Request for Legislative Action

Completed by County Counselor's Office			
Action Requested:	Resolution	Res.Ord No.:	21376
Sponsor(s):	Venessa Huskey	Legislature Meeting Date:	8/21/2023

Introduction	
Action Items: ['Award', 'Transfer']	
Project/Title:	
Transferring $44,710.63 within the 2023 County Improvement Fund and Awarding a thirty-four (34) month Contract for Certified Payroll/Workforce Reporting Software for use by the Compliance Review Office to LCP Tracker of Orange, CA as a Sole Source Purchase for prevailing wage and workforce monitoring software for the new Jackson County Detention center. At an actual cost to the County in the amount of $44,710.63.	

Request Summary
Ordinance 5743, introduced May 9, 2023, authorized a guaranteed maximum price for the design-build construction for a new Jackson County Detention center to joint-venture JE Dunn-Axiom under RFP 7-22. The construction portion of this project falls under Jackson County Code Chapter 19: Prevailing Wage Program.

The Compliance Review Office requests the purchase of LCP Tracker as a single project service contract for the new Jackson County Detention center to ensure compliance with the contractual requirements outlined above. LCP Tracker was initially purchased in December 2021 through the County's term and supply contract with SHI and was implemented throughout the 2022 fiscal year.

LCP Tracker has offered the County single-project pricing for the new Detention Center for $14,903.54 annually or $44,710.63 over the 3-year estimated project life.

We are requesting an additional $14,903.54 per year, for the next 3 years, for a total of $44,710.63 to take advantage of the special pricing to cover monitoring for the new Detention Center project.

Under this proposal, the County would be able to maintain bulk pricing but also take advantage of the single project pricing for the new Detention Center.

The County will realize significant savings by taking advantage of LCP Trackers single project pricing for the Detention Center.

Current Contract Annual Bulk Pricing   ($14,271 annually x 3 Years) $ 42,813
Bulk Pricing with Detention Center*   ($27,229 annually x 3 Years)   81.687
                                                                                                        124,500

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Discounted Pricing:

Current Contract Annual Bulk Pricing   ($14,271 annually x 3 Years) $ 42,813
Single Project Pricing-Detention Center**   ($14,904 annually x 3
Years)   44,711   (87,524)

36,976
*No Discount
**Includes fees for optional services

SAVINGS $

Pursuant to section 1030.1 of the Jackson County Code, the Compliance Review Office recommends the award of a 34-month contract in the amount of $44,710.63 for Certified Payroll/Workforce Reporting Software to LCP Tracker as a Sole Source Purchaser. Additionally, a transfer within the County Improvement Fund will be required. The awarded contract will run concurrently with design and construction of the new Jackson County Detention Center.

Contact Information

Department:	Legislative Auditor	**Submitted Date:**	8/9/2023
Name:	Jaime Guillen	**Email:**	JGuillen@jacksongov.org
Title:	Chief Compliance Review Officer	**Phone:**	816-881-3370

Budget Information

Amount authorized by this legislation this fiscal year:	$44,711
Amount previously authorized this fiscal year:	$ 0
Total amount authorized after this legislative action:	$44,711
Is it transferring fund?	Yes

Transferring Fund From:

Fund:	Department:	Line Item Account:	Amount:
013 (County Improvement Fund)	1214 (Fac. Mgmt. New Detention Center)	56080 (Other Professional Services)	$44,711

Transferring Fund To:

Fund:	Department:	Line Item Account:	Amount:
013 (County Improvement Fund)	0302 (Legislature - Compliance)	56023 (Compliance Services)	$44,711

Prior Legislation

Prior Ordinances

Ordinance:	Ordinance date:
5743	May 9, 2023

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Prior Resolution	
Resolution:	Resolution date:

Purchasing	
Does this RLA include the purchase or lease of supplies, materials, equipment or services?	Yes
Chapter 10 Justification:	Sole Source
Core 4 Tax Clearance Completed:	Not Applicable
Certificate of Foreign Corporation Received:	Not Applicable
Have all required attachments been included in this RLA?	Yes

Compliance

Certificate of Compliance

In Compliance

Minority, Women and Veteran Owned Business Program

Goals Not Applicable for following reason: Sole Source

MBE:	.00%
WBE:	.00%
VBE:	.00%

Prevailing Wage

Not Applicable	

Fiscal Information

- Funds sufficient for this appropriation and/or transfer are available from the source indicated on the budget information tab.

Request for Legislative Action

History
Submitted by Legislative Auditor requestor: Jaime Guillen on 8/9/2023. Comments:

Approved by Department Approver Cindy L. Wallace on 8/10/2023 9:22:42 AM. Comments:

Returned for more information by Purchasing Office Approver Barbara J. Casamento on 8/10/2023 9:33:36 AM. Comments: Please remove the cents from your budget figures - whole dollar amounts only

Submitted by Requestor Jaime Guillen on 8/10/2023 12:16:53 PM. Comments: Changed to whole dollars. Included 3 year pricing & savings in narrative.

Approved by Department Approver Cindy L. Wallace on 8/10/2023 1:30:13 PM. Comments:

Approved by Purchasing Office Approver Barbara J. Casamento on 8/10/2023 1:39:36 PM. Comments:

Approved by Compliance Office Approver Ikeela Alford on 8/10/2023 2:32:40 PM. Comments:

Approved by Budget Office Approver David B. Moyer on 8/14/2023 10:55:58 AM. Comments:

Approved by Executive Office Approver Sylvya Stevenson on 8/15/2023 10:48:26 AM. Comments:

Approved by Counselor's Office Approver Jamesia Manning on 8/17/2023 11:33:32 AM. Comments:

Fiscal Note:

Funds sufficient for this transfer are available from the sources indicated below.

