



**DeWight Dopslauf, C.P.M., CPPO
Harris County Purchasing Agent**

May 27, 2021

Commissioners Court
Harris County, Texas

RE: Sole Source Exemption – Local Government Code § 262.024 (a)(7)

Members of Commissioners Court:

Please approve a sole source exemption from the competitive bid requirements and the attached Order authorizing the County Judge to execute the attached Agreement for the following:

Description: Quickbase No-Code Application Development Solution for Harris County

Vendor: Quickbase, Inc.

Term: June 8, 2021 through June 7, 2022 with two (2) one-year renewal options

Amount: \$250,000

Reviewed by: X Harris County Precinct 4 X Harris County Purchasing

The Office of the Harris County Purchasing Agent has confirmed the sole source exemption. A purchase order will be issued upon Commissioners Court approval.

Sincerely,

DeWight Dopslauf
Purchasing Agent

MDH

Attachments

cc: Precinct 4
Vendor

FOR INCLUSION ON COMMISSIONERS COURT AGENDA JUNE 8, 2021



**MASTER SERVICE AGREEMENT
BETWEEN HARRIS COUNTY AND
QUICKBASE, INC.**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This Master Service Agreement is made and entered into by and between Harris County ("County"), a body corporate and politic under the laws of the State of Texas acting by and through the Purchasing Agent (the "Department"), and Quickbase, Inc. ("Contractor"). The County and Contractor are referred to herein collectively as the "Parties" and individually as a "Party."

This following terms are an addendum to the attached terms of Contractor and will together comprise the Master Service Agreement.

Recitals

The County desires subscriptions to Quickbase services for multiple County Departments (the "Services").

Contractor warrants and represents it is capable and willing to provide the Services.

Terms

I.

It is expressly understood and agreed that the Terms of Service (the "Agreement") are attached hereto as Exhibit A and incorporated herein by reference. In the event of any conflict between the terms and provisions of this Addendum, or any portion thereof, and the terms and provisions of any other part or portion of the Agreement, or any other terms and conditions, this Addendum shall control. For having rendered such services, the County agrees to pay the Contractor compensation as stated in the sections to follow.

Each Party shall follow all federal, state, and local laws, rules, orders, codes, and regulations applicable to the provision or use of the Services.

Contractor is registered with the Texas Secretary of State to transact business in Texas, and is current on all state and local fees and taxes, including but not limited to Franchise Account Status in "good standing" with the Texas Comptroller of Public Accounts.

Unless otherwise stated in this Agreement, words which have well-known technical or industry meanings are used in accordance with such recognized meaning.

II.

EFFECTIVE DATE AND TERM

The term shall be for a period of one (1) year beginning upon approval by Commissioners Court (the "Initial Term"). At the County's option, this Agreement may be renewed on the same terms and conditions for two (2) additional one (1) year periods (each a "Renewal Term"). The Agreement will not automatically renew. The Initial Term and any Renewal Term shall collectively be referred to as the "Term."

III.

LIMIT OF APPROPRIATION

Contractor understands and agrees, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to for the Services performed under this Agreement, and the total maximum sum that the County shall become liable to pay to Contractor under this Agreement, shall not under any conditions, circumstances, or interpretations thereof exceed the sum of Two Hundred Fifty Thousand and No/Dollars (\$250,000.00) annually. Notwithstanding anything to the contrary, or that may be construed to the contrary, the County's liability under the terms and provisions of this Agreement is limited to this sum.

Contractor understands and agrees that the laws governing the letting of contracts for the County require the approval of the Harris County Auditor and the Auditor's certification that funds are, or will be, available for the payment of the obligations created under the Agreement before such contracts become effective. Therefore, Contractor shall not proceed with any Services until such time that it receives a Purchase Order issued by the Harris County Purchasing Agent. Any Services performed by Contractor prior to its receipt of a Purchase Order are at Contractor's own expense.

Contractor does understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to hereunder, and the total maximum sum that the Contractor shall become liable to pay to Contractor hereunder, shall not under any conditions, circumstances, or interpretations thereof exceed the sum certified by the Purchase Order. Notwithstanding anything to the contrary, or that may be construed to the contrary, the County's liability under the terms and provisions of this Agreement is limited to this sum. When all the funds so certified are expended, Contractor's sole and exclusive remedy shall be to terminate this Agreement. If the Services and charges to be provided for will equal or exceed the amount certified available, Contractor shall notify the County immediately. All other references in the Agreement of any kind to additional charges are hereby deleted.

Should additional funds be required for additional users or any other reason, the Parties will need to execute an amendment this Agreement.

This is a Master Service Agreement, covering multiple departments. Should a department need to add a user/services, a using department will forward an order form for approval and signature by the Purchasing Department. The Contractor shall notify the Purchasing Department should additional services be needed by a department. Should more money need to be appropriated to this Agreement, the Parties will need to amend this Agreement.

IV.

PAYMENT TERMS

Contractor shall submit to the Harris County Auditor an invoice to: Harris County Auditor, 1001 Preston 8th floor, Houston, Texas 77002. The invoice shall be in a form acceptable to the County Auditor and shall include such detail of the services as may be requested by the County Auditor for verification purposes.

The invoice shall, at a minimum, include a description of the services and the total amount billed for the services. The County shall pay each invoice as approved by the County Auditor in accordance with the laws of the State of Texas.

Fees are invoiced in advance and payable within thirty (30) days of the date of Contractor's invoice. Accordingly, if the Subscription Term is for more than one year, Contractor will invoice the County annually in advance of each annual period for the fees payable for such ensuing annual period. If the County's payment is not timely received on or before the date due, the discount shall not apply and Customer shall pay the full, undiscounted fees.

V.

PUBLIC INFORMATION ACT

Notwithstanding any language found in the Agreement, the Parties expressly acknowledge that this Agreement is subject to the Texas Public Information Act, Tex. Gov't Code Ann. §§ 552.001 *et seq.*, as amended (the "Act").

It is expressly understood and agreed that the County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Act to any software, or any part thereof, or other information or data furnished to the County, whether or not the same are available to the public. It is further understood that the County, its officers and employees shall have the right to rely on the advice, decisions, and opinions of the Attorney General, and that the County's officers and employees shall have no personal liability or obligations to Contractor for the disclosure to the public, or to any person or persons, of any software, or a part thereof, or other information or data furnished to the County in reliance on any advice, decision or opinion of the Attorney General of the State of Texas.

In the event the County receives a written request for information pursuant to the Act that affects Contractor's rights, title to, or interest in any information or data or a part thereof, furnished to the

County by Contractor under this Agreement, then the County will promptly notify Contractor of such request prior to any such disclosure, to the extent permissible under Texas law. Contractor may, at its own option and expense, prepare comments and submit information directly to the Attorney General of Texas stating why the requested information is exempt from disclosure pursuant to the requirements of the Act. Contractor is solely responsible for submitting the memorandum brief and information to the Attorney General within the time period prescribed by the Act. Contractor is solely responsible for seeking any declaratory or injunctive relief regarding the disclosure of information that it deems confidential or privileged.

Electronic Mail Addresses. Contractor affirmatively consents to the disclosure of its e-mail addresses that are provided to the County, including any agency or department of the County. This consent is intended to comply with the requirements of the Act, and shall survive termination of this Agreement. This consent shall apply to e-mail addresses provided by Contractor and agents acting on behalf of Contractor and shall apply to any e-mail address provided in any form for any reason whether related to this Agreement or otherwise.

VI.

INDEPENDENT PARTIES

The Services performed by Contractor under this Agreement are performed by Contractor as an independent contractor. This Agreement is not intended to create and shall not constitute a partnership or joint venture between the Parties. Contractor shall have and retain the exclusive right of control over employment, firing, discipline, compensation, insurance, and benefits in accordance with the applicable laws of the State of Texas. Neither Party has authority to bind or otherwise obligate the other orally, in writing or by any act or omission. Nothing contained herein shall establish an agency, employee-employer relationship, partnership, joint enterprise, joint employer, or joint venture relationship by or between the County and Contractor.

IN THE EVENT THAT ANY STATE OR FEDERAL AGENCY, OR COURT OF COMPETENT JURISDICTION FINALLY DETERMINES THAT CONTRACTOR IS NOT AN INDEPENDENT CONTRACTOR, CONTRACTOR AGREES TO INDEMNIFY AND HOLD HARMLESS THE COUNTY FOR ANY AND ALL DIRECT DAMAGES, PENALTIES, ASSESSMENTS, TAXES, OR EXPENSES THAT MAY BE INCURRED BY COUNTY AS A RESULT OF THIS DETERMINATION.

