by any negligent acts, errors, mistakes or omissions related to Services in the performance of this Agreement including any person for whose acts, errors, mistakes or omissions the Contractor may be legally liable.. The parties agree that TEN DOLLARS (\$10.00) represents specific consideration to the Contractor for the indemnification set forth herein.

The waiver by a party of any breach or default in performance shall not be deemed to constitute a waiver of any other or succeeding breach or default. The failure of the County to enforce any of the provisions hereof shall not be construed to be a waiver of the right of the County thereafter to enforce such provisions.

21. Taxes and Assessments. Contractor agrees to pay all sales, use, or other taxes, assessments and other similar charges when due now or in the future, required by any local, state or federal law, including but not limited to such taxes and assessments as may from time to time be imposed by the County in accordance with this Agreement. Contractor further agrees that it shall protect, reimburse and indemnify County from and assume all liability for its tax and assessment obligations under the terms of the Agreement.



The County is exempt from payment of Florida state sales and use taxes. The Contractor shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the County, nor is the Contractor authorized to use the County's tax exemption number in securing such materials.

The Contractor shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Agreement.

22. Prohibition Against Contracting with Scrutinized Companies. Pursuant to Florida Statutes Section 215.4725, contracting with any entity that is listed on the Scrutinized Companies that Boycott Israel List or that is engaged in the boycott of Israel is prohibited. Contractors must certify that the company is not participating in a boycott of Israel. Any contract for goods or services of One Million Dollars (\$1,000,000) or more shall be terminated at the County's option if it is discovered that the entity submitted false documents of certification, is listed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria after July 1, 2018.

Any contract entered into or renewed after July 1, 2018 shall be terminated at the County's option if the company is listed on the Scrutinized Companies that Boycott Israel List or engaged in the boycott of Israel. Contractors must submit the certification that is attached to this agreement as Attachment "D". Submitting a false certification shall be deemed a material breach of contract. The County shall provide notice, in writing, to the Contractor of the County's determination concerning the false certification. The Contractor shall have ninety (90) days following receipt of the notice to respond in writing and demonstrate that the determination was in error. If the Contractor does not demonstrate that the County's determination of false certification was made in error, then the County shall have the right to terminate the contract and seek civil remedies pursuant to Florida Statute Section 215.4725.

23. Severability. If any term or condition of this Contract shall be deemed, by a court having appropriate jurisdiction, invalid or unenforceable, the remainder of the terms and conditions of this Contract shall remain in full force and effect. This Contract shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all the terms and provisions hereof.

24. Entire Agreement. This Agreement contains the entire agreement of the parties, and may be amended, waived, changed, modified, extended or rescinded only by in writing signed by the



party against whom any such amendment, waiver, change, modification, extension and/or rescission is sought.

25. Representation of Authority to Contractor/Signatory. The individual signing this Agreement on behalf of Contractor represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. The signatory represents and warrants to the County that the execution and delivery of this Agreement and the performance of the Services and obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on the Contractor and enforceable in accordance with its terms.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate on the day and year first written above.

OMNIGO SOFTWARE, LLC:

DocuSigned by:
Gary Schlisner
14D403F467B34E3...

Chief Financial Officer

TITLE: _____

Signature

Gary Schlisner

Print Name

OKALOOSA COUNTY, FLORIDA

DeRita Mason

Digitally signed by DeRita
Mason
Date: 2023.03.31 12:23:20
-05'00'

BY: _____
DeRita Mason, Purchasing Manager



Attachment "A"
Contractor's Quote



Ensuring safer tomorrows

Omnigo Software, LLC
 10430 Baur Blvd.
 Saint Louis, MO 63132 US
 www.Omnigo.com
 Phone: (800) 814-4843

Prepared By:
 Preparer Email:
 Quote Number:
 Created Date:
 Offer Valid Through:
 Subscription Term (Months):
 Subscription Start Date:

Matt Griffin
 matt.griffin@omnigo.com
 Q-31162-1
 2/14/2023 11:19 AM
 3/16/2023
 36

Bill To
 Okaloosa County Office of Emergency Management (FL)
 Patrick Maddox
 pmaddox@myokaloosa.com
 90 College Blvd E
 Niceville, Florida 32578
 United States

Ship To
 Okaloosa County Office of Emergency Management (FL)
 Patrick Maddox
 pmaddox@myokaloosa.com
 90 College Blvd E
 Niceville, Florida 32578
 United States

PRODUCT	DESCRIPTION	QTY	TOTAL LIST PRICE*	TOTAL SALE PRICE*
Customer On-Boarding	Project Manager – 75 Days , Roles and Responsibility Matrix , Project Milestones, Web User Training, Web Project Management , Commissioning Document	1.0	\$2,500.00	\$1,200.00
			\$2,500.00	\$1,200.00

Subscriptions	Qty	Unit Price	Total Sale Price
REX RMS User License – Sworn	9.00	\$4,062.27	\$12,186.81
Year 1	3.00	\$1,276.00	\$3,828.00
Year 2	3.00	\$1,352.56	\$4,057.68
Year 3	3.00	\$1,433.71	\$4,301.13
REX - Omnigo Mobile for REX	9.00	\$875.49	\$2,626.47
Year 1	3.00	\$275.00	\$825.00
Year 2	3.00	\$291.50	\$874.50
Year 3	3.00	\$308.99	\$926.97
TOTAL:			\$14,813.28

Subscription Name	Description
REX RMS User License – Sworn	Includes required compliance featurys, Hosted in government cloud.
REX - Omnigo Mobile for REX	Android/iOS app for officers

First Invoice Total	\$5,853.00
Grand Total	\$16,013.28

Prices shown above do not include any taxes that may apply. Any applicable taxes will be invoiced. For customers based in the United States, any applicable taxes will be determined based on the laws and regulations of the taxing authorities governing the "Ship To" location provided by the Customer on this Sales Order Form. Payment terms are 30 days from invoice date. Payments accepted via check, ACH or wire transfer. Amounts in USD. Pricing quoted herein is subject to an annual increase for each year of the contracted term.

This Sales Order Form is governed by the terms of the Omnigo Master Subscription Agreement, which can be found at: www.omnigo.com/master-subscription-agreement or such other definitive agreement entered into by and between Omnigo and a customer governing such Sales Order.

Signature:

Name (Print):

Is a PO required for purchase?

Signature Date:

Title:

PO Number, if issued:

Signature:

Name (Print):

Is a PO required for purchase?

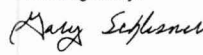
Signature Date:

Title:

PO Number, if issued:

Gary Schlisner

March 31, 2023 | 2:00:48 PM CDT

DocuSigned by:


14D403F467B34E3...