PC# _____

Date: August 11, 2023

RES # 21376
eRLA ID #: 1045

Org Code/Description		Object Code/Description		From	To
013	**County Improvement Fund**				
1214	Fac Mgmt - New Detention Center	56080	Other Professional Services	$ 44,711	$ -
0302	Legislature - Compliance	56023	Compliance Services		44,711
				$ 44,711	$ 44,711

Fiscal Note:

This expenditure was included in the Annual Budget

PC# _____

Org Code/Description		Object Code/Description		Not to Exceed
013	**County Improvement Fund**			
0302	Legislature - Compliance	56023	Compliance Services	$ 44,711
				$ 44,711

APPROVED
By David Moyer at 8:15 am, Aug 11, 2023

Budget Office

OFFICE OF THE COUNTY AUDITOR
COMPLIANCE REVIEW OFFICE
415 E 12TH STREET, 2ND FLOOR
KANSAS CITY, MISSOURI 64106

(816) 881-3302
FAX (816) 881-3340
CRO@JACKSONGOV.ORG
WWW.JACKSONGOV.ORG/AUDITOR

MEMORANDUM

DATE: **August 9, 2023**

FROM: **Melinda Bolling, Senior Compliance Review Officer** *MB*
TO: **Barbara Casamento, Purchasing Administrator**

SUBJECT: **Sole Source Request – LCP Tracker**

LCP Tracker, of Orange, CA provides the software utilized by the Compliance Review Office to oversee compliance related to contracts with prevailing wage requirements. This software provides a platform through which contractors report payroll as required by Chapter 19 of the Jackson County code.

LCP Tracker was initially purchased in November 2021 through the County's term and supply contract with SHI and was implemented throughout the 2022 fiscal year. The contract was approved as a purchase utilizing a contract which was competitively bid by another government entity.

The Compliance Review Office requests the single-project purchase of LCP Tracker as a sole source purchase. To bid and implement new software would be cost prohibitive from both the financial and human capital perspective.

Funds will be transferred from:

Account: 013-1214-56080
        County Improvement Fund-Facilities Management New Detention Center-Other Professional Services

Quote for Labor Compliance Software

Prepared by:

Name: Lynn Ross
Email: lross@lcptracker.com
Phone: 810-620-1557

Prepared for:

Company Name: Jackson County, Missouri (Detention Center Project)
Company Contact: Jaime Guillen

Quotation Date: May 9, 2023
Quotation Expiration Date: November 9, 2023

LCPtracker

OVERVIEW

LCPtracker Professional is a powerful cloud-based, prevailing wage and workforce compliance and management solution. It is very useful for Agencies and Prime Contractors working on construction projects who need to generate certified payroll reports and may need to track and enforce detailed worker information for compliance and workforce reporting. The software is comprehensive, easy to deploy, configurable, user-friendly, highly scalable, and time-tested in thousands of construction projects throughout the nation.

The core LCPtracker validation system checks payrolls for local, state, and federal Davis-Bacon wage and labor compliance by looking for error or omission discrepancies the contractor may have on a report. Our software streamlines the process of inputting payrolls for contractors by interfacing with top payroll companies by a simple three-step manual reporting process. Administrators can easily view, approve, or reject payrolls and provide immediate feedback to contractors.

LCPtracker clients recognize these key benefits: time savings for the agency, prime and subcontractor, cost savings by reducing the administrative work, a secure cloud-based, highly automated system that streamlines processes, a dramatic reduction of the risk of fines and negative audits, and world-class support by the LCPtracker Support team.

DATABASE

LCPtracker, Inc. consists of a four-module database including, a contractor database, an administrator database, a prime approver database, and a prevailing wage database. These four databases work together to provide a web-based program to capture, check, and report on Certified Payroll Reports, as well as other related data and reporting.

VALIDATION PROCESS AND DATA CHECKING

This is one of LCPtracker's most significant advantages because it helps to protect the client and can assist in avoiding potential lawsuits. A prime feature of LCPtracker is a mathematical and logical check of all certified payroll data. Validations are checks that are performed on the payroll data submitted by the contractor. With over 18 years of testing, LCPtracker has refined the ability to test the validity of data entered and helps you to check that only complete and accurate data is entered using over 80 validation tests. Administrators select which validations they prefer to use and can add to them as needed.

eDOCUMENTS & REPORTING

eDocuments allows the administrator to create standard document submittals that are electronically uploaded. Any type of files or documents can be tracked in the labor compliance database. LCPtracker has extensive, pre-built reporting functions. These reports are designed to provide the contractors and the administrative users with information that increases the efficiencies of all aspects of a Labor Compliance Program.

PREVAILING WAGE MAINTENANCE

LCPtracker offers a service to maintain wage updates to your database. The following are the terms related to this service:

- Client must send LCPtracker (via email) all new Federal, State, County or City wage determinations to be loaded; links to the wage determination website are acceptable.
- If wage maintenance of a State, County or City wage determination is selected, LCPtracker will check bi-weekly for updates, and make the change within five (5) business days.
- Client is responsible for doing the craft matching if it is a State vs. Davis-Bacon wage comparison.
- Client is responsible for assigning wages to projects.

- If wage maintenance of a federal wage determination is selected, LCPtracker will check weekly for all new modifications, and update within five (5) business days.
- This service is billed annually in advance. If additional, new wage determinations are needed during the year, adjustment invoices are created.
- Client must notify LCPtracker of termination of any wage maintenance agreements.
- Client must verify accuracy of wages.

SOFTWARE UPGRADES

LCPtracker subscription includes all related updates that are part of the core LCPtracker functionality. Updates are performed to client databases during off-peak times and clients are notified on the client login banner page when updates have been applied. Typically, there are monthly updates and new features that are part of these updates (documentation is provided within the client training portal).

PRICE QUOTE

LCPtracker Pro – Single Project Pricing	Frequency	Service Fee
Single Project Pricing - Annual Access Service Fee		

PHASE 1 – Detention Center Project (June 2023 – May 2024)
For Construction Capacity: Project $100 Million to $250 Million
 	
Single Project Annual Access Fee comprising:
  • Unlimited administrative Users at no cost to Client
  • Unlimited contractor Users at no cost directly to Client
  • Administrator phone, email, and Live Chat technical software support as needed (not training).
  • Contractor email and "Live Chat" technical software support as needed (not training).
  • Unlimited administrator and registered contractor User access to on-demand, pre-recorded web training videos during the Term
 	
This is an annual fee for each project entered into the Services. For projects longer than the one (1) year standard subscription period, but with Client data stored by LCPtracker for less than eighteen (18) months, a six (6)-month prorated Service Fee applies for the first six (6) months of the succeeding year, but at a 10% premium (due to our pricing being priced out at a one-year term
	Annual	$11,350.00