Contractor warrants that it will comply with all federal and state laws including but not limited to the Prompt Pay Act, in the payment of its workers.

Contractor is solely responsible for the payment of wages and any applicable benefits to workers for Services performed for the County. Contractor shall be responsible for withholding federal and state income taxes, paying Federal Social Security taxes, maintaining unemployment insurance and maintaining workers' compensation insurance in an amount and under such terms as required by the applicable laws of the State of Texas.

THE COUNTY'S PAYMENT IS TO THE CONTRACTOR. THE COUNTY SHALL

HAVE NO LIABILITY, DIRECTLY OR INDIRECTLY, FOR PAYMENT TO CONTRACTOR'S WORKERS OR SUBCONTRACTORS. CONTRACTOR SHALL INDEMNIFY AND HOLD THE COUNTY HARMLESS FROM ANY AND ALL SUCH CLAIMS.

Contractor's workers are not entitled to any contributions by or benefits from the County for any pension plan, bonus plan or any other benefit plan. Contractor and the workers furnished by Contractor shall not be entitled to any fringe benefits or similar benefits afforded to employees of the County. The County is not liable for payment of any federal or state taxes and charges including, but not limited to, income withholding taxes, social security, unemployment, workers' compensation, and similar taxes and charges. This Article shall survive the expiration or termination of this Agreement.

The County is not responsible to Contractor or Contractor's workers for payment of any overtime compensation or any additional payments pursuant to the Fair Labor Standards Act, 29 U.S.C. Section 207 9a(1), as amended; the Texas Pay Day Act; the Equal Pay Act; Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000e, *et al.*, as amended; or any provisions of the Texas Labor Code Ann., as amended. **The County will not be responsible for overtime wages.**

VII.

TERMINATION

The County may terminate this Agreement at any time by providing written notice.

Upon the expiration of thirty (30) days from receipt of written notice, Contractor shall discontinue all Services in connection with the performance of this Agreement.

Within thirty (30) days after receipt of notice of termination, Contractor agrees to submit an invoice, showing in detail the Services received and accepted by the County under this Agreement, for which the County has not been invoiced or has not paid.

The County understands and agrees that it will not receive a prorata refund of any fees paid during the Initial Term or any Renewal Term in the event that the County terminates this Agreement or any Purchase Order or order form prior to the conclusion of such period.

VIII.

COMPLIANCE AND STANDARDS

- A) Contractor agrees to render the Services in accordance with the generally accepted standards applicable to the Services. Contractor shall use that degree of care and skill commensurate with the profession to comply with all applicable federal, state, and local laws, ordinances, rules, and regulations relating to the Services and Contractor's performance to be rendered hereunder. Contractor represents that Contractor and its personnel are qualified to perform the Services described in this Agreement.

- B) Contractor shall not access any information it is not authorized to receive, nor shall Contractor copy, recreate, or use any proprietary information or Documents obtained in connection with this Agreement other than for the performance of this Agreement.
- C) Contractor warrants and represents that it is not in breach of any other contract, obligation or covenant that would affect Contractor's ability to perform hereunder and, as a result of entering into this Agreement, will not breach any such contract, obligation, or covenant.

Contractor warrants and represents that it is registered with the Texas Secretary of State to transact business in Texas, and is current on all state and local fees and taxes, including but not limited to Franchise Account Status of "in good standing" with the Texas Comptroller of Public Accounts.

- D) Contractor warrants and represents that neither it, nor any of its principals or other affiliated entities, owe any debts to Harris County, including, but not limited to delinquent taxes, court judgments, tickets, tolls, fees, or fines. Taxes are deemed delinquent on the date certain as specified by the Harris County Tax Office. For the purposes of this Agreement, a court judgment is not required for delinquent taxes to be considered a debt.
- E) Conflict of Interest: Contractor warrants and represents to the County that it does not have nor shall it knowingly acquire any interest that would conflict in any manner with the performance of its obligations under this Agreement. Furthermore, Contractor warrants that no company or person, other than a bona fide employee, has been employed to solicit or secure this subcontract with County, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this provision, the County shall have the right to terminate the Agreement without liability or in its discretion to deduct from the Agreement amount, or otherwise recover, the full amount of such fee, commission, brokerage fee, gift, or contingent fee.
- F) Lobbying: Contractor shall not use County funds to directly or indirectly pay any third party for influencing or attempting to influence any public employee or official in connection with the awarding of any contract or the extension, continuation, renewal, amendment or modification of any contract. Pursuant to 31 U.S.C.A. § 1352 (2003), if at any time during the Agreement term funding to Contractor exceeds \$100,000.00, Contractor shall file with the County the Federal Standard Form LLL titled "Disclosure Form to Report Lobbying."
- G) No Federal Exclusion: Contractor warrants and represents that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in any Federal programs, including but not limited to the following: Department of Health and Human Services (DHHS), Office of Inspector General (OIG) - List of Excluded Individuals & Entities (LEIE); U.S. General Services Administration (GSA) – Excluded Parties List System (EPLS); All States (50) Health & Human Services Commission Medicaid OIG Sanction List; Government Terrorist Watch List (OFAC / Patriot Act); Department of Commerce, Bureau of Industry and Security, Denied Persons List; and Department of Homeland Security, Immigration and

Customs Enforcement (ICE) Most Wanted. Contractor must immediately notify the County of any such exclusion or suspension. Contractor warrants and represents that it is in good standing with all State and Federal agencies that have a contracting or regulatory relationship with the County. Contractor warrants and represents that no person who has an ownership or controlling interest in Contractor's business or who is an agent or managing employee of Contractor has been convicted of a criminal offense related to involvement in any federal program.

- H) County and its designee shall have the right to conduct examinations, studies and audits of the payments made under this Agreement and County may make such examinations, studies, and audits at any time whether before or after payment. Contractor shall cooperate with such examinations, studies, and audits and provide County with such records, data, documents, including all of Contractor's backup and support data for billings, and Contractor shall provide access to such records, data, documents and personnel as are requested by County or the County Auditor no more than once annually, and following no less than ten (10) business days' advanced written notice. Such examinations, studies, and audits shall be conducted during Contractor's regular business hours and at Contractor's headquarters in a manner not to interfere with Contractor's operations. All payments made by County are subject to re-evaluation. This section shall survive termination of this Agreement.
- I) In accordance with Tex. Gov't Code Ann. § 2270.002, Contractor warrants and represents that it does not boycott Israel and agrees that it will not boycott Israel during the term of this contract.
- J) Prior to execution of the Agreement, Contractor shall, as an update, complete Form 1295 in accordance with Tex. Gov't Code Ann. § 2252.908 concerning "Interested Parties." Contractor warrants and represents that all the information on the form is complete and accurate.

IX.

INDEMNIFICATION

CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY FROM AND AGAINST ALL CLAIMS AND LIABILITY DUE TO THE ACTIVITIES OF CONTRACTOR, OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL, PERFORMED UNDER THIS AGREEMENT AND WHICH RESULT FROM ANY GROSSLY NEGLIGENT ACT, ERROR, OR OMISSION; WILLFUL MISCONDUCT; INTELLECTUAL PROPERTY INFRINGEMENT; OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER;

COMMITTED BY CONTRACTOR OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL.

CONTRACTOR SHALL ALSO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY FROM AND AGAINST ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES WHICH MIGHT BE INCURRED BY THE COUNTY, IN LITIGATION OR OTHERWISE RESISTING SAID CLAIMS OR LIABILITIES WHICH MIGHT BE IMPOSED ON THE COUNTY AS THE RESULT OF SUCH ACTIVITIES BY CONTRACTOR OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL.

CONTRACTOR SHALL INDEMNIFY, DEFEND, AND HOLD THE COUNTY HARMLESS FROM ANY AND ALL LIABILITY, EXPENSE, JUDGMENT, SUIT, CAUSE OF ACTION, OR DEMAND FOR PERSONAL INJURY, DEATH, OR DIRECT DAMAGE TO TANGIBLE PROPERTY WHICH MAY ACCRUE AGAINST THE COUNTY TO THE EXTENT IT IS CAUSED BY THE GROSS NEGLIGENCE OF CONTRACTOR OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL, WHILE PERFORMING SERVICES UNDER THIS AGREEMENT. COUNTY WILL GIVE CONTRACTOR PROMPT, WRITTEN NOTICE OF ANY SUCH CLAIM OR SUIT. COUNTY SHALL COOPERATE WITH CONTRACTOR IN ITS DEFENSE OR SETTLEMENT OF SUCH CLAIM OR SUIT.