March 31, 2023 | 2:00:48 PM CDT

DeRita
Mason

Digitally signed by
DeRita Mason
Date: 2023.03.31
15:14:54 -05'00'



Attachment "B"
Insurance Requirements



GENERAL SERVICES INSURANCE REQUIREMENTS FOR CYBER LIABILITY

CONTRACTORS INSURANCE

1. The Contractor shall not commence any work in connection with this Agreement until he has obtained all required insurance and the certificate of insurance has been approved by the Okaloosa County Risk Manager or designee.
2. All insurance policies shall be with insurers authorized to do business in the State of Florida and having a minimum rating of A, Class X in the Best Key Rating Guide published by A.M. Best & Co. Inc.
3. All insurance shall include the interest of all entities named and their respective officials, employees & volunteers of each and all other interests as may be reasonably required by Okaloosa County. The coverage afforded the Additional Insured under this policy shall be primary insurance. If the Additional Insured have other insurance that is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the company's liability under this policy shall not be reduced by the existence of such other insurance.
4. With the exception of Workers' Compensation policies, the County shall be shown as an Additional Insured for each policy on the Certificate of Insurance.
5. The County shall retain the right to reject all insurance policies that do not meet the requirement of this Agreement. Further, the County reserves the right to change these insurance requirements with 60-day notice to the Contractor.
6. The County reserves the right at any time to require the Contractor to provide copies of a certificate of insurance evidencing any insurance policies to document the insurance coverage specified in this Agreement.
7. Any subsidiaries used shall also be required to obtain and maintain the same insurance requirements as are being required herein of the Contractor.
8. Any exclusions or provisions in the insurance maintained by the Contractor that excludes coverage for work contemplated in this agreement shall be deemed unacceptable and shall be considered a breach of contract.



WORKERS' COMPENSATION INSURANCE

1. The Contractor shall secure and maintain during the life of this Agreement Workers' Compensation insurance for all of its employees employed for the project or any site connected with the work, including supervision, administration or management, of this project and in case any work is sublet, with the approval of the County, the Contractor shall require the Subcontractor similarly to provide Workers' Compensation insurance for all employees employed at the site of the project, and such evidence of insurance shall be furnished to the County not less than ten (10) days prior to the commencement of any and all sub-contractual Agreements which have been approved by the County.
2. Contractor must be in compliance with all applicable State and Federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act or Jones Act, if applicable.
3. No class of employee, including the Contractor itself, shall be excluded from the Workers' Compensation insurance coverage. The Workers' Compensation insurance shall also include Employer's Liability coverage. If there is an existing approved State of Florida Exemption for Workers' Compensation it must be provided to Okaloosa County.
4. A Waiver of Subrogation is required to be shown on all Workers Compensation Certificates of Insurance.

BUSINESS AUTOMOBILE LIABILITY

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than \$1,000,000 (One Million Dollars) combined single limit each accident. If the contractor does not own vehicles, the contractor shall maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Policy. Contractor must maintain this insurance coverage throughout the life of this Agreement.

COMMERCIAL GENERAL LIABILITY INSURANCE

1. The Contractor shall carry Commercial General Liability insurance against all claims for Bodily Injury, Property Damage and Personal and Advertising Injury caused by the Contractor.
2. Commercial General Liability coverage shall include the following:



- 1.) Premises & Operations Liability
- 2.) Bodily Injury and Property Damage Liability
- 3.) Independent Contractors Liability
- 4.) Contractual Liability
- 5.) Products and Completed Operations Liability

3. Contractor shall agree to keep in continuous force Commercial General Liability coverage for the length of the contract.

CYBER LIABILITY

The Contractor shall carry Cyber Liability insurance coverage for third party liability. Coverage will include ID Theft Monitoring, Credit Monitoring (if necessary) & Notification. Coverage must be afforded for negligent retention of data as well as notification and related costs for actual or alleged breaches of data.

INSURANCE LIMITS OF LIABILITY

The insurance required shall be written for not less than the following, or greater if required by law and shall include Employer's liability with limits as prescribed in this contract:

	<u>LIMIT</u>
1. Workers' Compensation	
1.) State	Statutory
2.) Employer's Liability	\$500,000 each accident
2. Business Automobile	\$1,000,000 each accident (A combined single limit)
3. Commercial General Liability	\$1,000,000 each occurrence Bodily Injury & Property Damage \$1,000,000 each occurrence Products and completed operations
4. Personal and Advertising Injury	\$1,000,000 each occurrence
5. Cyber Liability	\$1,000,000 per claim

NOTICE OF CLAIMS OR LITIGATION



The Contractor agrees to report any incident or claim that results from performance of this Agreement. The County representative shall receive written notice in the form of a detailed written report describing the incident or claim within ten (10) days of the Contractor's knowledge. In the event such incident or claim involves injury and/or property damage to a third party, verbal notification shall be given the same day the Contractor becomes aware of the incident or claim followed by a written detailed report within ten (10) days of verbal notification.

INDEMNIFICATION & HOLD HARMLESS

To the fullest extent permitted by law, Contractor shall indemnify and hold harmless the County, its officers and employees from liabilities, damages, losses, and costs including but not limited to reasonable attorney fees, to the extent caused by the negligence, recklessness, or wrongful conduct of the Contractor and other persons employed or utilized by the Contractor in the performance of this contract.

CERTIFICATE OF INSURANCE

1. Certificates of Insurance indicating the project name, number, evidencing all required coverage, and if applicable any State of Florida approved Workers' Compensation Exemption must be submitted not less than 10 days prior to the commencement of any of the work. The certificate holder(s) shall be as follows: Okaloosa County, 5479A Old Bethel Road, Crestview, Florida, 32536.
2. Where the policy permits, the contractor shall provide a Certificate of Insurance to the County with a thirty (30) day prior written notice of cancellation; ten (10) days' prior written notice if cancellation is for nonpayment of premium.
3. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the contractor to provide the proper notice to the County. Such notification shall be in writing by registered mail, return receipt requested, and addressed to the Okaloosa County Purchasing Department at 5479-A Old Bethel Road Crestview, FL 32536.
4. In the event the contract term goes beyond the expiration date of the insurance policy, the contractor shall provide the County with an updated Certificate of insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The County reserves the right to suspend the contract until this requirement is met.
5. The certificate shall indicate if coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the certificate will show a retroactive date, which should be the same date of the initial contract or prior.



6. All certificates shall be subject to Okaloosa County's approval of adequacy of protection.
7. All deductibles or self-insured retentions (SIRs), whether approved by Okaloosa County or not, shall be the Contractor's full responsibility.
8. In no way will the entities listed as Additional Insured be responsible for, pay for, be damaged by, or limited to coverage required by this schedule due to the existence of a deductible or SIR.

GENERAL TERMS

Any type of insurance or increase of limits of liability not described above which, the Contractor required for its own protection or on account of statute shall be its own responsibility and at its own expense.

Any exclusions or provisions in the insurance maintained by the contractor that excludes coverage for work contemplated in this contract shall be deemed unacceptable and shall be considered breach of contract.

The carrying of the insurance described shall in no way be interpreted as relieving the Contractor of any responsibility under this contract.

Should the Contractor engage a subcontractor or sub-subcontractor, the same conditions will apply under this Agreement to each subcontractor and sub-subcontractor.