PHASE 1 – Detention Center Project (June 2023 – May 2024) **For Construction Capacity:** Project $100 Million to $250 Million Annual Access Fee for OnSite Module	Annual	$2,300.00

PHASE 2 – Detention Center Project (June 2024 – May 2025)
For Construction Capacity: Project $100 Million to $250 Million
 	
Single Project Annual Access Fee comprising:
  • Unlimited administrative Users at no cost to Client
  • Unlimited contractor Users at no cost directly to Client
  • Administrator phone, email, and Live Chat technical software support as needed (not training).
  • Contractor email and "Live Chat" technical software support as needed (not training).
  • Unlimited administrator and registered contractor User access to on-demand, pre-recorded web training videos during the Term
 	
This is an annual fee for each project entered into the Services. For projects longer than the one (1) year standard subscription period, but with Client data stored by LCPtracker for less than eighteen (18) months, a six (6)-month prorated Service Fee applies for the first six (6) months of the succeeding year, but at a 10% premium (due to our pricing being priced out at a one-year term
	Annual	$11,917.50

PHASE 2 – Detention Center Project (June 2024 – May 2025) **For Construction Capacity:** Project $100 Million to $250 Million Annual Access Fee for OnSite Module	Annual	$2,415.00

PHASE 3 – Detention Center Project (June 2025 – May 2026)
For Construction Capacity: Project $100 Million to $250 Million
 	
Single Project Annual Access Fee comprising:
  • Unlimited administrative Users at no cost to Client
  • Unlimited contractor Users at no cost directly to Client
  • Administrator phone, email, and Live Chat technical software support as needed (not training).
	Annual	$12,567.38

• Contractor email and "Live Chat" technical software support as needed (not training). • Unlimited administrator and registered contractor User access to on-demand, pre-recorded web training videos during the Term This is an annual fee for each project entered into the Services. For projects longer than the one (1) year standard subscription period, but with Client data stored by LCPtracker for less than eighteen (18) months, a six (6)-month prorated Service Fee applies for the first six (6) months of the succeeding year, but at a 10% premium (due to our pricing being priced out at a one-year term		
PHASE 3 – Detention Center Project (June 2025 – May 2026) **For Construction Capacity:** Project $100 Million to $250 Million Annual Access Fee for OnSite Module	Annual	$2,535.75
TOTAL SERVICE FEES*		**$43,085.63**

Optional Services		
Wage (prevailing, union or living) Data Entry & Maintenance Pricing:	Hourly, if needed	$125.00
Web-Based Admin Training (June 2023)	Per Session	$750.00
Web-Based Contractor Training (June 2023)	Per Session	$500.00
*Sales tax will be added per your state law at final invoicing.		

LCPTRACKER ANNUAL SERVICE FEE FOR ACCESS TO LCPTRACKER PRO INCLUDES:

- Unlimited administrative user access.
- Unlimited contractor access (at no cost directly to the Client).
- Administrator phone, email, and Live Chat technical software support as needed (not training).
- Contractor email and "Live Chat" technical software support as needed (not training).
- Unlimited contractor and administrator access to on-demand, pre-recorded web training videos.

PAYMENT TERMS

1. Payment is due upon receipt of invoice.
2. LCPtracker reserves the right to increase fees with 30 days' notice.
3. Sales tax will be added per your state law at final invoicing.

CONDITIONS

- The general terms and conditions of the LCPtracker SaaS Agreement apply to any services ordered from LCPtracker.
- This Quote is effective only until the expiration date, and a signed LCPtracker SaaS Agreement is required to make it binding.
- Any work requested outside of the services detailed in this Quote will be subject to a separate evaluation, analysis, and invoicing.

LCPtracker

SINGLE PROJECT PRICING PRODUCT SCHEDULE, dated as of June 1, 2023 ("Product Schedule"), to the Master Subscription Software as a Service Agreement, dated as of November 3, 2021 (the "Agreement") between LCPtracker and Client

Terms not defined herein shall have the meaning ascribed to them in the Agreement unless a new definition is provided herein. The address for invoicing the Client is by email at JGuillen@jacksongov.org attn Jaime Guillen (Client to inform LCPtracker in writing thirty days in advance if this changes). Both parties hereto that LCPtracker is providing access to the following Services subject to the terms and conditions of the Agreement and this Product Schedule as follows:

A. SERVICES

LCPtracker Pro – Single Project Pricing	Term	Price
Single Project Pricing - Annual Access Fee		
Phase 1 of Detention Center Project (June 2023) **Capacity:** Project $100 Million to $250 Million This is an annual fee for each project entered into the Services. For projects longer than the one (1) year standard subscription period, but with Client data stored by LCPtracker for less than eighteen (18) months, a six (6)-month prorated Service Fee applies for the first six (6) months of the succeeding year, but at a 10% premium (due to our pricing being priced out at a one-year term cost).	Annual	$11,350.00
Phase 1 of Detention Center Project (June 2023) **Capacity:** Project $100 Million to $250 Million Annual Access Fee for OnSite Module	Annual	$2,300.00
Optional Services		
Wage (prevailing, union or living) Data Entry & Maintenance Pricing:	Per Hour	$125.00
Web-Based Admin Training	Per Session	$750
Web-Based Contractor Training	Per Session	$500
Sales tax will be added per your state law at final invoicing.		

B. SINGLE PROJECT PRICING TABLE

The Service Fees below for Single Project Pricing are priced in accordance with the accurate Construction Award Total for each project indicated (Client responsibility) as "*Open/Active*" projects in the Services for Client and its Affiliates during the one-year period of each applicable Subscription Term. Each one-year term for each project entered into the Services begins on the date of entry of that project into the Services and renews on the yearly anniversary of the relevant project entry into the Services.