IF A RESTRAINING ORDER OR TEMPORARY INJUNCTION IS GRANTED DUE TO ANY ACT, ERROR, OR OMISSION COMMITTED BY CONTRACTOR OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL, CONTRACTOR SHALL MAKE COMMERCIALY-REASONABLE EFFORT TO OBTAIN THE SUSPENSION OF ANY SUCH RESTRAINING ORDER OR TEMPORARY INJUNCTION.

COUNTY RESERVES THE RIGHT, AT ITS OWN EXPENSE, TO BE INDEPENDENTLY REPRESENTED BY COUNSEL OF ITS OWN CHOICE IN CONNECTION WITH ANY SUCH SUIT OR PROCEEDING.

EXCLUDING INTELLECTUAL PROPERTY INFRINGEMENT, IN NO EVENT WILL CONTRACTOR OR ITS DIRECT OR INDIRECT SUPPLIERS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA OR INFORMATION, THE COST OF RECOVERING SUCH DATA OR INFORMATION, OR THE COST OF SUBSTITUTE SERVICES OR PRODUCTS, EVEN IF CONTRACTOR OR SUCH SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITIES OF SUCH DAMAGES.

To the extent required by the Texas Constitution and the Laws of the State of Texas, the County shall indemnify Contractor in accordance with the Agreement.

X.

SUCCESSORS AND ASSIGNS

The County and Contractor bind themselves and their successors, executors, administrators, and assigns to the other Party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement.

Except in the case of merger, acquisition, or sale of all or substantially all assets, neither the County nor Contractor shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other, which shall not be unreasonably withheld. Contractor must notify the County of any merger, acquisition, or sale.

XI.

PUBLIC CONTACT

Contact with the news media, citizens of Harris County, or governmental agencies shall be the responsibility of the County.

Under no circumstances, except in consultation with its attorneys, shall Contractor release any material or information developed in the performance of this Agreement without the express written permission of the County. County will notify Contractor via email, publicity@quickbase.com.

XII.

APPLICABLE LAW AND VENUE

The Agreement is subject to the state and federal laws, orders, rules, and regulations relating to the Agreement and funded by state or federal funds.

This Agreement is governed by the laws of the State of Texas.

The forum for any action under or related to the Agreement is exclusively in a state or federal court of competent jurisdiction in Texas.

The exclusive venue for any action under or related to the Agreement is in a state or federal court of competent jurisdiction in Houston, Harris County, Texas.

If any provision of the Agreement or this Addendum are held by a court of competent jurisdiction to be invalid or unenforceable, then such provision shall be construed, as nearly as possible, to reflect the intent of the invalid or unenforceable provision, with all other provisions remaining in full force and effect. The failure of either Party to enforce any right or provision herein shall not constitute a waiver of that right or provision. Headings are for convenience only and shall not limit or alter interpretation or application.

XIII.

NO PERSONAL LIABILITY; NO WAIVER OF IMMUNITY

Nothing in the Agreement is construed as creating any personal liability on the part of any officer, director, employee, or agent of any public body that may be a Party to the Agreement, and the Parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee, or agent of the County or Contractor.

The Parties agree that no provision of this Agreement extends the County's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas.

Neither the execution of this Agreement nor any other conduct of either Party relating to this Agreement shall be considered a waiver by either Party of any right, defense, or immunity under the Texas Constitution, the laws of the State of Texas, or otherwise.

The County does not agree to binding arbitration, nor does the County waive its right to a jury trial.

Nothing in this Agreement shall be deemed or construed to create any third party beneficiaries or otherwise give any third party any claim or right of action against either Party to this Agreement.

XIV.

NOTICE

Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been personally delivered to the address below, or deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the County or Contractor at the following addresses. If mailed, any notice or communication shall be deemed to be received three (3) days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

To Contractor: Quickbase, Inc.
 170 S. Main Street
 Salt Lake City, UT 84101
 Attn: General Counsel

To the County: Harris County Purchasing Agent
 1001 Preston, Ste. 670
 Houston, TX 77002
 Attn: Maria Heinzmann

Copy to:

Harris County Purchasing
Attn: Maria Heinzmann
1001 Preston Suite 670
Houston, TX 77002

Either Party may designate a different address by giving the other Party ten (10) days written notice.

XV.

TAXES AND CHARGES

The County is a political subdivision under the laws of the State of Texas and claims exemption from sales and use taxes under Texas Tax Code Ann. §151.309, as amended. The County agrees to provide exemption certificates to Contractor upon request.

The County is neither liable for any personal property taxes, charges, or fees assessed against Contractor nor obligated to reimburse Contractor for any taxes, charges, or fees assessed against Contractor for the supplies provided or any Services rendered. Any language in the Agreement in conflict with this section is hereby deleted.

XVI.

ENTIRE AGREEMENT

This instrument contains the entire Agreement between the Parties relating to the rights herein granted and obligations herein assumed.

Any oral or written representations or modifications concerning this instrument shall not be effective excepting a subsequent written modification signed by both Parties.

XVII.

EXECUTION

Multiple Counterparts: This Addendum may be executed in several counterparts. Each counterpart is deemed an original. All counterparts together constitute one and the same instrument. Each Party warrants that the undersigned is a duly authorized representative with the power to execute this Addendum.

QUICKBASE, INC.

HARRIS COUNTY

By: Will Fountain
WILL FOUNTAIN
ASSISTANT GENERAL COUNSEL
Date: 24 May 2021

By: _____
LINA HIDALGO
COUNTY JUDGE
Date: _____

APPROVED AS TO FORM:
CHRISTIAN D. MENEFEE
COUNTY ATTORNEY

By: T. Scott Petty
T. Scott Petty
Assistant County Attorney
C.A. File 21GEN0503

EXHIBIT A
Terms of Service
(follow behind)

Quickbase Terms of Service

Last Updated October 31, 2017

Quickbase, Inc. ("Quickbase") provides access to Quickbase Service (as defined below) pursuant to the following terms and conditions. These Quickbase Terms of Service apply to both individuals and Registered Entities (as defined below), and are effective immediately upon your clicking the "Start My Trial" or upon accessing the Service for which these Terms of Service have been accepted on your behalf. You may not use the Service or any Applications made available through the Service until you or an authorized entity or individual who has granted you access, has read and accepted all of the Terms of Service. As used in the Terms of Service, the terms "you", "your" or "user" all refer to both the person using the service in any way, including those registered as, for, or on behalf of a corporate entity, such as a company, business, affiliated entities, corporation, government agency, or other business entity and its employees, subcontractors, affiliates, and all other persons or entities permitted to access and use the Service or any Applications made available through the Service in any way. For purposes hereof, "Registered Entity" means the customer of Quickbase that has subscribed for and is paying the fees for the Service and expressly excludes the third party end users of such Quickbase customer.

1. Services Provided by Quickbase.

Quickbase or third parties acting on Quickbase's behalf will provide access to the Quickbase Service, a web-based service that allows you to store, retrieve, organize and share data (the "Service"). Subject to these Terms of Service (including all policies linked to it), Quickbase hereby grants to you a limited, non-exclusive, non-transferable, revocable license to access and use the Service solely for your own internal business purposes. All rights not expressly granted to you herein are reserved by Quickbase and its licensors. You are authorized to access and use the Service and to otherwise freely use all tools, features, and capabilities of the Service in accordance with these Terms of Service. In order to use the Service, you are responsible at your own expense to acquire access to the World Wide Web, either directly or through devices that access web-based content, and to pay any service fees associated with such access. In addition, you agree to provide all equipment necessary to make such connection to the World Wide Web, including a computer and modem or other access device. You shall not attempt to access any other of Quickbase's systems, programs or data that are not made available for public use by Quickbase.

2. Service Fees.

2.1 Fees.

You agree to pay any applicable fees for the Service plan described on your account page. If (a) the number of users granted access exceeds the number of users purchased, or (b) you exceed the

number of applications, attachments, file space or other plan or package entitlements during the subscription term, Quickbase reserves the right to invoice you for such overage. Quickbase reserves the right to change fees for the Service at any time, at its discretion, with notice to you, which notice may be provided to your email address on file with Quickbase or through your Quickbase account; provided, that any increase in fees shall take effect on the renewal of your then-current subscription term.