The Contractor hereby waives all rights of subrogation against Okaloosa County and its employees under all the foregoing policies of insurance.

EXCESS/UMBRELLA INSURANCE

The Contractor shall have the right to meet the liability insurance requirements with the purchase of an EXCESS/UMBRELLA insurance policy. In all instances, the combination of primary and EXCESS/UMBRELLA liability coverage must equal or exceed the minimum liability insurance limits stated in this Agreement. An Excess liability policy must be submitted indicating which policy it applies to.



Attachment "C"
Civil Rights Clauses



Attachment "C"

Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), as applicable, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 *et seq.*)



Attachment "D"
Scrutinized Contractors Certificate



VENDORS ON SCRUTINIZED COMPANIES LISTS

By executing this Certificate _____, the bid proposer, certifies that it is not: (1) listed on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, (2) engaged in a boycott of Israel, (3) listed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes, or (4) engaged in business operations in Cuba or Syria. Pursuant to section 287.135(5), Florida Statutes, the County may disqualify the bid proper immediately or immediately terminate any agreement entered into for cause if the bid proposer is found to have submitted a false certification as to the above or if the Contractor is placed on the Scrutinized Companies that Boycott Israel List, is engaged in a boycott of Israel, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or has been engaged in business operations in Cuba or Syria, during the term of the Agreement. If the County determines that the bid proposer has submitted a false certification, the County will provide written notice to the bid proposer. Unless the bid proposer demonstrates in writing, within 90 calendar days of receipt of the notice, that the County's determination of false certification was made in error, the County shall bring a civil action against the bid proposer. If the County's determination is upheld, a civil penalty shall apply, and the bid proposer will be ineligible to bid on any Agreement with a Florida agency or local governmental entity for three years after the date of County's determination of false certification by bid proposer.

As the person authorized to sign this statement, I certify that this firm complies fully with the above requirements.

March 31, 2023 | 11:26:34 AM CDT

DocuSigned by: Gary Schlisner 14D403F467B34E3...

DATE: _____

SIGNATURE: _____

COMPANY: Omnigo Software LLC _____

NAME: Gary Schlisner
(Typed or Printed)

ADDRESS: _____

TITLE: Chief Financial Officer _____

E-MAIL: _____

PHONE NO.: _____



Attachment "E" Software as a Service Terms



SaaS Terms and Conditions

Omnigo and Customer agree as follows:

1. Definitions. In addition to terms defined elsewhere in this Agreement, the following terms shall have the meanings defined below:

(a) **"Software"** means the software products and associated documentation licensed to Customer as set forth in the Order Form.

(b) **"User"** means Customer's employees who have been granted access (at one or more computer terminals) to the Software, as well third-party consultants who use the Software on Customer's behalf and have executed confidentiality agreements with Customer or are otherwise subject to confidentiality obligations that are at least as protective of Omnigo's Confidential Information as the provisions of this Agreement, and have agreed to abide by all the terms and conditions of this Agreement and the Order Form. Customer agrees that it is responsible to Omnigo for all use of the Software by Users.

(c) **"Customer Data"** means all data that is supplied by or on behalf of Customer to Omnigo in connection with, or for the use of, the Software.

(d) **"Maintenance Release"** means any update, upgrade, release, or other adaptation or modification of the Software, including any associated documentation, that Omnigo may provide to Customer from time to time during the Term, which may contain, among other things, error corrections, enhancements, improvements, or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency, or quality of the Software, but does not include any New Version. Maintenance Releases may also modify or delete in their entirety certain features and functionality.

(e) **"New Version"** means any new version of the Software that Omnigo may from time to time introduce and market generally as a distinct licensed product (as may be indicated by Omnigo's designation of a new version number), and which Omnigo may make available to Customer at an additional cost under a separate written agreement or an amendment to this Agreement.

(f) **"Order Form"** means a document referencing this Agreement that describes the specific Software and/or Solutions to be provided to Customer by Omnigo, applicable pricing, and other transaction-specific provisions that have been agreed upon by Omnigo and Customer.

(g) **"Initial Term"** means the term of the Solutions and/or Software licenses granted under this Agreement beginning on the Effective Date and ending as outlined in the Order Form.

(h) **"Renewal Term"** means the twelve (12) month period commencing on the expiry of the Initial Term and each successive twelve (12) month period thereafter (or such other period as is set out in an Order Form).

(i) **"Solutions"** collectively means the Support Services, Managed Services, Hardware, Custom Developed Services, and other solutions provided by Omnigo that are more specifically outlined in an Order Form and are subject to the terms of this Agreement and the applicable Addendum.

(j) **"Term"** means the Initial Term together with the Renewal Terms, if any.

2. Software License Grant. Subject to and conditioned on Customer's compliance with all of the terms and conditions of this Agreement, including all applicable Addenda, Omnigo grants Customer a limited, non-exclusive, non-sublicensable, and non-transferable license during the Term to use the Software solely for Customer's internal business purposes. Omnigo reserves all rights not expressly granted to Customer in this Agreement. This is a license, not a sale of the Software or any copy of it, nor is it a waiver of any intellectual property rights of Omnigo. Except for the limited rights and licenses expressly granted under this Agreement, Customer acknowledges and agrees that nothing in this Agreement or the Order Form grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to the Software. All rights not expressly granted herein shall be reserved to Omnigo.

3. Code of Conduct & Restrictions on Use. Customer shall not at any time, directly or indirectly, (a) use the Software (or allow others to do so) for any purpose beyond the scope of the license granted in



this Agreement, or (b) use the Solutions in violation of the terms set forth in this Agreement. In particular, without limiting the foregoing, Customer shall not at any time:

- (a) Copy, modify, or create derivative works of the Software or any Solutions, in whole or in part;
- (b) Rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Software or any Solutions;
- (c) Reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Software, in whole or in part;
- (d) Engage in any unlawful or illegal use of the Software or any Solutions;
- (e) Use the Software or any Solutions to engage in any unlawful or illegal activity;
- (f) Engage in any activity that exploits, harms, or threatens minors;
- (g) Use or publicly display the Software or any Solutions to share inappropriate content or material (e.g., pornography, graphic violence, etc.);
- (h) Remove or alter any copyright notices or other proprietary legends or notices from the Software or associated documentation, or any Solutions;
- (i) Circumvent any restrictions on access to or availability of the Software or any Solutions;
- (j) Engage in activity that is harmful to Omnigo, the Software, any Solutions, or others (e.g., transmitting viruses, stalking, etc.);
- (k) Use the Software or any Solutions in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right, privacy right, or other right of any person;
- (l) Use the Software or any Solutions to collect, process, or provide to Omnigo any data that Customer does not have the rights to collect, process, or provide; or
- (m) Assist others, directly or indirectly, in any of the foregoing activities.