Single Project Service Fee (2023 Standard Pricing) for Administrator access to the Services (upon reaching the applicable tier) per each construction project annually			
Construction Award Total for the construction project in the annual period of the Subscription Term	LCPtracker Professional Annual Access Service Fees	Daily Reporter Add-on Module Annual Access Service Fees	Onsite Add-on Module Annual Access Service Fees
Under $5 million in construction costs	$1,350	$750	$650
Project $5 million to under $10 million	$2,850	$1,450	$950
Project $10 million to under $25 million	$4,100	$2,100	$1,150
Project $25 million to under $50 million	$5,350	$2,750	$1,600
Project $50 million to under $100 million	$7,750	$3,900	$1,800

Ver LCP.V4.22

Project $100 million to under $250 million	$11,350	$5,650	$2,300
Project $250 million to under $500 million	$13,850	$6,950	$3,450
Project $500 million to $1 billion	$16,700	$8,400	$4,600
Project over $1 billion to $2 billion	$20,250	$10,200	$6,100
Add this fee for every $500 million over $2 billion in Construction Award Total for each project	$3,800	$1,900	$400

****"**Construction Award Total**" means for each construction project the amount in the "*Budget*" field, which is required to reflect the correct total updated construction bid award amount for the relevant project including change orders. This calculation is done monthly by LCPtracker. If a project is closed and no longer marked "*Active*", the project will no longer be counted in that month's open active projects.

C. CONSTRUCTION AWARD TOTAL

(a) The original winning bid amount for Client's construction project must be provided by Client to LCPtracker so it may be entered accurately in the relevant project "*Budget*" field in the LCPtracker Professional services platform. The winning bid amount must be updated by Client if change orders exceed 25% of the original total project winning bid amount for the relevant project (through written requests to LCPtracker Support Department – support@LCPtracker.com)

(b) Failure by Client or their Affiliates to accurately update LCPtracker Support Department about changes to Budget field for any applicable project will be a material breach under the Agreement and will not remove the Client's obligation to pay the amounts due for the Services based on an accurate "*Budget*" field.

(c) Periodically LCPtracker performs audits of project "*Budget*" fields to ensure accuracy and may reach out to Client to confirm the project "*Budget*" amounts accuracy. Failure by Client to timely respond to a request for information in relation to any such audit will allow LCPtracker to adjudicate that labor wages will account for 25% of the supplied project "*Budget*" amount and amend the relevant "*Budget*" amount accordingly in the Services. Client will be free to dispute this value with LCPtracker by providing accurate information in relation to Construction Award Total at any time.

D. PAYMENT TERMS

(a) Service Fees due under this Product Schedule are due on the date hereof or on the yearly anniversary hereof unless provided otherwise.

(b) Service Fees for access to the Services for any construction project will change if one of the following events occurs: (i) if the "*Budget*" amount for any construction project entered in LCPtracker during the then current year of the Subscription Term exceeds the Construction Award Total level purchased for that construction project for that year (Client will then be invoiced for an amount equal to the difference between the Construction Award Total level provided for that Subscription Term and the level for which the current Construction Award Total applies, prorated for the number of months remaining in the then current Subscription Term for that construction project. This invoice shall be due and payable upon receipt. The new rate will then be applicable to the immediately following Subscription Term); (ii) the Construction Award Total increases beyond the previously purchased level at the time of renewal; or (iii) a notice is given to Client pursuant to D(e) below.

(c) Fees for optional additional professional services to be included into the Services shall be invoiced and due upon delivery of the applicable service at the then current pricing of LCPtracker, unless any such service exceeds thirty (30) days, then invoices will be rendered at the end of each month and payable upon receipt thereof by Client by email.

(d) Client is responsible for closing each construction project upon the completion of such project in order for it not to be included in the succeeding Subscription Term. Closing a project does not pause billing for that project for that one-year period.

(e) The prices and terms of this Product Schedule are subject to change at the sole discretion of LCPtracker. A thirty (30) day notice will be provided to Client of such changes by an email to the Client contact and will only become effective to Client on said renewal date.

(f) If Client has no active projects at the time of a yearly renewal and Client wishes to keep its account open (in such case the then current LCPtracker active database fee shall apply).

(g) *Sales tax will be added per your state law at final invoicing.

E. ADDITIONAL TERMS: (if any)

1. The Parties agree that Client shall serve as the business or controller and LCPtracker shall serve as the service provider or processor, as those terms are defined under applicable law. LCPtracker, as a service provider on behalf of Client, shall not access, use, process or retain Client Data containing PII except as necessary to perform its obligations under this Product Schedule except in strict accordance with the written instructions of Client, or as otherwise required for LCPtracker to meet its own legal obligations under applicable law. Notwithstanding the foregoing, LCPtracker may use, disseminate, and otherwise process deidentified or aggregated Client Data to the full extent allowed under applicable law and pursuant to its own discretion. LCPtracker shall use reasonable endeavors to notify Client in the event that it receives any consumer rights requests under Applicable Law, if the requestor informs LCPtracker of the relevant employing entity who is also the Client, and the Client shall have the sole responsibility in responding to such requests, and also for ensuring the requestor's identity.

2. Client is solely responsible for its and its Users' compliance with all Applicable Law in the use of the Services and LCPtracker shall have no liability for Client's or its Users' input of data or use of the Services. Client agrees that that Client (a) will confirm the accuracy of any bulk upload/API/data migration/auto-geo assignment integration into the LCPtracker system, and (b) further understands that bulk uploads/API/data migration/auto-geo assignments are

effective only as of the date of the upload(s)/migration(s). Client accepts that auto-geo assignments are automatically corrected by Microsoft based upon the co-ordinates in the KML file supplied by Client to LCPtracker, and further the accuracy of data subject location has some inaccuracy due to combining pure mapping co-ordinates (or deficiencies within those co-ordinates) with residential locations.

LCPtracker, Inc.