2.2 Payment Terms.

Users may have the option to subscribe to a Service plan that provides for (a) monthly or (b) annual payments. For monthly subscriptions, fees shall be due and payable to Quickbase by credit card monthly in advance on the billing date as displayed in the Service. For annual or multi-year subscriptions, fees shall be due and payable to Quickbase by check or wire/ACH transfer within thirty (30) days from the date of Quickbase's invoice and you will be invoiced on an annual basis or about the beginning of your subscription start date agreed to by you in the Quickbase order form for the Service. Quickbase reserves the right to suspend the accounts of customers who fail to make payments on their plan(s). All fees are non-refundable, in whole or in part, even if the Service is suspended, cancelled or transferred prior to the end of your subscription term.

2.3 Taxes

You will be responsible for, and will promptly pay, all taxes and duties of any kind (including but not limited to sales, use and withholding taxes), if any, associated herewith or your receipt or use of the Service, except for taxes based on Quickbase's net income. In the event that Quickbase is required to collect or pay any tax for which you are responsible, Quickbase will invoice you and you will pay such taxes and duties directly to Quickbase. As between you and Quickbase, you will be responsible for collecting and remitting all taxes related to the use of the Service. You will make all payments to Quickbase free and clear of, and without reduction for, any withholding taxes or duties; any such taxes or duties imposed on payments of fees to Quickbase will be your sole responsibility, and you will provide Quickbase with official receipts issued by the appropriate taxing authority, or such other evidence as Quickbase may reasonably request, to establish that such taxes have been paid.

3. Links.

The Service, other Service users, or third parties may provide links to other World Wide Web sites or resources. Because Quickbase has no control over such sites and resources, you acknowledge and agree that Quickbase is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products, or other materials on or available from such sites or resources even if such site or resource provides a product that may be used in connection with the Service or contains advertising associated with Quickbase's name or brand. You further acknowledge and agree that

Quickbase shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such site or resource.

4. Privacy.

For details of Quickbase's Privacy Policy relating to the Service, [click here](#). Questions about Quickbase's Privacy Policy, information practices or other aspects of privacy should be directed to Quickbase, Compliance, 150 CambridgePark Drive, 5th Floor, Cambridge, MA 02141

5. Your Responsibilities.

5.1 Your Registration Obligations.

In consideration for your use of the Service, you agree to provide, promptly update, and maintain true, accurate, current and complete information about yourself in the required fields as prompted by the Service's registration form(s) (such information being the "Registration Data"). If you provide any information that is untrue, inaccurate, not current or incomplete, or Quickbase has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, Quickbase may suspend or terminate your account and refuse any and all current or future use of the Service (or any portion thereof).

5.2 Acceptable Use Policy.

You agree to comply with Quickbase's then-current [Acceptable Use Policy](#) as posted from time to time. By submitting any "Content" to Quickbase, you warrant that: (i) you are the owner of such Content, or have all the rights necessary to submit such Content to Quickbase, and (ii) the use of such Content will not infringe or misappropriate the intellectual property rights of or otherwise violate the rights of any third party. "Content" is defined as all your information or data, any messages or files, pages, data, works, information and/or materials on, within, displayed, linked or transmitted to, from or through the service, including any trade or service marks, images, photographs, illustrations, graphics, audio clips, video clips, email or other messages, metatags, domain names, software and text or other communications or other information, data, text (including but not limited to names of files, databases, directories and groups/workgroups of the same), software, music, sound, photographs, graphics and video transmitted, entered, or stored by you or any of your users using the Service.

5.3 Restrictions.

You agree not to copy, sell, rent or sublicense (including offering the Service to third parties on an application service provider or time-sharing basis), lease, loan, redistribute, or create a derivative work of any portion of the Service (except solely to the extent necessary for you to create and permit your users to use your Applications as permitted under Section 7 of these Terms of Service). Such restrictions do not apply to the Content and Applications you place on

the Service. For the avoidance of doubt, the right to use the Service (a) may be exercised by your agents, representatives, contractors and/or customers that are not competitors of Quickbase; provided, that (i) you require such third parties to execute a written agreement with you that is at least as protective of the Service as this Agreement and which does not grant any greater rights than those granted to you herein and includes all restrictions set forth herein and (ii) you shall be responsible for any breach of this Terms of Service by any such third party. You agree not to access the Service by any means other than through the interface that is provided by Quickbase for use in accessing the Service. You will not, and will not allow third parties, to otherwise directly or indirectly access the Service in a manner intended to avoid incurring licensing fees or other charges including providing access to the Service through a separate system, portal or other interface unless specified in an order form.

5.4 Users; Concurrent Usage Prohibited.

Your right to access and use the Service is limited solely to use by the number of users for which you have purchased a subscription and paid the applicable subscription fees. You may increase the number of users at any time by adding additional users through your account page or via an additional order form. The subscription term for any additional users added will run concurrently with the then current subscription term and the applicable additional subscription fees will be pro-rated based on the remaining then-current subscription term. You are responsible for payment of all subscription fees for users ordered during the subscription term, whether or not such user is active.

Concurrent usage is prohibited. You may only grant access to the Service to those users who have been assigned unique access credentials. A single username or password may not be used by more than one (1) user. Sharing of access credentials by more than one (1) user is prohibited. Only the identified individual associated with unique access credentials can access the Service using such access credentials. You may not provide access and revoke access to user accounts on a daily or other regular basis in order to circumvent subscription fees.

6. Proprietary Rights.

6.1 Content and Applications Submitted to the Service.

You acknowledge and agree that Quickbase does not pre-screen Content or Applications, but that Quickbase and its designees, contractors or subsidiaries (i) shall have the right (but not the obligation) in their sole discretion to refuse or to remove any Content or Applications that are available via the Service, and (ii) are not responsible for such Content. Without limiting the foregoing, and without notice to you, Quickbase and its designees shall have the right to remove any Content and Applications that violate the Terms of Service, is otherwise deemed objectionable by Quickbase in its sole discretion, or to which an allegation of infringement of intellectual property rights has been made, in accordance with the procedure set forth in the Digital Millennium Copyright Act ("DMCA"). You agree that you shall evaluate, and bear all

risks associated with the use of any Content or Applications including any reliance on the accuracy, completeness, or usefulness of such Content or Applications.

6.2 Quickbase Proprietary Rights.

You acknowledge and agree that the Service and its related services and website contain proprietary and confidential information that is protected by applicable intellectual property and other laws, and you agree not to disclose such information to any third party without Quickbase's prior permission. You further acknowledge and agree that content contained in sponsor advertisements or information presented to you through the Service, website or advertisers is protected by copyrights, trademarks, service marks, patents or other proprietary rights and laws. Except for the rights and licenses expressly granted herein, all rights in and to all of the foregoing are reserved by Quickbase and its suppliers. Nothing in this Terms of Service will be deemed to grant to you any right to receive a copy of software underlying the Service, or any other Quickbase technology, in either object or source code form. Further, you acknowledge and agree that Quickbase owns all right, title and interest in and to the Aggregate Information it develops and may use Aggregate Information to provide and improve Quickbase's products and services and for sales, marketing and other business purposes. For purposes of the foregoing, "Aggregate Information" means and includes any information, data and/or metadata derived from your use of the Service that is not specific to a person, does not include personally identifiable information, and cannot be used, alone or in conjunction with other information, to identify any specific person.

In the event you provide Quickbase any ideas, thoughts, criticisms, suggestions, enhancement requests, techniques, know-how, comments, feedback or other input related to the Service (collectively "Feedback"), including in response to any product plans or roadmaps shared with you, unless otherwise agreed in writing prior to such disclosure, you hereby grant to Quickbase a worldwide, royalty-free, fully paid, perpetual, irrevocable license to use, reproduce, modify, translate, distribute, perform, display, import, sell, license, offer for sale, make, have made and otherwise exploit the Feedback in any form, media, or technology, whether now known or hereafter developed, and to allow others to do the same without restriction or obligation of any kind, on account of confidential information, intellectual property rights or otherwise, and may incorporate into its services any service, product, technology, enhancement, documentation or other development ("Improvement") incorporating or derived from any Feedback with no obligation to license or to make available the Improvement to you or any other person or entity.

6.3 Your Proprietary Rights.

You grant Quickbase the right to use Content and Applications inputted by you into the Service only to the extent that Quickbase needs to use such Content and Applications to provide the Service to you and your third party end users. Quickbase does not obtain any right, title or

interest in your Content or Applications, except as specifically granted herein in order to provide the Service to you and your users.

You acknowledge that Quickbase will collect and use certain aggregate data as part of providing, analyzing or improving the Service, or any other Quickbase product or service, from time to time, and for purposes of statistical analysis and marketing metrics.