4. Customer Obligations and Warranties. Customer acknowledges and agrees to each of the following:

- (a) Pricing. All pricing schedules and pricing terms shall be outlined in the Order Form.
 - (i) Customer may only decrease the number of Users or other Solutions outlined in the Order Form at the beginning of the next Term, provided notification is received by Omnigo at least sixty (60) days prior to the expiration of the then-current Term. If notification is not timely received by Omnigo, automatic renewal will occur based on the same number of Users. Customer acknowledges and agrees that any decrease in the number of Users or other factors on which the fees for the Software and Solutions are based will result in a reduction or elimination of any volume discounts or incentive pricing Customer received prior to such decrease.
 - (ii) Customer may increase the number of Users, Solutions, or add additional Solutions at any time during the Term. Unless otherwise requested and agreed, pricing for additional recurring Solutions shall be prorated to co-term with existing recurring Solutions so that the Software may be consolidated for future term billings.
- (b) Customer Hardware. Customer understands: (i) the hardware requirements it must provide for the use of the Software and Solutions; (ii) the Software may not work properly if the minimum hardware specifications are not met; and (iii) hardware specifications may change because of regulatory and/or industry required software changes. Customer shall at all times during the Term set up, maintain, and operate in good repair and in accordance with the hardware specifications all Customer hardware on or through which the Omnigo Software and Solutions are accessed or used; and provide Omnigo personnel with such access to Customer's premises and Customer hardware as is necessary for Omnigo to exercise its rights and perform its obligations under and in connection with this Agreement.
- (c) Use of Software. Customer warrants that it will use the Software only to process Customer's own work and data and shall not process the work of any other entity or person without first obtaining the necessary additional licenses or written consent from Omnigo.
- (d) Speed of Software. Customer warrants that it will take all reasonable steps to prevent any material degradation of the processing speed available to Users during business hours. Customer understands and accepts that network service, including wired, wireless, cellular, and satellite



communication services, is provided by a third-party carrier (or carriers). Omnigo accepts no responsibility or liability for performance issues due to network-related disruption or malfunction.

(e) **Customer Security.** Customer is solely responsible for the security and compliance of the Software as installed or used on Customer or User devices. Customer warrants that it will provide and maintain security practices and software required to maintain reasonable security and compliance of Customer devices that hold or access Customer Data or on which the Software is installed or used, including, without limitation, risk assessment, security practices and policies, device encryption, malware protection, system updates, and any other applicable security measure required by law or regulation, industry standards that are commercially reasonable in the information technology industry, or common best practice.

(f) **Customer Data Integrity.** Customer shall ensure that Customer's use of all Customer Data is at all times compliant with all applicable local, state, federal and international law, regulations and conventions, including without limitation those related to data privacy, international communications and the exportation of technical or personal Data. Customer is solely responsible for the validity, integrity, accuracy, and completeness of all Customer Data entered into or processed by the Software, or provided by Customer to Omnigo, and Customer agrees that Omnigo may refuse to process any Customer Data that, in Omnigo's sole discretion: (i) is not of a quality or condition suitable for processing; (ii) does not comply with Omnigo's applicable standards and procedures; or (iii) is otherwise not in proper machine-readable form. Omnigo shall not be deemed responsible for any transactions or data processing that fails, or legal or regulatory compliance failures, due to the validity, integrity, accuracy, and completeness of the data.

(g) **Customer Data Consents and Notices.** Customer warrants that it has sufficient rights in the Customer Data to authorize Omnigo to host, copy, process, and transmit the Customer Data to provide, maintain, and improve the Software and Solutions during the Term (as further set forth in Section 11), and that the Customer Data and its use hereunder will not violate or infringe the rights of any third party. Customer acknowledges that (i) it is Customer's sole responsibility to provide all notices and obtain all necessary licenses, consents, and permissions for all data provided by or on behalf of Customer and/or any User to Omnigo for the Omnigo Solutions and/or Software (including all Customer Data); and (ii) it is Customer's sole responsibility to use the Omnigo Solutions and Software in compliance with applicable laws and regulations.

(h) **Authority to Sign.** Customer warrants that the person signing this Agreement has the requisite authority to act on behalf of Customer, including the specific authority to bind Customer to this Agreement and all its terms and conditions.

(i) **Non-Solicitation of Omnigo's Employees and Contractors.** Customer agrees that during the Term of this Agreement and for a period of twelve (12) months after termination of this Agreement, it will not recruit or solicit, without Omnigo's prior written consent, any person then employed or engaged by Omnigo if such person became known to Customer through the relationship established pursuant to this Agreement. This prohibition will not apply to job opportunities posted on recruiting websites or in other publications in which Customer seeks to find candidates for open positions (absent direct solicitation and/or recruitment).

5. Maintenance Releases and New Versions.

(a) During the Term, Omnigo will provide Customer with all Maintenance Releases (including updated associated documentation) that Omnigo may, in its sole discretion, make generally available to its licensees at no additional charge. All Maintenance Releases provided by Omnigo to Customer are deemed Software and are subject to the terms of this Agreement. Customer agrees that Omnigo does not promise there will be a certain number of Maintenance Releases (or any Maintenance Releases) during a particular year and Omnigo has no obligation to continue to provide or enable any particular features or functionality. Customer will be notified via email or within the Software when Maintenance Releases are available and before any of the aforementioned changes to terms of service or updates to other Omnigo-supplied software and/or hardware take effect. Customer agrees to install Maintenance Releases promptly after receipt from Omnigo.

(b) Customer does not have any right under this Agreement to receive any New Versions of the Software that Omnigo may, in its sole discretion, release from time to time. Provided that Customer is in compliance with the terms and conditions of this Agreement, Customer may license any New Version at



then-current list price and subject to a separate Order Form. Omnigo may, in its sole discretion, from time to time, change the terms of service or update other Omnigo-supplied software and/or hardware.

6. Audits.

(a) **Audit Procedure.** Omnigo or its designee (including its accountants and auditors) may, in Omnigo's sole discretion, inspect and audit Customer's use of the Software and the Solutions under this Agreement at any time during the Term and for two (2) years following the termination or earlier expiration of this Agreement to verify Customer's compliance with this Agreement and the Order Form. Customer shall make available all such books, records, hardware, information, and personnel, and provide all such cooperation and assistance, as may be requested by or on behalf of Omnigo with respect to such audit.

(b) **Cost and Results of Audit.** If the audit determines that Customer's use of the Software exceeded the usage permitted by this Agreement or the applicable Order Form, Customer shall pay to Omnigo all amounts due for such excess use of the Software and/or Solutions, plus interest on such amounts, at a rate of one and a half percent (1.5%) per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law. If the audit determines that such excess use equals or exceeds five percent (5%) of Customer's permitted level of use, Customer shall also pay to Omnigo all costs incurred by Omnigo in conducting the audit and promptly correct any non-compliance. Customer shall make all payments required under this Section 8(b) within fourteen (14) days of the date of written notification of the audit results.