By: _____

Name: __Kris Vincil_____

Title: __Sales Director, Recurring Sales_____

Date: _____

Client: Jackson County, Missouri

By: _____

Name: _____

Title: _____

Date: _____

LCPtracker

LCPtracker, Inc.
Master Subscription Software as a Service Agreement

THIS MASTER SUBSCRIPTION SOFTWARE AS A SERVICE AGREEMENT (**"Agreement"**) is entered into as of **November 3, 2021** (the **"Effective Date"**) between LCPtracker, Inc., with a place of business located at 117 East Chapman, Orange, California 92866 ("**LCPtracker**") and **Jackson County, Missouri** with a place of business located at **415 E 12th St., Kansas City, MO 64106** and its Affiliates (**"Client"**, together with LCPtracker the "**Parties**", and each a "**Party**"). The Parties agree as follows:

1. DEFINITIONS.

a. "Affiliate" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. Control, for purposes of this definition, means direct or indirect ownership or control of more than fifty percent (50%) of the voting interests of the subject entity.

b. "Aggregated Statistics" means data and information related to Client's and Users' use of the Services that is used by LCPtracker in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Services.

c. "Applicable Law" means all federal, state, local and other laws, rules and regulations, ordinances, interpretive letters and other official releases of or by any governmental authority, decrees, orders and codes as the same are amended from time to time and as are applicable to a Party's performance of its obligations under the Agreement, including any applicable law relating to the privacy or processing, protection, collection, use, or disclosure of personally identifiable information as more particularly described in any such applicable law.

d. "Client Data" means all Client and User electronic information entered into the Services.

e. "Documentation" means this Agreement, the applicable Product Schedule, and (i) for LCPtracker Professional, the online user guide (Administrator Manual or Contractor Manual as appropriate) for the Services, accessible via login at LCPtracker online, and updated from time to time, or (ii) for Workforce Manager, the LCPtracker guides entitled "*How to Access Workforce Manager*", "*Creating a New Administrator Profile*" and "*WFM How to reset your password*", that are supplied to Client on request, are accessible via login at LCPtracker online, and that may be updated from time to time. Updates of the Documentation in Section 1(e)(i) and (ii) are in LCPtracker's sole discretion.

f. "LCPtracker IP" means the Services, the Documentation, and any intellectual property provided to Client or any User in connection with the foregoing. For the avoidance of doubt, LCPtracker IP includes Feedback and Aggregated Statistics, as provided herein. Herein, "intellectual property rights" means any registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, or trade secret or intellectual property rights laws in any part of the world.

g. "Malicious Code" means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

h. "Product Schedule" means the document(s) for placing orders hereunder signed by both Parties and made a part hereof. By entering into a Product Schedule hereunder, a Client Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto. To be effective a Product Schedule must be signed by both parties to the Product Schedule.

i. "PII" means (i) information about an identified or identifiable individual or household as more particularly described in any Applicable Law in any way relating to privacy and the protection, collection, use, disclosure or distribution of personally identifiable information, including without limitation to the generality of the foregoing, personally identifiable healthcare information or personally identifiable financial information, or (ii) where no Applicable Law applies, means any information that by itself or when combined with other information (such as, but not limited to, names, addresses, telephone numbers, e-mail addresses, credit card number, demographic information, static IP address and government issued identification number) can be used to identify a specific living natural person or household.

j. "Services" means any LCPtracker software as a service products and related services that are ordered by Client under a Product Schedule and made available by LCPtracker online via the Client login or otherwise. "Services" excludes non-LCPtracker applications or software of any kind.

k. "Service Fees" means the fees payable for the Services that are chosen in the applicable Product Schedule.

l. "Subscription Term" means the applicable term as set forth on the applicable Product Schedule for the Services.

m. "Third-Party Products" means any third-party products that Client or a User uses to connect with the Services.

n. "Users" means persons who are authorized by Client to use the Services, for whom subscriptions to a Service have been ordered, and who have been supplied user identifications and passwords by Client or by Users. Client must ensure that Users not share their user identification or passwords and further protect them. Users may include but are not limited to Client and its Affiliates' employees, consultants, contractors and agents and use is solely for the

benefit of Client/User in connection with the project detailed in the Product Schedule.

2. SERVICES

2.1. Provision of Services. Subject to and conditioned on Client's and its Users' compliance with the terms and conditions of this Agreement, LCPtracker hereby grants Client a non-exclusive, non-transferable (except in compliance with Section 2.3) right to access and use the Services during the applicable Subscription Term solely for use by Client and Users in accordance with the Documentation for their internal business purposes. Client agrees that Client's access to Services hereunder is neither contingent on the delivery of any future functionality or features nor dependent on any oral/written public comments made by LCPtracker regarding future functionality/features. LCPtracker hereby grants to Client for the applicable Subscription Term a non-exclusive, non-sublicensable, non-transferable (except in compliance with Section 2.3) and revocable license to use the relevant Documentation and any other manuals, instructions, or other materials that LCPtracker makes available to Client which describe the features/requirements of the Services solely for Client's internal business purposes in connection with its permitted use of the Services.

2.2. Limitations. Client will not (and will not permit any third party or User to): (i) modify (except as expressly permitted under the applicable Product Schedule), port, translate, localize or create derivative works based on the Services, (ii) use, copy, sell, rent, lease, market, distribute or sublicense the Services except as otherwise specifically permitted hereunder; (iii) reverse engineer, decompile, or disassemble the Services; (iv) access the Services in order to build or contribute to a competitive product or service, (v) access the Services in any manner that violates any intellectual property right of a third party, (vi) remove, or allow to be removed, any LCPtracker proprietary rights notice from any LCPtracker product, (vii) disclose the results of performance tests run on the Services to any third party without LCPtracker's prior written consent, (viii) make the Services available to anyone other than Users, (ix) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (x) use the Services to store or transmit Malicious Code, (xii) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (xiii) attempt to gain unauthorized access to the Services or their related systems or networks. This Agreement grants no additional express or implied license, right or interest in any copyright, patent, trade secret, trademark, invention or other intellectual property right of LCPtracker that is not expressly granted herein. Client shall; (a) be responsible for the administration of User identifications and passwords and Users' compliance with this Agreement and shall require Users to acknowledge their understanding of and compliance with the restrictions and responsibilities related to the use of the Services, including, without limitation, protecting their User identification and passwords and compliance with all Applicable Laws; (b) use their best efforts to prevent unauthorized access to or use of the Services, and notify LCPtracker promptly of any unauthorized access or use, and (c) use the Services only in accordance with the Documentation and Applicable Laws. If Client becomes aware of any actual or threatened activity prohibited by this Section, Client shall, and shall cause its Users to, immediately: (A) take all reasonable and lawful measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Services); and (B) notify LCPtracker immediately in writing of any such actual or threatened activity.

2.3. Users. Client may permit any number of Users (unless otherwise set forth in the applicable Product Schedule) to use the Services; (i) in accordance with the terms of the applicable Product Schedule and the Documentation, and (ii) through a unique and reasonably secure username and password. If a two-factor authentication login system is provided, it is required to be used. Client is responsible to ensure that its Users comply with all the same obligations regarding use of the Services that it is bound by hereunder.