7. Application Development and Distribution.

As a customer of the Service, Quickbase provides you the opportunity to develop software applications, customizations, enhancements, widgets or tools (“Applications”) for use with the Service. If you are a third party end user of a customer of the Service, you may access and use the Applications subject to the obligations and restrictions set forth herein. These Terms of Service apply to you regardless of where you distribute your Applications. If you request that Quickbase distribute your Applications via Quickbase’s online distribution site, the Quickbase Exchange (“Exchange”), additional supplemental terms (“Supplemental Terms”) apply to you. Please review the Supplemental Terms prior to sharing any Application via the Exchange.

You acknowledge and agree that (i) you are solely responsible for your Application, including compliance with applicable laws and regulations; (ii) Quickbase is not responsible for supporting any Application whether or not such Application is distributed via the Exchange, and even if the Application is used in connection with the Service; (iii) you will be responsible to Quickbase for all damages and expenses that Quickbase incurs for claims or liability arising out of your Application or the use thereof whether or not the Application is distributed via the Exchange; (iv) you will develop Applications that comply with Quickbase’s then current security requirements, including the removal of security vulnerabilities and spy or malware in your Application; (v) you will not, and will require that your end users do not, include any confidential or sensitive information or Content in your Application, including any customer data, that you do not have rights to use or disclose; (vi) you will not use Quickbase’s marks or logos in connection with your Application, including use in any marketing material or website; and (vii) you will not make any false or inaccurate statements or claims regarding your relationship with Quickbase or that Quickbase endorsed or certified your Application. You are solely responsible for all expenses you incur in connection with your development, marketing or distribution of your Application.

If you do not agree with the Supplemental Terms, do not submit your Application to Quickbase for review and distribution via the Exchange. If you do not agree with these Terms of Service, do not submit your Application to the Service.

8. Customer Use of Quickbase Exchange Applications and Third Party Use of Customer Applications.

8.1 Acknowledgement.

You may also have the opportunity to license Applications developed by third parties or customers of the Service from Quickbase via the Quickbase Exchange. Such Applications may be provided to you as a convenience, not as a requirement or condition to use the Service. You acknowledge that while the Applications are intended to work with the Service, Quickbase is not responsible to you or any third parties for the Applications, or any problems caused by the Application that may affect your use of the Service. **By providing the Applications via the Exchange or other Quickbase website, Quickbase does not guarantee or certify that the Applications will function properly for use with the Service. Your sole exclusive remedy is to cease use of the Application.** Nothing in this Section 8 changes your rights and obligations with respect to the Service, or Quickbase's liability to you with respect to the Service.

As a third party end user of a customer, you may have the opportunity to use Applications which are made available to you by a customer via the Quickbase Service. Such Applications are provided to you as a convenience and you are not required to use such Applications or the Service. You acknowledge that Quickbase is not responsible to you or any third parties for your use of, or inability to use, the Service or the Applications, or any problems caused by the Service or the Applications. **DISCLAIMER: Your sole exclusive remedy against Quickbase for any issues arising out of or related to your use of the Service or the Applications is to cease use of the Service and the Applications. These Terms of Service do not grant you any rights or remedies against Quickbase and shall apply to you for the sole purpose of enabling Quickbase to enforce against you the restrictions applicable to the use of the Service which set forth herein. You shall have no rights, remedies or recourse against Quickbase for any reason. If you do not agree with the foregoing, do not use the Applications or the Service.**

8.2 Application License Grant.

By downloading or accessing an Application via the Exchange or the Quickbase Service, Quickbase grants you a limited, non-exclusive, revocable license to (i) use an Application solely with the Service for as long as you are a Quickbase customer or a third party user of a Quickbase customer; and (ii) if you are a Quickbase customer, develop, modify and distribute a variation or an improvement to the Application subject to these Terms of Service and the Supplemental Terms, where applicable. Additional Quickbase terms and conditions ("Additional Terms") may apply to particular Applications if such terms are disclosed to you before you access the Application. Any third-party terms and conditions that accompany the Application which conflict with these Terms of Service, Supplemental Terms, or Additional Terms are null and void. Quickbase reserves all rights not expressly granted to you hereunder. This license does not apply to Applications provided from websites or sources other than the Quickbase Exchange or Quickbase Service.

8.3 Application Restrictions.

You shall not permit any third party to, directly or indirectly: (i) remove or destroy any copyright notices, proprietary markings or confidential legends placed upon or contained within the Application or any copies thereof; or (ii) engage in any activity with the Application that interferes with, disrupts, damages, or accesses in an unauthorized manner the Service, any of its servers, networks, or other properties or services of any third party.

8.4 Reviews.

You may have the opportunity to provide your feedback on Quickbase Exchange Applications and, if you do so, you hereby grant Quickbase a perpetual, worldwide, fully transferable, irrevocable, royalty-free license to use, reproduce, modify, create derivative works from, distribute, incorporate and display the feedback in any manner on any form, medium or technology and for any purpose. You agree that Quickbase may, in its sole discretion, use your feedback in any way, including in future modifications of the Service or Applications, multimedia works and/or advertising and promotional materials relating thereto. Quickbase reserves the right to change, condense or delete any content on its website that it deems, in its sole discretion, to violate the Acceptable Use Policy or any other provision of these Terms of Service. Quickbase does not guarantee that you will have any recourse through Quickbase to edit or delete any Content you have submitted. Quickbase reserves the right to remove or to refuse to post any submission for any reason. You acknowledge that you, not Quickbase or its service providers, are responsible for submissions of Content made to the Service by you or your end users. None of the Content that you or your end users submit shall be subject to any obligation of confidence on the part of Quickbase, its agents, subsidiaries, affiliates, partners or third party service providers and their respective directors, officers and employees.

8.5 Disclaimer.

Neither Quickbase nor the Application developer is obligated to provide you with support or maintenance of any Application whether or not the Application is distributed on the Exchange and even if it negatively impacts your ability to use the Service or destroys your Content. You are solely responsible for selecting an Application based on your own evaluation and requirements. Quickbase does not review or make recommendations of the Applications by distributing or marketing the Applications via the Exchange or the Service or providing a favorable review of the Application on its website or via the Exchange. **All Applications are provided "AS IS" and "AS AVAILABLE" without any express or implied representations or warranties.** You disclaim all liability, claims and damages against Quickbase and the Application developer for any claims arising from the Application, whether or not the Application was distributed via the Exchange and whether or not Quickbase reviewed, approved or provided a favorable review of the Application at any time. **If you do not agree with all these Terms of Service, including the Supplemental Terms and Additional Terms, if any, do not download or access an Application from the Exchange.** Sections 8.1, 8.5, 14.1, 14.4, 14.5, 15(A), 15(D), 15(E), and 15(I) of these Terms of Service apply to all users of Applications made

available through the Service, whether or not such user is a customer of Quickbase and whether or not access to the Application and the Service was provided by Quickbase.

9. Confidentiality.

Each party who accesses and uses the Service or the Exchange and Quickbase (together the "parties") shall keep in confidence all of the information maintained by the Service or the Exchange, as well as any trade secrets, know-how, software, product and technology-related information; customer lists, financial information, sales, marketing and business plans, personal identifiable information such as the names of a party's customers, source code, product roadmap and cost and pricing data, whether or not so marked or identified as confidential or proprietary ("Confidential Information").

All rights, title and interest in and to the Confidential Information shall remain vested in the party disclosing the Confidential Information ("Disclosing Party"). No rights are granted to the party receiving the Confidential Information ("Receiving Party") by license or otherwise, express or implied, to any trademark, trade secret, copyright, invention, discovery, or to any patent covering the invention or discovery, or any other intellectual property right, nor is the Receiving Party granted any rights in or to the Disclosing Party's Confidential information, except the limited right to review the Confidential Information solely in performance under these Terms of Service. All rights relating to the Confidential Information that are not expressly granted to the Receiving Party are reserved and retained by the Disclosing Party. ALL CONFIDENTIAL INFORMATION IS PROVIDED ON AN "AS IS" BASIS, AND ALL REPRESENTATIONS, CONDITIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY AND NON-INFRINGEMENT, ARE DISCLAIMED.

The parties shall (a) take reasonable care to prevent unauthorized disclosure or use of the Confidential Information, but in any case not less than the care it takes to protect its own Confidential Information; prevent any unauthorized access, reproduction, disclosure, or use of any of the Confidential Information; (b) use Confidential Information solely in performance under these Terms of Service; (c) restrict access to Confidential Information to its officers, directors, agents, contractors, employees, or representatives who have a need to know such information and who are prohibited from disclosing the information by a contractual, legal or fiduciary obligation no less restrictive than these provisions, including employees of any legal entity the Receiving Party controls, or is controlled by, or under common control, directly or indirectly, by ownership of fifty percent (50%) or more of the voting shares; (d) not remove any copyright or trademark notice, or indication of confidentiality on Confidential Information; and (e) immediately notify in writing the Disclosing Party in the event of unauthorized use or disclosure of Confidential Information. Subsections (a) through (e) above impose no obligation upon Receiving Party to the extent Receiving Party can demonstrate and document that the Confidential Information was rightfully: (i) known by Receiving Party, without restriction, prior

to its receipt from Disclosing Party; (ii) obtained from a third party that had no obligation of confidentiality; (iii) in the public domain through no improper conduct by Receiving Party; or (iv) independently developed by or for Receiving Party without access to the Confidential Information.