7. Intellectual Property Ownership. Customer acknowledges that, as between Customer and Omnigo, Omnigo owns, and shall at all times retain sole title to and ownership of, all right, title, and interest, including all intellectual property rights in and to, the Software, in all forms and all copies thereof including, without limitation, any and all worldwide copyrights, patents, trade secrets, trademarks, and proprietary and confidential information rights associated with the Software except that any portion of the Software that is licensed from a third party shall remain owned by the applicable third party. Customer agrees to respect all applicable intellectual property rights, including patents, trademarks, copyrights, trade secrets, and licenses, pertaining to the Software, hardware, and services provided under this Agreement.

CUSTOMER SHALL INDEMNIFY OMNIGO, ITS AFFILIATES, DIRECTORS, OFFICERS, AGENTS, AND EMPLOYEES FROM ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, AND LIABILITY OF EVERY KIND, INCLUDING EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY FEES, FOR DAMAGES TO ANY PERSON OR PROPERTY ARISING IN CONNECTION WITH ANY ALLEGED OR ACTUAL INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS PERTAINING TO CUSTOMER'S USE OF THE SOFTWARE AND SOLUTIONS PROVIDED UNDER THIS AGREEMENT. NOTHING HEREIN SHALL BE CONSTRUED AS A WAIVER OF CUSTOMER'S SOVEREIGN IMMUNITY UNDER SECTION 768.28, FLORIDA STATUTES.

8. Customer Data.

(a) The Omnigo Solutions and Software allow Customer to store or share Customer Data. Omnigo does not claim ownership of Customer Data. Customer Data remains owned by Customer, and Customer is responsible for all Customer Data. The Omnigo Solutions and Software do not replace the need for Customer to maintain business continuity and disaster recovery procedures or redundant data archives. OMNIGO HAS NO OBLIGATION OR LIABILITY FOR ANY LOSS, ALTERATION, DESTRUCTION, DAMAGE, CORRUPTION, OR RECOVERY OF CUSTOMER DATA. Customer hereby grants to Omnigo a limited and non-exclusive license to host, copy, process, and transmit Customer Data to provide, maintain, and improve the Software and Solutions during the Term. Notwithstanding the foregoing, Omnigo reserves the right to monitor usage and metrics and collect usage data (i.e., metadata) in any manner that does NOT identify Customer or any User, as set forth in Section 12 below. To the extent necessary or desirable to provide services to Customer and others, to protect Customer and the Solutions, and to improve Solutions, Customer hereby irrevocably grants all such rights and permissions in or relating to Customer Data as are necessary or useful to Omnigo to enforce this Agreement and exercise Omnigo's rights and perform Omnigo's obligations hereunder. If Customer uses the Software and does not use Omnigo's Managed Services as set forth in Addendum B, then Customer is also solely responsible for



regional backups.

9. **Aggregated and Benchmarking Data.** Nothing in this Agreement shall limit Omnigo's ability to collect, use, and disclose Aggregated Data (defined below) for the purpose of monitoring the performance, operation, or security of the Software or monitoring, enhancing, and creating new services. Customer agrees that Omnigo may collect, use, and disclose data concerning and derived from Customer's use of the Software and Solutions, including Customer Data, for industry analysis, benchmarking, analytics, marketing, and other business purposes during and after the Term, provided that any such data collected, used, and disclosed for such purposes will be in aggregate form only and will not identify Customer, its Users, or any third parties utilizing the Software Solutions as the source of the data ("**Aggregated Data**") and Omnigo complies with all applicable laws in collecting, using, and disclosing such Aggregated Data. Aggregated Data shall not be considered Customer Data or Confidential Information of Customer. Moreover, Customer agrees to allow Omnigo to use Aggregated Data to compile benchmarking and usage data for research and development, including, but not limited to, operational, financial, and statistical data of Customer in order to provide comparative benchmarking services, decision support services, and predictive management services to Omnigo's customers and prospective customers, and for use in Omnigo's research and development of the Software. Customer grants Omnigo the right to collect and use such Aggregated Data for all such purposes.

10. **Third-Party Applications, Services, or Integrations.** Customer acknowledges and agrees that the Solutions may operate with or using applications or services operated or provided by third parties ("Third Party Services"). Omnigo is not responsible for the operation of such Third Party Services nor the availability or operation of the Solution to the extent such availability and operation is dependent upon Third Party Services. Customer is solely responsible for procuring any and all rights necessary for it to access Third Party Services (including any Customer Data or other information relating thereto) and for complying with any applicable terms or conditions thereof. Omnigo does not make any representations or warranties with respect to Third Party Services. Any exchange of data or other interaction between Customer and Third Party Services is solely between Customer and such third party provider and is governed by such third party's terms and conditions.

11. **Limited Warranty.**

(a) Omnigo warrants for a period of ninety (90) days after Customer initially receives the Software (the "Warranty Period") that the Software will perform under normal use substantially as described in the associated documentation. Customer's exclusive remedy and Omnigo's sole liability for Software that does not meet the warranty set forth in this Section 14 shall be at Omnigo's sole option and expense to repair or replace the non-conforming Software, provided, however that Customer promptly notifies Omnigo of the deficiency in writing within the applicable Warranty Period when the problem first occurs, and the Software has been demonstrated to be defective. Omnigo does not guarantee that all errors will be corrected.

(b) The warranties set forth in Section 14(a) do not apply and become null and void if Customer breaches any provision of this Agreement, or if Customer, any User, or any other person granted access to the Software by Customer, whether or not in violation of this Agreement: (i) installs or uses the Software on or in connection with any hardware or software not specified in the associated documentation or expressly authorized by Omnigo in writing; (ii) modifies or damages the Software; (iii) misuses the Software, including any use of the Software other than as specified in the associated documentation or expressly authorized by Omnigo in writing; or (iv) uses of any version of the Software other than the most current version or fails to promptly install any Maintenance Release or replacement of the Software made available to Customer by Omnigo.

(c) OMNIGO DOES NOT REPRESENT OR WARRANT THAT THE SOFTWARE WILL MEET CUSTOMER'S REQUIREMENTS OR THAT ITS OPERATION WILL BE UNINTERRUPTED OR ERROR-FREE. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 14(a), THE SOFTWARE AND ASSOCIATED DOCUMENTATION AND ANY SOLUTIONS ARE PROVIDED TO CUSTOMER "AS IS" AND OMNIGO HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. OMNIGO SPECIFICALLY DISCLAIMS ALL



WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 14(a), OMNIGO MAKES NO WARRANTY OF ANY KIND THAT THE SOFTWARE AND ASSOCIATED DOCUMENTATION AND ANY SOLUTIONS, OR ANY HARDWARE OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

12. Indemnification by Customer. Customer shall indemnify, hold harmless, and, at Omnigo's option, defend Omnigo, its affiliates, agents, directors, officers, and employees from and against any and all losses, damages, liabilities, and costs (including reasonable attorneys' fees) resulting from any third-party claim, suit, action, or proceeding ("*Third-Party Claim*") based upon or arising out of Customer's, or any User's: (a) gross negligence, fraud, or willful misconduct; (b) use of the Software or associated documentation in a manner not authorized or contemplated by this Agreement; or (c) breach of any of the representations and warranties made by Customer in Section 5, provided that Customer may not enter into any settlement binding upon Omnigo without Omnigo's consent, which shall not be unreasonably withheld. Omnigo shall have the right, at its option, to defend itself against any such Third-Party Claim or to participate in the defense thereof by counsel of its own choice. Nothing herein shall be construed as a waiver of Customer's sovereign immunity under section 768.28, Florida Statutes.