2.4. Use of Services Client is solely responsible for its and its Users' compliance with all Applicable Law in the use of the Services and LCPtracker shall have no liability for Client's or its Users' input of data or use of the Services. Client agrees that that Client (a) will confirm the accuracy of any bulk upload/API/data migration integration into the LCPtracker system, and (b) further understands that bulk uploads/API/data migration are effective only as of the date of the upload(s)/migration(s). Client agrees to not directly send any PII by email or otherwise (to LCPtracker outside of the LCPtracker SaaS Services product offering) without prior written approval from the LCPtracker Director of Client Services.

2.5 Changes. LCPtracker reserves the right, in its sole discretion, to make any changes to the Services that it deems necessary or useful to: (a) maintain or enhance: (i) the quality or delivery of LCPtracker's services to its customers; (ii) the competitive strength of or market for LCPtracker's services; or (iii) the Services' cost efficiency or performance; or (b) to comply with Applicable Law.

2.6. Data Backup. The Services are programmed to perform routine data backups as set out in LCPtracker's backup policy in effect from time to time (the **"Backup Policy"**). In the event of any loss, destruction, damage, or corruption of Client Data for any reason, LCPtracker will, as its sole obligation and liability and as Client's sole remedy, restore the Client Data from LCPtracker's then most current backup of such Client Data in accordance with the then current Backup Policy. It is the Client and the Users responsibility to maintain their own back-ups of their original data for the required statutory periods.

2.7. Client Control and Responsibility. Client has and will retain sole responsibility for: (a) all Client Data, including its content and use; (b) all information, instructions, and materials provided by or on behalf of Client or any User in connection with the Services; (c) Client's information technology infrastructure, including computers, software, databases, electronic systems (including database management systems), and networks, whether operated directly by Client or through the use of third-party services ("**Client Systems**"); (d) the security and use of Client's and its Users' access credentials; and (e) all access to and use of the Services directly or indirectly by or through the Client Systems or its or its Users' access credentials, with or without Client's knowledge or consent, including all results obtained from, and all conclusions, decisions, and actions based on, such access or use.

3. FEES AND PAYMENT FOR SERVICES

3.1. Service Fees. Except as otherwise specified herein or in the Product Schedule, payment obligations are non-cancelable, and Service Fees paid are non-refundable (except as expressly stated herein or a Product Schedule). Service Fees are based on the start date as set forth in the Product Schedule and shall continue for the Subscription Term. All undisputed amounts payable to LCPtracker under this Agreement shall be paid by Client to LCPtracker in full when due without any setoff, deduction, or withholding for any reason.

3.2. Invoicing and Payment. If required by Client, Client may provide LCPtracker with a valid purchase order or alternative document reasonably acceptable to LCPtracker, provided that no terms contained on Client's purchase order or alternative document will serve to modify the terms of this Agreement or the applicable Product Schedule. Unless otherwise stated in the Product Schedule, payment is due by check to the address listed above for LCPtracker net 30 days from the date of the applicable invoice.

3.3. Overdue Payments. If any Service Fees are not received from Client by the applicable due date, then at the sole discretion of LCPtracker (a) such charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is higher, from the date such payment was due until the date paid, and/or (b) LCPtracker may without limiting it other rights and remedies, suspend Client's access to the Services until payment is made in full. LCPtracker will give Client at least thirty (30) business days' prior written notice that Client account is overdue, in accordance with Section 11.1 (Notices), before suspending the Services to Client.

3.4. Payment Disputes. If Client provides written notice to LCPtracker of a dispute about any portion of an invoice prior to the applicable payment due date, LCPtracker shall not exercise its rights under Section 3.3 provided Client is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.

3.5. Taxes. Unless otherwise stated, Service Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, **"Taxes"**). Client is responsible for paying all Taxes, if any, associated with Client purchases hereunder, other than those based on LCPtracker's income. If LCPtracker has the legal obligation to pay or collect Taxes for which Client is responsible under this paragraph, the appropriate amount shall be invoiced to and paid by Client, unless Client provides LCPtracker with a valid tax exemption certificate authorized by the appropriate taxing authority.

3.6. Auditing Rights and Required Records. Client agrees to maintain complete and accurate records in accordance with generally accepted accounting principles during the Term and for a period of two years after the termination or expiration of this Agreement with respect to matters necessary for accurately determining amounts due hereunder. LCPtracker may, at its own expense, on reasonable prior notice, periodically (during, or after the Term for a period of two (2) years) inspect Client's records with respect to matters covered by this Agreement, provided that if such inspection reveals that Client has underpaid LCPtracker with respect to any amounts due hereunder, Client shall promptly pay the amounts necessary to rectify such underpayment, together with interest in accordance with this Agreement. Client shall pay for the reasonable costs of the audit if the audit determines that Client's underpayment exceeds 10% of sums due for any quarter.

4. PROPRIETARY RIGHTS

4.1. Reservation of Rights. The Services are not sold to Client or any third party. LCPtracker reserves all rights, title, and interest in and to Services and its underlying software covered by this Agreement, including but not limited to all related intellectual property rights. No rights are granted to Client hereunder (whether by waiver, implication, estoppel, or otherwise) other than as expressly set forth herein or a Product Schedule for the Term.

4.2. Additional Purchases and Affiliate Use. Client or Client Affiliates may, at additional cost, purchase access to other LCPtracker products by entering into new Product Schedules. Unless otherwise stated in the applicable Product Schedule, Client shall be and remain jointly and severally liable for any such Affiliates' obligations under this Agreement.