The Receiving Party is only permitted to disclose Confidential Information if required by court order, law or regulation, provided however, that Receiving Party shall: (a) give Disclosing Party written notice promptly upon receipt of such a disclosure requirement before any disclosure is made, if legally permitted, and cooperate should Disclosing Party object to such disclosure; and (b) disclose only the Confidential Information that is required by that law or regulation. The parties shall return (or delete in case of electronic copies of such information) any and all Confidential Information, and all copies thereof, upon the other party's request provided that (i) as to your active Service data and the Content contained therein, you may delete data per standard Service procedures, or only upon e-mail or other written instruction by your account administrator; and (ii) as to backed-up Service data and the Content contained therein, such Service data and/or Content will be automatically deleted over time pursuant to Quickbase's standard back-up procedures for the Service. The parties shall immediately give notice to the other party of any unauthorized use or disclosure of the other party's Confidential Information.

The rights and obligations under this Section 9 shall survive expiration, rescission or termination of these Terms of Service. Notwithstanding anything to the contrary herein, the Receiving Party's obligations to protect Confidential Information received shall continue for five (5) years from the date of disclosure by Disclosing Party.

Nothing in these Terms of Service shall prohibit or restrict either party's right to possess, develop, use, or market products or services, alone or with others, similar to or competitive with those disclosed in the Confidential Information, in compliance with these Terms of Service.

The parties agree that unauthorized use of Confidential Information or other breach of these Terms of Service may cause irreparable harm for which remedies at law would be inadequate, and that a party is entitled to seek equitable relief, in addition to remedies at law.

Quickbase may disclose or report Confidential Information in limited circumstances where it believes in good faith that disclosure is required under the law. For example, Quickbase may be required to disclose Confidential Information to cooperate with regulators or law enforcement authorities, to comply with a legal process such as a court order, subpoena, search warrant, or a law enforcement request.

Do NOT use the Quickbase Service or Applications made available through the Service or Exchange to collect and store credit card numbers. Credit card numbers must be stored pursuant to PCI compliance guidelines, and Quickbase is not PCI compliant. You shall be liable to Quickbase for any damages, fines, penalties and other liabilities Quickbase may incur as a result of your or your users' breach of the foregoing.

10. Audits.

Quickbase shall reasonably cooperate with you (at your cost) or with an applicable regulatory authority in connection with the examination of your Content or other data in your Quickbase accounts by such applicable regulatory authority in connection with an audit or other formal proceeding by such regulatory authority.

11. Registered Entities.

If you are a Registered Entity and permit your affiliates, subsidiaries, employees, and/or any third party access and/or use the Service and/or your Content, you shall be solely responsible for (i) their acts and/or omissions in connection with their access and/or use of the Service and (ii) ensuring that their access and/or use of the Service is in compliance with these Terms of Service, and any and all applicable local laws, rules and regulations. You agree to fully indemnify Quickbase and its affiliates, subsidiaries, licensors, and online service providers (collectively, "Representatives") for any liability, fines, penalties, costs, claims and/or damages incurred by Quickbase and/or the Representatives in connection with any claim related to the access and/or use of the Service and/or your Content by you, your affiliates, subsidiaries, employees or any third-party authorized by you. You agree to notify Quickbase immediately upon discovery of any unauthorized access or use of the Service, or any password or account, or any known or suspected breach of security in connection with the Service.

12. Modifications to the Service or Agreements.

Quickbase reserves the right at any time and from time to time to modify the Service (or any part thereof), the Exchange, or any related service or offering with or without notice. We may assign a specific URL for your use with Quickbase. You understand and agree that we have the right to modify or retire that URL at any time, with reasonable notice to you. In such case, we may assign you a replacement URL. Should Quickbase choose to permanently discontinue the Service, Quickbase (i) will send notification to your Account Administrator via e-mail at least sixty (60) days prior to such discontinuance and (ii) will post notification of this decision on the Service web site at least thirty (30) days prior to such discontinuance. In such instance, you will be responsible for retrieving your data from the Service during the sixty (60)-day period referenced in (i).

Quickbase may establish or revise from time to time general practices and limits concerning your use of the Service consistent with its general practices and limits for its other customers that have purchased the same plan or package, including without limitation: (i) establishing the maximum amount of storage space that you are allotted within the Service at any given time; and (ii) limiting the amount of bandwidth you may use within the Service in a given period of time. Quickbase may limit without notice the volume of email forwarding or file downloading from your database within the Service in response to unreasonable activity (such as spamming or hosting a publicly accessible exchange of large data files) as determined in Quickbase's

reasonable discretion. Quickbase reserves the right to change these general practices and limits at its sole discretion and will make commercially reasonable efforts to provide you with as much notice of such changes as possible, except in the event of an emergency or a material performance, availability, stability, or legal issue affecting the Service.

You agree that Quickbase shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Service, the Exchange, any resulting loss or destruction of any Content that you place on the Service, or removal of an Application from the Exchange. Quickbase may specify from time to time the version(s) of related products required in order to use the Service (e.g., supported browser versions). Quickbase may periodically modify these Terms of Service, the Supplemental Terms, any Additional Terms or any other agreement incorporated herein by reference. In the event Quickbase modifies any terms, Quickbase may post it to the Service web site and may, promptly thereafter, notify your Account Administrator via e-mail that such posting has been made. Your continued use of the Service, or your submission of your Application to Quickbase for distribution via the Exchange, or your download or access to Applications from the Exchange after such modification shall constitute your acceptance of the Terms of Service, any Additional Terms, and/or the Supplemental Terms with the new modifications, as applicable. If you do not agree to any of such changes, you may terminate the Terms of Service, the Additional Terms, and/or the Supplemental Terms, as applicable and immediately cease all access and use of the Service, Application(s) and/or submission of new Applications to Quickbase. In addition, Quickbase may at any time introduce separate Terms of Service for users in certain jurisdictions and require users in these jurisdictions to agree to the separate Terms of Service. In all cases, you and all users agree that termination of the Terms of Service, the Supplemental Terms, any Additional Terms, and any separate Terms of Service, and cessation of all access and use of the Service and Applications provided via the Exchange would be the exclusive remedy if you and such users do not wish to comply with the Terms of Service, the Supplemental Terms or other agreements incorporated therein by reference.

13. Term and Termination.

13.1 Term.

These Terms of Service shall be effective upon registration and thereafter shall continue on either (i) if you are a monthly subscriber, a month-to-month basis with the same number of users and on the same plan until either you or Quickbase provide notice of termination or downgrade to the other at least thirty days prior to your billing date or (ii) if you are an annual or multi-year subscriber, an annual basis with the same number of users and on the same plan until either you or Quickbase provide notice of termination or downgrade to the other at least thirty days prior to the end of your then-current subscription period. Your plan and service entitlements may not be downgraded during the term of your subscription

13.2 Termination by Quickbase.

You acknowledge and agree that Quickbase, in its sole discretion, may suspend or terminate your account and/or deny you access to, use of, or submission of Content for, all or part of the Service, without prior notice and for any reason, including if you engage in any conduct that Quickbase believes: (a) violates the letter or spirit of any term or provision of the Terms of Service or the Supplemental Terms, (b) violates the rights of Quickbase or third parties, or (c) is otherwise inappropriate for continued access and use of the Service. You agree that, upon termination, Quickbase may delete all files and information related to your account and may bar your access to your account and the Service. At your written request within 5 business days of termination Quickbase will provide you with a copy of the most recent data from your Service account. Notwithstanding the foregoing, Quickbase will not provide you access to the most recent data from your Service account if Quickbase believes that such data violates the rights of Quickbase or third parties. Further, you agree that Quickbase shall not be liable to you or any third party for any termination of your access to the Service.