13. Limitation of Liability.

- (a) **Limitation on Types of Damages Recoverable.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL OMNIGO BE LIABLE TO CUSTOMER OR ANY THIRD PARTY CLAIMING THROUGH A PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT, EXEMPLARY, OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION, LOST PROFITS, LOST REVENUES, LOSS OF GOODWILL, LOST OR DAMAGED DATA, INVESTMENTS MADE, AND LOSS OF BUSINESS OPPORTUNITY OR INTERRUPTION) THAT CUSTOMER MAY INCUR OR EXPERIENCE UNDER OR IN CONNECTION WITH THIS AGREEMENT, ANY ORDER FORM, OR THE SOFTWARE, OR SOLUTIONS, HOWEVER CAUSED AND UNDER WHATEVER THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, TORT, NEGLIGENCE, AND STRICT LIABILITY) EVEN IF (i) OMNIGO WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, (ii) DIRECT DAMAGES DO NOT SATISFY A REMEDY, OR (iii) A LIMITED REMEDY SET FORTH IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.
- (b) **Limitation on the Amount of Damages Recoverable.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, OMNIGO'S ENTIRE LIABILITY FOR ALL CLAIMS ARISING UNDER OR RELATED IN ANY WAY TO THIS AGREEMENT, AN ORDER FORM, THE SOFTWARE, OR SERVICES, REGARDLESS OF THE NATURE OF THE OBLIGATION, FORM OF ACTION OR THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, CONTRACT, TORT, NEGLIGENCE, AND STRICT LIABILITY), IN ALL CASES SHALL BE LIMITED TO, AND SHALL NOT EXCEED, IN THE AGGREGATE, FEES PAID TO OMNIGO UNDER THIS AGREEMENT DURING THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY FOR THE SOFTWARE OR SOLUTIONS THAT ARE THE BASIS OF THE PARTICULAR CLAIM AND UNDER THE APPLICABLE ORDER FORM.
- (c) **Allocation of Risk.** EACH PARTY ACKNOWLEDGES THAT THE FOREGOING DAMAGES EXCLUSIONS AND LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION 17



EFFECTS THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND KNOWLEDGES THAT THE OTHER PARTY WOULD NOT HAVE ENTERED INTO THIS AGREEMENT ABSENT SUCH EXCLUSIONS AND LIMITATIONS OF LIABILITY OR THAT THE PRICES PAID BY CUSTOMER FOR THE SOFTWARE AND/OR SOLUTIONS WOULD HAVE BEEN HIGHER.

(d) No action, regardless of form, arising out of the transactions under this Agreement may be brought by either party against the other more than two (2) years after the cause of action has accrued, except for actions related to unpaid fees.

14. General Provisions. The following general provisions apply to this Agreement:

(a) Force Majeure. In no event shall Omnigo be liable to Customer, or be deemed to have breached this Agreement, for any failure or delay in performing its obligations under this Agreement, if and to the extent such failure or delay is caused by any circumstances beyond Omnigo's reasonable control, including, but not limited to, acts of God, epidemic, pandemic, flood, fire, earthquake, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, data security incidents (including ransomware or other malware), labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo. Omnigo shall use reasonable efforts to mitigate the extent of the aforementioned excusable delay or failure and their adverse consequences.

(b) Assignment, Transfer, & Sublicensing. Customer may not sell, assign, transfer, give, or sub-license in any manner, by operation of law or otherwise, any licenses granted hereunder or all or a portion of the Software, the benefits of, or obligations under, this Agreement without the prior written consent of Omnigo. Omnigo may assign this Agreement, in whole or in part, at its discretion. Any purported assignment, transfer, or delegation in violation of this Section is null and void. No assignment, transfer, or delegation will relieve the assigning or delegating party of any of its obligations hereunder.

(c) Binding Effect. This Agreement shall be binding upon the parties, their heirs, legal representatives, affiliates, and permitted successors and assigns.

(d) Applicable Law. This Agreement shall be governed by and interpreted in accordance with the law of the State of Florida without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any other jurisdiction. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

(e) Venue. The parties agree that any legal suit, action, or proceeding arising out of or related to this Agreement shall be brought exclusively in a state or federal court serving Okaloosa County, Florida, and the parties irrevocably submit to the exclusive jurisdiction of such court in any such suit, action, or proceeding.

(f) Non-Waiver. No failure or delay in exercising any right under this Agreement by either party will operate as a waiver of that any right, nor shall any partial exercise of any right preclude further exercise of the right.

(g) Severability. If any term or provision of this Agreement is adjudged by a court of competent jurisdiction to be invalid, illegal, or unenforceable under the laws of any state or the United States, the unaffected portions of this Agreement shall be unimpaired and remain in full force and effect. In the event of such a ruling, the parties shall negotiate in good faith a substitute for the provision declared invalid, illegal, or unenforceable.

(h) Export Regulation. The Software and/or Solutions may be subject to US export control laws, including the Export Control Reform Act and its associated regulations. Customer shall not, directly or indirectly, export, re-export, or release the Software or Solutions to, or make the Software or Solutions accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. Customer shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary



license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Software or Solutions available outside the US.

(i) US Government Rights. Each of the Software and the associated documentation is a “commercial item” as that term is defined at 48 C.F.R. § 2.101, consisting of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 C.F.R. § 12.212. Accordingly, if Customer is an agency of the US Government or any contractor therefor, Customer only receives those rights with respect to the Software and documentation as are granted to all other end users under license, in accordance with (a) 48 C.F.R. § 227.7201 through 48 C.F.R. § 227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. § 12.212, with respect to all other US Government licensees and their contractors.

(j) Execution in Counterparts. This Agreement may be signed in counterparts, each of which is deemed an original, and all of which together are deemed a single instrument when signed by both parties.

(k) Attorney Fees. The prevailing party in any litigation concerning this Agreement will be entitled to reasonable attorney’s fees and court costs, in addition to any other relief to which that party may be entitled.

(l) Publicity. Nothing contained in this Agreement shall be interpreted so as to prevent Omnigo from publicizing its business relationship with Customer or the nature of the Software or Solutions sold to or performed for Customer.

(m) No Third Party Beneficiaries. This Agreement does not and is not intended to confer any enforceable rights or remedies upon any person or parties other than the parties hereto.

(n) Construction. The paragraph headings in this Agreement are for convenience only, do not constitute a part of this Agreement, and shall not affect its interpretation. The terms of this Agreement are to be construed as singular, plural, masculine, feminine, or neuter, as context requires.