4.3. Feedback and Aggregated Statistics. Any suggestions, enhancement requests, recommendations or other feedback relating to the operation of the Services provided by Client, including by Users ("**Feedback**"), during and after the Term is and remains the intellectual property of LCPtracker and LCPtracker has all rights therein to exploit and commercialize any Feedback as LCPtracker chooses without compensation or other consideration to Client

or any Users. LCPtracker is not required to use any Feedback. Notwithstanding anything to the contrary in this Agreement, LCPtracker may monitor Client and Users use of the Services and collect and compile Aggregated Statistics. As between LCPtracker, the Client and its Users, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by LCPtracker without compensation or other consideration to Client. Client acknowledges that LCPtracker may compile Aggregated Statistics based on Feedback. Client agrees that LCPtracker may (i) make Aggregated Statistics publicly available in compliance with Applicable Law, and (ii) use Aggregated Statistics to the extent and in the manner permitted under Applicable Law, provided that such Aggregated Statistics do not identify the Client's or Users' Confidential Information. All Users of Services may be contacted by LCPtracker with information about LCPtracker events, services or products, and they will be given the opportunity to opt-out of any such communications.

4.4. Federal Government End Use Provisions. LCPtracker provides the Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data - Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not conveyed under these terms, it must negotiate with LCPtracker to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement.

4.5. Client Data. LCPtracker acknowledges that, as between LCPtracker and Client, Client owns all right, title, and interest, including all intellectual property rights, in and to the Client Data. Client hereby grants to LCPtracker a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Client Data and perform all acts with respect to the Client Data as may be necessary for LCPtracker to provide the Services to Client, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, and otherwise use Client Data within the Aggregated Statistics and Feedback. Notwithstanding the foregoing, LCPtracker, as a service provider on behalf of Client, shall not access, use, process or retain Client Data except as necessary to perform its obligations under this Agreement and the applicable Product Schedule except in strict accordance with the written instructions of Client, unless to the extent that such Client Data is deidentified. All Services that are provided depend on the accuracy of Client Data. LCPtracker is not responsible for any errors due to inaccurate information provided by Client or Users.

5. CONFIDENTIALITY

5.1. Definition of Confidential Information. As used herein, **"Confidential Information"** means all information disclosed by a Party **("Disclosing Party")** to the other Party **("Receiving Party")**, whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Without prejudice to the generality of the foregoing Confidential Information shall include business and marketing plans, technology and technical information, product plans, pricing and designs, and business processes disclosed by a Party. However, Confidential Information shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party without access or reference to the Disclosing Party's Confidential Information.

5.2. Protection of Confidential Information. The Receiving Party shall (i) use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care), (ii) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and the applicable Product Schedule, and (iii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those contained herein.

5.3. Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. "All Client's obligations under this paragraph 5 are subject to the provisions of the Missouri Open Records Act, chapter 610, RSMo."

6. WARRANTIES AND DISCLAIMERS

6.1. Warranties. LCPtracker warrants that (i) LCPtracker has validly entered into this Agreement, (ii) the Services shall perform materially in accordance with the Documentation, (iii) LCPtracker will perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services, and (iv) LCPtracker will not transmit Malicious Code to Client, provided it is not a breach of this subpart (iii) if Client or a User uploads a file containing Malicious Code into the Services and later downloads that file containing Malicious Code. For any breach of a warranty in this Section, Client's exclusive remedy shall be as provided in Section 10.1 and Section 10.4. **LCPTRACKER STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD-PARTY PRODUCTS.**

6.2. Client Warranties. Client represents and warrants that (i) Client has validly entered into this Agreement, (ii) Client has collected all PII in accordance with all Applicable Law, and (iii) Client will follow best practices in relation to data security. Client acknowledges that Client is solely responsible for the content uploaded into the Services and warrants that Client shall comply with all Applicable Law in its use of the Services and shall require all Users to acknowledge and agree to comply with Applicable Law and the requirements of this Agreement.

6.3. Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 6.1, THE SERVICES ARE PROVIDED "AS IS" AND LCPTRACKER DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. EXCEPT AS EXPRESSLY PROVIDED HEREIN, LCPTRACKER MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES WILL, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR-FREE.

7. MUTUAL INDEMNIFICATION

7.1. Indemnification by LCPtracker. LCPtracker shall defend Client against any claim, demand, or proceeding made or brought against Client by a third party alleging that the use of the Services as permitted hereunder infringes or misappropriates the US intellectual property rights of such third party in respect of the Services (a **"Claim Against Client"**), and shall indemnify Client for any damages, reasonable attorney fees and costs finally awarded against Client as a result of, and for amounts paid by Client under a court-approved settlement of a Claim Against Client; provided that Client (a) promptly provides LCPtracker written notice of the Claim Against Client; (b) allows LCPtracker sole control of the defense and settlement of the Claim Against Client (provided that LCPtracker may not settle any Claim Against Client unless the settlement unconditionally releases Client of all liability); and (c) provides to LCPtracker all reasonable assistance, at LCPtracker's expense. In the event of a Claim Against Client, or if LCPtracker reasonably believe the Services may infringe or misappropriate a third party's intellectual property rights, LCPtracker may, in LCPtracker's sole discretion and at no cost to Client, (x) modify the Services so that they are no longer infringing, without breaching LCPtracker warranties under Section 6.1 above, (y) obtain a license for Client's continued use of the Services in accordance with this Agreement, or (z) if LCPtracker determines that neither of the foregoing is commercially practicable and if Client is not permitted to continue using the Services, then this Agreement will terminate with respect to such infringing Services, and Client shall be entitled to recover from LCPtracker an amount equal to a pro-rated portion of the applicable prepaid Service Fees paid for the Services for the remaining Subscription Term for the applicable Services. LCPtracker shall have no liability for any infringement claim based on Client Data, or Client's or its Users' use of the Services in a manner not permitted hereunder, where such claim would not arise but for such Client Data or Client's or its Users' unauthorized use of the Client Data or the Services. LCPtracker will not be held responsible for actions outside its reasonable control and retains all its defenses at law and at equity.

7.2. Exclusive Remedy. THIS SECTION 7 STATES THE INDEMNIFYING PARTY'S ENTIRE LIABILITY TO, AND THE INDEMNIFIED PARTY'S EXCLUSIVE REMEDY AGAINST, THE OTHER PARTY FOR ANY TYPE OF INDEMNIFIED CLAIM DESCRIBED IN THIS SECTION.