14. Disclaimer of Warranties; Indemnity; LIMITATION OF LIABILITY.

14.1 Disclaimer.

YOU EXPRESSLY UNDERSTAND AND AGREE THAT: (A) YOUR USE OF THE SERVICE, THE EXCHANGE, AND ANY APPLICATIONS INCLUDING SERVICES PROVIDED IN CONNECTION THEREWITH IS AT YOUR SOLE RISK. THE SERVICE, THE EXCHANGE, AND ANY APPLICATIONS, INCLUDING SERVICES PROVIDED IN CONNECTION THEREWITH, ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. Quickbase AND ITS SUPPLIERS EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

(B) Quickbase AND ITS SUPPLIERS MAKE NO WARRANTY THAT (i) THE SERVICE OR ANY APPLICATIONS WILL MEET YOUR REQUIREMENTS OR RESULT IN REVENUES OR PROFITS, (ii) THE SERVICE OR ANY APPLICATIONS WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICE OR APPLICATIONS WILL BE ACCURATE OR RELIABLE, AND (iv) THE QUALITY OF ANY PRODUCTS, SERVICE, APPLICATION, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE, APPLICATION, OR THE EXCHANGE WILL MEET YOUR EXPECTATIONS.

(C) Quickbase WILL USE COMMERCIALY REASONABLE EFFORTS TO PREVENT UNAUTHORIZED ACCESS TO DATA ENTERED INTO "RESTRICTED FIELDS" (DEFINED FOR PURPOSES OF THESE TERMS OF SERVICE AS FIELDS ACCESSIBLE

ONLY VIA LICENSEE-ENABLED AND CONTROLLED PERMISSIONS) WITHIN THE SERVICE. Quickbase AND ITS SUPPLIERS MAKE NO WARRANTY THAT SUCH RESTRICTED FIELDS WILL BE SECURE AGAINST SUCH UNAUTHORIZED ACCESS OR OTHER SECURITY BREACHES CAUSED BY YOUR ACTIONS OR OMISSIONS OR THOSE OF YOUR AFFILIATES. Quickbase AND ITS SUPPLIERS FURTHER MAKE NO WARRANTY IN CONNECTION WITH UPLOAD OR DOWNLOAD OF "SENSITIVE DATA TYPES", DEFINED AS DATA PERTAINING TO (a) THE MANUFACTURE, STORAGE, USE, TRANSPORT, OR DESTRUCTION OF NUCLEAR POWER; (b) ANY CONTROL OF SYSTEMS, PROGRAMS, FACILITIES, EQUIPMENT, OR SOFTWARE USED IN SUCH A MANNER AS TO RESULT IN LIFE OR DEATH; (c) THE DESIGN, MANUFACTURE, ACCESS OR USE OF ANY NAVIGATIONAL GUIDANCE SYSTEM; (d) THE DESIGN, MANUFACTURE, OR USE OF ANY MEDICAL SOFTWARE OR EQUIPMENT USED FOR LIFE SUPPORT; (e) THE OPERATIONS OR ANY CRITICAL FACILITIES BELONGING TO YOU OR YOUR CUSTOMERS; OR (f) ANY MILITARY OR GOVERNMENTAL SECRET OR SENSITIVE INFORMATION.

(D) Quickbase AND ITS SUPPLIERS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, IN CONNECTION WITH THE TERMS OF SERVICE, THE SUPPLEMENTAL TERMS, ANY ADDITIONAL TERMS, THE SERVICE OR ANY APPLICATIONS, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, UNLESS SUCH REPRESENTATIONS AND WARRANTIES ARE NOT LEGALLY EXCLUDABLE. Quickbase EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES THAT YOUR USE OF THE SERVICE OR APPLICATION WILL SATISFY ANY STATUTORY OR REGULATORY OBLIGATIONS, OR WILL ASSIST WITH, GUARANTEE, OR OTHERWISE ENSURE COMPLIANCE WITH ANY APPLICABLE LAWS OR REGULATIONS, INCLUDING BUT NOT LIMITED TO THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA"), THE GRAMM-LEACH-BLILEY ACT OF 1999, THE SARBANES-OXLEY ACT OF 2002, OR OTHER FEDERAL OR STATE STATUTES OR REGULATIONS. YOU ARE SOLELY RESPONSIBLE FOR ENSURING THAT YOUR USE OF THIS SERVICE, RELATED SERVICES, ANY APPLICATIONS OR CONTENT IS IN ACCORDANCE WITH APPLICABLE LAW.

(E) ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE OR THE EXCHANGE IS DOWNLOADED OR OBTAINED AT YOUR OWN DISCRETION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

(F) NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM Quickbase OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS OF SERVICE.

14.2 Representations and Warranties.

Quickbase represents, warrants and covenants that the Service will include the functionality provided in the plan documentation. In the event of a breach of the foregoing warranty, your sole and exclusive remedy and Quickbase's sole liability shall be to modify the Service so that it is conforming or if Quickbase is unable or unwilling to do so, Quickbase may terminate your user account and your subscription to the Service. Further, notwithstanding the foregoing, Quickbase shall have no liability for any nonconformity resulting from your or your users' acts or omissions or from any Content or Applications.

You represent and warrant the following: (i) your use of the Service and/or an Application and your submission of Content does not directly or indirectly infringe, violate or misappropriate the legal rights of a third party, including without limitation any violation of rights of privacy or publicity; (ii) your development, marketing or distribution of your Application and any Content included therein does not directly or indirectly infringe, violate or misappropriate the legal rights of a third party, including without limitation any violation of rights of privacy or publicity; (iii) all information provided by you in connection with your registration is complete, accurate and reliable, and (iv) you will comply with all applicable laws, rules and regulations in connection with your use of the Service, a third party Application or your Application, including without limitation laws, rules, regulations and guidelines with respect to data privacy and security.

14.3 Indemnity.

(A) Quickbase will defend and indemnify the Registered Entity or individual who has accepted the Terms of Service against any action brought against such Registered Entity or individual by a third party to the extent that it is based upon a claim that the Service, as provided by Quickbase to you under this Terms of Service and used within the scope of the Terms of Service, infringes any U.S. copyright, trademark or trade secret, and will pay any costs, damages and reasonable attorneys' fees attributable to such claim that are awarded by a U.S. court of law either by final judgment or settlement against such Registered Entity or individual. Notwithstanding the foregoing, Quickbase shall have no liability for any claims resulting from or arising out of the use of the Service in combination with any applications, hardware, software or other materials not developed by Quickbase or use of the Service in breach of this Terms of Service or in violation of applicable laws, rules or regulations. The foregoing indemnification obligations are conditioned on the Registered Entity: (a) notifying Quickbase promptly in writing of such action, (b) reasonably cooperating and assisting in such defense, and (c) giving sole control of the defense and any related settlement negotiations to Quickbase. The foregoing indemnity provided in this Section 14.3(A) is Quickbase's sole liability to you and your exclusive remedy for claims

of intellectual property infringement. Quickbase shall have no liability or obligations to any user under this provision.

(B) You agree to indemnify and hold harmless Quickbase, its subsidiaries, affiliates and service providers, and its and their directors, officers, agents and employees ("Indemnitees"), from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of your Content or your Application; your use of the Service; your use of an Application or Content included therein; your reviews or feedbacks; your connection to the Service; your violation of the Terms of Service or the Supplemental Terms; or your violation of any proprietary or other rights of another. You further agree and acknowledge that the Indemnitees are not liable or responsible in any way for any errors, omissions or any other actions arising out of or related to your use of the Service. You further agree to indemnify, defend and hold harmless the Indemnitees from and against any and all claims, damages, liabilities, costs, and expenses (including reasonable legal fees and expenses) arising out of, or related to, your use of the Service, Content, an Application or the placement or transmission of any message, information, software or other materials through the Service by you or users of your account or related to any violation of any term of the Terms of Service or Supplemental Terms by you or users of your account.

14.4 Limitation of Liability.

(A) YOU EXPRESSLY UNDERSTAND AND AGREE THAT QUICKBASE AND ITS SUPPLIERS SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF QUICKBASE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR THE INABILITY TO USE THE SERVICE, THE EXCHANGE OR AN APPLICATION; (ii) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICE RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICE PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE OR THE EXCHANGE; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF CONTENT, TRANSMISSIONS OR DATA; (iv) STATEMENTS OR CONDUCT OF ANY THIRD PARTY; (v) LOSS OR CORRUPTION OF DATA, CONTENT OR APPLICATIONS; OR (vi) ANY OTHER MATTER RELATING TO THE SERVICE, THE EXCHANGE, CONTENT OR AN APPLICATION.