Addendum A

SUPPORT SERVICES ADDENDUM

This Support Services Addendum (this “*Addendum A*”) is an addendum to the Master Software License and Service Agreement (the “*Agreement*”) between Omnigo and Customer (as defined in the Agreement). Capitalized terms used in this Addendum A and not otherwise defined below shall have the meanings given to such terms in the Agreement. In the event of a conflict between the terms of this Addendum A and the Agreement, the terms of this Addendum A shall control.

Customer and Omnigo hereby agree to the following:

1. Support Services. Omnigo shall provide Customer with support as set forth in this Support Services Addendum at the fees, if any, as listed in the applicable Order Form. Customer’s failure to install a Maintenance Release promptly after receipt from Omnigo may result in termination of the Support Services Addendum and all Support by Omnigo, without any obligation or liability to Customer or any other person by reason of such termination.

2. Definitions.

(a) “*Maintenance*” means scheduled unavailability of the Services, as announced by Omnigo prior to the Services becoming unavailable.

(b) “*Production*” environment refers to the live environment where Users interact and log live data.

(c) “*QA/Testing*” environment refers to a pre-production environment used to test new releases, configuration changes, or customizations either through human or automated testing, prior to implementation in the Production environment.

(d) “*Services*” means the platform or application(s) running on Omnigo systems.

(e) “*Training*” environment refers to an environment that mirrors or closely mirrors the Production environment that is typically used to training new users on software usage, configuration changes, and other topics.

3. Technical Support. Omnigo will provide Customer with Support Monday through Friday from 8:00 a.m. to 5:00 p.m. Central Time, excluding Omnigo’s observed holidays. Emergency support is available to Customer outside the designated Support times by telephone only. If Omnigo, in its sole discretion, determines that emergency Support is related to an issue not caused by Omnigo, Customer shall pay for any such emergency Support at then-current rate. Emergency Support is billed in fifteen (15) minute increments, with a minimum charge of one hundred dollars (\$100.00) in the calendar month in which emergency Support is provided.

4. Submission of Support Cases. Support cases can be submitted to Omnigo Technical Support by the following channels:

Telephone (Best for critical or time sensitive issues)

Phone: 866-421-2374

Community Portal (recommended for all non-critical issues)

Link: <https://omnigo.force.com>

Email (best for low priority issues and requests for information)

Email address: support@omnigo.com

5. Service Commitment: Response Times.

Priority Level	Definition	Response Time	Follow up	Submission Channel
1 - High	Complete loss of productivity or no access to the Software in Production environment	30 minutes	Every 2 hours	Telephone
2 - Medium	Significant impact that affects productivity in Production environment	4 hours	Every 8 hours	Telephone
3 - Normal	No immediate work stoppage; productivity is significantly reduced; time sensitive issue that may affect future productivity in Production environment	1 business day	Every 3 business days	Telephone, Web, Email
4 - Low	Service requests, requests for information, training, or issues pertaining to non-production environments	3 business days	Every 3 business days	Telephone, Web, Email

Omnigo will classify all tickets as Severity 3 (normal) by default and adjust accordingly based on the details provided by Customer about the issue. Ticket classifications are determined by Omnigo based upon the availability and usability of Omnigo services to ensure optimal resolution time for all customers. Issues with QA/Testing or Training environments rarely have an impact on Production environments. As such, issues with non-Production environments generally will not be classified as High or Medium Priority Levels.

6. Exclusions and Limitations. The Service Commitments outlined in Section 5 do not apply to any unavailability, suspension, or termination of service, or any other performance issue resulting from:

- (a) Factors outside of Omnigo's reasonable control, including force majeure events, Internet access issues or failures, or problems beyond the demarcation point of the Omnigo network;
- (b) Any actions or inactions of Customer, its Users, or any third party;
- (c) Failure of hardware, software, or other technology belonging to Customer, its Users, or any third party (other than third-party hardware within Omnigo's direct control);
- (d) Scheduled Maintenance;
- (e) Changes or alterations to the Software not specifically authorized or performed by Omnigo; or
- (f) Any version of the Software other than the current version of the Software or the immediately prior release of the Software.

Support does not extend to customized software, configuration of hardware, non-Omnigo software, networking services, consulting services, and general computer system maintenance.

7. Escalation. Omnigo aims to provide the best customer experience possible. If Customer feels Omnigo Technical Support is not meeting these standards, Customer may escalate concerns to management by emailing supportmanagement@omnigo.com or by calling 866-421-2374 and requesting to speak with the supervisor on duty.

8. Changes to Support. Omnigo may make changes to its Support from time to time. As Customer's sole remedy in the event of a material change, Customer shall have the right to terminate this Addendum A and receive a pro-rata refund of any fees paid by Customer for such Support services for the terminated portion of the Term.

9. Changes to this Addendum A. Omnigo may make changes to this Addendum A from time to time but will not reduce the level of Support for which Customer has paid. In the event of any material change to this Addendum A, Omnigo will notify Customer by either sending an email to the email address(es) provided by Customer pursuant to this Addendum A or posting a notice in Customer's administrator account.

10. Additional Services.

(a) **Training.** Training may be purchased at Omnigo's then-current professional service rates. For onsite training, Customer shall pay Omnigo a per diem rate for trainer's meals and incidentals, including travel days. All other travel expenses, such as airline tickets, car rentals, and hotels, will be invoiced to Customer at the actual incurred expense, all of which shall, at Omnigo's election, be payable by Customer in advance.

(b) **Customization.** The following items are considered customization of the Solutions and the Software and must be contracted separately, if desired by Customer: (i) custom data imports; (ii) custom data extracts; (iii) custom reporting; and (iv) custom functionality. Omnigo is not responsible for providing additional professional services, including additional implementation services or software customizations, except where Omnigo has agreed in writing to provide such services in a separate written agreement between the parties. Any customizations requested by Customer will be agreed upon through statements of work signed by the parties and will be governed by the Agreement and Omnigo's Custom Developed Services Addendum. Support and availability for professional services and customizations differ from the Support described in this Support Services Addendum. If Customer performs any customization to the Services or the Software, or to applications that intend to interact with the Services or Software, without engaging Omnigo to perform the work, Omnigo will not guarantee that Customer's modifications will function properly or remain secure, including when Maintenance Releases are applied, nor will Omnigo guarantee that optimal application performance will be met and maintained.

(c) **Post-Termination Maintenance.** Subject to the terms and conditions of this Addendum A, Customer may purchase ongoing storage of Customer Data by Omnigo by executing the applicable Order Form and paying an annual fee at the then-current rate (the "**Annual Maintenance Fee**"). In consideration of Customer's payment of the applicable Annual Maintenance Fees, if Customer wishes to reactivate the Services and the Software, Customer may do so by paying a reactivation fee at the then-current rate, in addition to the Annual Fee then due for the Software. Omnigo reserves the right to refuse to provide ongoing storage of Customer Data, and to destroy any and all Customer Data then-stored, in the event Customer fails to pay the applicable Annual Maintenance Fee at any time. Omnigo further reserves the right to refuse reinstatement of reactivation if the period of time elapsed after expiration or termination of the Agreement exceeds twenty-four (24) months.

Addendum B

SOFTWARE AS A SERVICE ADDENDUM (if Customer is using Solutions in Omnigo's Cloud)

This Managed Services Addendum (this "**Addendum B**") is an addendum to the Master Software License and Service Agreement (the "**Agreement**") between Omnigo and Customer (as defined in the Agreement). Capitalized terms used in this Addendum B and not otherwise defined below shall have the meanings given to such terms in the Agreement. In the event of a conflict between the terms of this Addendum B and the Agreement, the terms of this Addendum B shall control.

Customer and Omnigo hereby agree to the following:

1. Definitions.

(a) “**Services**” means the online platform or application(s) running the Software licensed to Customer under the Agreement and made accessible to Customer by Omnigo via the internet.

(b) “**Maintenance**” means scheduled unavailability of the Services, as announced by Omnigo prior to the Services becoming unavailable and excludes Software updates.

2. Omnigo Onboarding Services. Omnigo will provide Customer with onboarding services as specified in the Order Form. These onboarding services are to assist Customer with configuration and training of the Software. Additional support may be purchased at Omnigo’s then-current professional services rate.

3. Service Commitment: Availability. Omnigo will use commercially reasonable efforts to provide Users with the ability to access the Services and run the Software (“**Availability**”) during 99.95% of each calendar month (“**Availability Percentage**”) in accordance with the following:

(a) Calculation. The Availability Percentage shall be calculated as the product of 100 times a fraction, the numerator of which is the number of hours that Services are provided by Omnigo in a particular month, and the denominator of which is the total number of hours during the month, less the hours during which Service is interrupted for any of the following reasons: (i) scheduled Maintenance and service interruptions; (ii) reasons of force majeure, including any unforeseen event beyond the control of Omnigo that prevents Omnigo from performing its obligations under the Agreement; (iii) the inability of Customer to use its personal computers or the slowdown or unavailability of Customer’s local area networks or internet connections; (iv) Customer’s use of unapproved or modified hardware or software; (v) misuse of the Software by Customer or any User; or (vi) Customer’s failure to protect its environment, systems, or personal computers against any intrusions, viruses, or malware.

(b) Maintenance and Service Interruptions. Omnigo reserves the right to discontinue Service with prior advance notice. Maintenance is classified as “**Major**” (greater than one hour), “**Minor**” (less than one hour of disruption), or “**Emergency**” (to prevent complete loss of Service). Notifications for: Minor Maintenance events are sent a minimum of 24 hours in advance; Major Maintenance events are sent a minimum of 72 hours in advance; and Critical Maintenance events are sent 30 minutes in advance. Omnigo will not be responsible for any damages or costs incurred by Customer or any of its Users for Maintenance or when Customer has been notified by Omnigo of Service interruptions.

4. Customer Invoice Reduction. During each calendar month in which Omnigo fails to achieve the Availability Percentage, the fees due to Omnigo by Customer will be reduced by 1% for each 1% loss in Availability, up to a maximum of a 5% reduction in fees applied to Customer’s next invoice and not redeemable in cash. This is Customer’s sole and exclusive remedy for Service interruption.

5. Cloud Hosting Environment. The Services will be provided from one or more colocations within the United States. The hosting services provided at these colocations include the use and access to a highly maintained environment that is available and accessible twenty-four (24) hours per day, seven (7) days per week except during Maintenance and at other times upon notice to Customer. Omnigo will make available and maintain the servers, routers, and other hardware required to operate the Services and the Software for Customer’s nonexclusive use, in accordance with the terms of the Agreement, while providing the Services under the terms of this Addendum B. Omnigo retains the right to select service providers of any hardware made available for Customer’s use and reserves the right to change the hardware or service providers at any time. Omnigo will provide facilities management services, including communications network support, power, HVAC, asset control, compliance with applicable local, state, provincial, and federal laws, physical security, and emergency power either directly or through the use of service providers. Omnigo shall have the right to immediately deny access, without prior notice, to any workstation found to be inadequately protected or currently infected with any software virus, worm, spyware or similar malware.

6. Backup and Data Recovery. If for any reason Customer Data becomes corrupt, Omnigo will attempt to restore the data from the most recent backup. To the extent the corruption was not caused by Omnigo applications, systems, or personnel, Customer agrees to pay Omnigo based on Omnigo’s then-current time and materials rates for restoration services, in addition to any other fees provided for in this Addendum B. Omnigo will endeavor to meet a recovery time objective (“**RTO**”) of twenty-four (24) hours and a recovery point objective (“**RPO**”) of fifteen (15) minutes. Customer agrees to verify the accuracy of the restoration within seventy-two (72) hours of notification, and in any case before using the data. Customer also agrees to repeat the entry of any changes lost between the backup and restoration times. Omnigo has implemented reasonable procedures for the orderly transfer and support of the Services and Software to an alternate operations center located in the United States in the event of disaster that in Omnigo’s reasonable belief would cause a substantial disruption in the Services or the Software’s continued availability for more than seventy-two (72) hours.

7. Temporary Suspension of Services. Omnigo may suspend Customer's right to access or use the Services upon notice to Customer if Omnigo determines: (a) Customer's use of the Services (i) poses a security risk to the Services or any third party, (ii) may adversely impact the Services or the compute resources upon which the Services are hosted or content of any other customer, (iii) may subject Omnigo, or any third party to liability, or (iv) may be fraudulent; or (b) Customer is in breach of the Agreement or this Addendum. If Omnigo suspends Customer's right to access or use the Services or any portion thereof, Customer shall remain responsible for all fees and charges incurred through the date of suspension. Omnigo's right to suspend Customer's right to access or use the Services is in addition to its termination rights set forth in the Agreement. Notwithstanding the foregoing, Omnigo shall use commercially reasonable efforts to: (a) work with Customer to resolve or mitigate the issue without resorting to suspension or limitation; (b) prior to any such suspension or limitation, provide notice to Customer describing the nature of the damage or degradation; and (c) reinstate Customer's use of or access to the Service, as applicable, if Customer remediates the issue within thirty (30) days of receipt of such notice.

8. Changes to the Services. Omnigo may make changes to the functionality, user interface, usability of the Services and related documentation from time to time. In the event of any material change to the functionality, user interface, or usability of the Services, Customer's sole remedy shall be limited to termination of this Addendum B and receipt of a pro-rata refund of fees paid by Customer for the Services for the terminated portion of the Term.

9. Changes to this Addendum B. Omnigo may make changes to this Addendum B from time to time but will not reduce the level of Service for which Customer has paid. In the event of any material change to this Addendum B, Omnigo will notify Customer by either sending an email to the email address(es) provided by Customer pursuant to this Addendum B or posting a notice in Customer's administrator's account.