(B) YOU ALSO AGREE THAT QUICKBASE WILL NOT BE LIABLE FOR ANY (i) INTERRUPTION OF BUSINESS, (ii) ACCESS DELAYS OR ACCESS INTERRUPTIONS TO THIS SITE OR THE WEB SITE(S) YOU OR THIRD PARTY USERS ACCESS THROUGH THE SERVICE; (iii) DATA OR CONTENT NON-DELIVERY, MIS-DELIVERY, CORRUPTION, DESTRUCTION OR OTHER MODIFICATION; (iv) UNAUTHORIZED

ACCESS TO DATA OR CONTENT ENTERED IN, OR BREACH OF ANY SECURITY MECHANISMS UTILIZED IN, THE SERVICE OR IN ANY RESTRICTED FIELD THEREIN OR AN APPLICATION; (v) COSTS TO PROCURE SUBSTITUTE GOODS OR SERVICES, OR (vi) EVENTS BEYOND QUICKBASE'S REASONABLE CONTROL.

(C) IN NO EVENT SHALL QUICKBASE'S MAXIMUM AGGREGATE LIABILITY EXCEED THE AMOUNT PAID BY YOU TO QUICKBASE FOR THE SERVICE, TO A MAXIMUM AMOUNT EQUAL TO SERVICE CHARGES FOR SIX (6) MONTHS OF THE SERVICE.

(D) Any delay in the performance of any duties or obligations of either party (except the payment of money owed) will not be considered a breach of these Terms of Service if such delay is caused by a labor dispute, strike, shortage of materials, fire, earthquake, flood, terrorism, failure of utility or telecommunications providers, denial of service attack, failure of suppliers, or any other event beyond the control of such party, provided that such party uses reasonable efforts, under the circumstances, to notify the other party of the cause of such delay and to resume performance as soon as possible.

(E) Each party acknowledges that the fees set forth in this Terms of Service reflect the allocation of risk between the parties and that the other party would not enter into this Terms of Service without these limitations on its liability. Neither party shall be responsible or liable for any loss, damage or inconvenience suffered by the other or by any third person, to the extent that such loss, damage or inconvenience is caused by the failure of the other party to comply with its obligations under this Terms of Service.

14.5 Exclusions and Limitations.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CERTAIN CIRCUMSTANCES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS OF SECTIONS 14.1 AND 14.4 MAY NOT APPLY TO YOU.

15. General Information.

(A) THE SERVICE IS NOT OFFERED OR AVAILABLE TO PERSONS UNDER THE AGE OF THIRTEEN (13). Notices to you may be made via either e-mail, regular mail, overnight courier or facsimile at your contact addresses of record for the Service. These Terms of Service are intended for the sole and exclusive benefit of the Registered Entity and Quickbase and is not intended to benefit any third party. Only the Registered Entity and Quickbase may enforce the Terms of Service.

(B) The Service may also provide notices of changes to the Terms of Service or other matters by displaying notices or links to notices to you generally on the Service. If you provide notice to Quickbase, such notice shall be sent to: QuickBase Inc., 150 CambridgePark Drive, 5th Floor, Cambridge, MA 02141

(C) The Terms of Service (and the agreements and policies linked to them) constitute the entire agreement between you and Quickbase and governs your use of the Service, superseding any prior agreements, understandings, negotiations, and discussions, whether oral or written, between you and Quickbase (including, but not limited to, any prior versions of the Terms of Service) with respect to the subject matter herein. Notwithstanding the content of any purchase order, sales order, sale confirmation, or any other document relating to the subject matter herein, the Terms of Service shall take precedence over any such document, and any conflicting, inconsistent, or additional terms contained therein shall be null and void. You also may be subject to additional terms and conditions that may apply when you use affiliate or other Quickbase services, third-party content or third-party software.

(D) Except as otherwise provided herein, the Terms of Service shall be governed by the laws of the Commonwealth of Massachusetts, USA without regard to its conflict of law provisions. Except as otherwise provided in the Terms of Service, you and Quickbase agree to submit to the personal and exclusive jurisdiction of the courts located within the Boston, Massachusetts, USA. The Terms of Service, the Supplemental Terms, the Quickbase Privacy Policy, and the Acceptable Use Policy are in English, which shall be the controlling language of the agreement with you with respect to the Service, and you agree that you fully understand the terms of the same. In addition, all enquiries, support related or otherwise, regarding the Service should be submitted to Quickbase in English, and Quickbase will respond to such enquiries in English only. The Parties expressly disclaim the applicability of the United Nations Convention on Contracts for the International Sale of Goods does and the Uniform Computer Information Transactions Act. The parties irrevocably waive any right to a trial by jury.

(E) The Terms of Service do not limit any rights that Quickbase may have under trade secret, copyright, patent, trademark or other laws. The failure of Quickbase to exercise or enforce any right or provision of the Terms of Service shall not constitute a waiver of such right or provision. If any provision of the Terms of Service is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the Terms of Service remain in full force and effect. You agree that any claim or cause of action arising out of or related to use of the Service or the Terms of Service must be filed within one (1) year after such claim or cause of action arose or be forever barred. The section titles in the Terms of Service are for convenience only and have no legal or contractual effect.

(F) You may not assign your account or your rights under these Terms of Service to a third party without Quickbase's prior written consent. These Terms of Service will be binding upon the parties and their respective successors and permitted assigns.

(G) With respect to any acquisition or use of the Service by or for any unit or agency of the United States Government (the "Government"), the Service shall be classified as "commercial computer software" as that term is defined in the applicable provisions of the Federal Acquisition Regulation (the "FAR") and supplements thereto, including the Department of Defense (DoD) FAR Supplement (the "DFARS"). The Service was developed entirely at private expense, and no part of the Service was first produced in the performance of a Government contract. If the Service is supplied for use by the DoD, the Service is delivered subject to the terms of this Terms of Service and either (i) in accordance with DFARS 227.7202-1(a) and 227.7202-3(a), or (ii) with restricted rights in accordance with DFARS 252-227-7013 (c)(1)(ii)(OCT 1988), as applicable. If the Service is supplied for use by a Federal agency other than the DoD, the Service is restricted computer software delivered subject to the terms of this Terms of Service and (i) FAR 12.212(a); (ii) FAR 52.227-19; or (iii) FAR 52.227-14(ALT III), as applicable. The contractor/manufacturer is QuickBase Inc., 150 CambridgePark Drive, 5th Floor, Cambridge, MA 02141.

(H) All representations, warranties, Sections 4, 6.2, 8.1, 8.5, 9, 13, 14, and 15 in the Terms of Service and Section 6 of the Supplemental Terms shall survive the termination of your account or access to the Service.

(I) Quickbase does not represent that information on the website for the Service is appropriate or available for use in all countries. Quickbase prohibits accessing materials from countries or states where contents are illegal. You are accessing this website on your own initiative and you are responsible for compliance with all applicable laws.

(J) Language. Any translation of these Terms of Service is done for local requirements and in the event of a dispute between the English and any non-English version, the English version of these Terms of Service shall govern. The parties hereby confirm that they agree that these Terms of Service and all related documents be drafted in English.

(K) Export Restrictions. You acknowledge that the Service, including the mobile application, and the underlying software may include U.S. technical data subject to restrictions under export control laws and regulations administered by the United States government. You agree that you will comply with these laws and regulations, and will not export or re-export any part of the Service, in violation of these laws and regulations, directly or indirectly.

(L) Publicity. You agree that Quickbase may issue a press release regarding your use of the Service and that Quickbase may publicly refer to you as a customer of Quickbase, including on Quickbase's website and in sales presentations, and may use your name and logo for such purposes. You may request that Quickbase cease use of your name and logo or otherwise opt out

of the foregoing by notifying Quickbase via email to publicity@quickbase.com and including “Opt Out” in the subject line of your email.

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ORDER OF COMMISSIONERS COURT
Authorizing execution of Agreement

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on the ____ day of _____, 2021 with all members present except _____.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF
MASTER SERVICE AGREEMENT BETWEEN
HARRIS COUNTY AND QUICKBASE, INC.**

Commissioner _____ introduced an order and moved that Commissioners Court adopt the order. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

Vote of the Court	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Judge Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ramsey	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order adopted follows:

IT IS ORDERED that County Judge Hidalgo be and is hereby authorized to execute for and on behalf of Harris County a master service agreement between Harris County and Quickbase, Inc.; for QuickBase Premier subscriptions for multiple County Departments; for a not to exceed amount of Two Hundred Fifty Thousand and No/Dollars (\$250,000.00) annually; commencing upon approval by Commissioners Court and remaining in full force and effect for one (1) year, with two (2) additional one (1) year periods, under the same terms and conditions as the Agreement; said Agreement being incorporated as though fully set forth herein word for word.

All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.