8. LIMITATION OF LIABILITY. IN NO EVENT WILL LCPTRACKER BE LIABLE UNDER THIS AGREEMENT OR ANY OTHER AGREEMENT WITH THE CLIENT UNDER ANY LEGAL OR EQUITABLE THEORY FOR ANY: (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES; (b) LOST REVENUES; (c) LOSS OF GOODWILL OR REPUTATION; (d) LOSS, INTERRUPTION, DELAY, OR RECOVERY OF ANY DATA, OR BREACH OF DATA; OR (e) COST OF REPLACEMENT SERVICES, IN EACH CASE REGARDLESS OF WHETHER CLIENT WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE FORESEEABLE. IN NO EVENT WILL LCPTRACKER'S AGGREGATE LIABILITY ARISING OUT OF THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY EXCEED THE LESSER OF $50,000 OR THE AMOUNTS PAID BY CLIENT FOR THE SERVICES IN THE TWELVE (12) MONTHS

IMMEDIATELY PRECEDING THE INCIDENT THAT GAVE RISE TO THE LIABILITY. CLIENT ACKNOWLEDGES THAT LCPTRACKER COULD NOT MAKE ITS SERVICES AVAILABLE TO CLIENT ON THE TERMS SET FORTH HEREIN IF LCPTRACKER'S LIABILITY WERE NOT SO LIMITED.

9. TERM. This Agreement commences on the Effective Date hereof and continues until termination of all Product Schedules as provided below, or termination of this Agreement as provided herein, whichever occurs first. Except as otherwise specified in the applicable Product Schedule, all Subscription Terms shall renew for subsequent additional like periods (each a **"Renewal Term"** and collectively, the **"Term"**) upon the Agreement of both Parties.

10. TERMINATION

10.1 Termination for Cause. Either Party may terminate a Product Schedule for cause: (i) upon thirty (30) days written notice to the other Party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if there is a Service Suspension which is not in the opinion of LCPtracker commercially reasonably or practically capable of being cured. LCPtracker may terminate (effective upon notice to the Client) for a breach of Section 2.

10.2. Termination for Discontinuance. LCPtracker may, with no liability to the Client (except a pro rata refund of applicable Service Fees) or the Users, also terminate this Agreement and/or any applicable Product Schedule(s) to the extent LCPtracker discontinues any Services upon one hundred and eighty (180) days prior written notice to Client.

10.3. Effect of Termination. Upon termination of a Product Schedule or this Agreement for any reason, Client's (and any Users') right to continue using the Services under the applicable Product Schedule(s) shall immediately cease and Client shall destroy or return (as directed by LCPtracker) all Confidential Information related to such Product Schedule. A termination of a Product Schedule hereunder does not affect any other remaining Product Schedule(s) hereunder which shall remain subject to the terms of this Agreement unless such Product Schedule(s) are terminated in accordance with the terms hereof or unless the Agreement is terminated. Upon request from Client in writing upon termination of this Agreement, LCPtracker shall promptly delete all Client Data in the Services (in accordance with LCPtracker normal back-up procedures, but any Client Data not deleted due to a back-up procedure will not be kept for longer than six (6) months In the event of a request for deletion, and during that time LCPtracker's obligations under this Agreement for confidentiality will continue to apply). Client acknowledges that if the Client Data is requested to be returned, Client will incur the applicable fees for the requested extract format as set forth on LCPtracker's then current price list. Notwithstanding the foregoing, Client may elect to download the Client Data within thirty (30) days of such termination at no charge. If a portable drive is requested at a charge from LCPtracker, Client accepts the risk of damage or loss of this drive during transit. All Sections intended by their nature to survive termination, including, without limitation, Sections 5, 6, 7, 8, and 10 shall survive any termination or expiration of this Agreement.

10.4. Refund or Payment upon Termination. Upon any termination under Section 10.1, LCPtracker shall refund Client any prepaid Service Fees covering the prorated remainder of the applicable yearly period of the Subscription Term within thirty (30) days after the relevant effective date of termination. Unless provided otherwise herein, upon any other termination, Client shall remain obligated for any unpaid Service Fees covering the remainder of the Subscription Term.

10.5. Service Suspension. Notwithstanding anything to the contrary in this Agreement, LCPtracker may temporarily suspend Client's and any User's access to any portion or all of the Services if: (i) LCPtracker reasonably determines that (a) there is a threat or attack on any of the LCPtracker IP; (b) Client's or any User's use of the LCPtracker IP disrupts or poses a security risk to the LCPtracker IP or to any other customer or vendor of LCPtracker; (c) any User is using the LCPtracker IP for fraudulent or illegal activities; (d) subject to Applicable Law, Client has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (e) LCPtracker's provision of the Services to Client or any User is (x) prohibited by Applicable Law, or (y) deemed by LCPtracker to be commercially unfeasible due to Applicable Law; (ii) any vendor of LCPtracker has suspended or terminated LCPtracker's access to or use of any third-party services or products required to enable Client to access the Services; or (iii) in accordance with Section 3.3 (any such suspension described in subclause (i), (ii), or (iii) of this Section 10.5, a **"Service Suspension"**). LCPtracker will have no liability for any liabilities or any other consequences that Client or any User may incur as a result of a Service Suspension.

11. GENERAL PROVISIONS

11.1. Governing Law. This Agreement is governed by and construed in accordance with the internal laws of the State of Missouri 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 jurisdiction other than those of the State of Missouri. Any legal suit,

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action, or proceeding arising out of or related to this Agreement or the permissions granted hereunder will be instituted exclusively in the federal courts of the United States or the courts of the State of Missouri in each case located in the city of Jackson County , and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. The Parties agree that the United Nations Convention on Contracts for the International Sales of Goods is expressly excluded from this Agreement. **EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

11.2. Notices. Any notice required or permitted to be delivered pursuant to this Agreement, and any permission and approval required hereunder shall, unless otherwise provided herein, be in writing and shall be deemed to have been given: (i) upon delivery, if delivered in person, (ii) upon electronic confirmation of delivery if sent by electronic mail, or (iii) three (3) business days after deposit in the United States mail, registered or certified mail, return receipt requested, postage prepaid, in each case addressed to the addressee set out in the first paragraph of this Agreement or to such other address as may be specified by either Party hereto upon notice given to the other Party in accordance with this Section. Certain LCPtracker updates regarding the Services are provided to Client at https://prod.lcptracker.net/Projects/Alert for LCPtracker Professional or https://workforce-manager-prod-web.herokuapp.com/ for Workforce Manager.

11.3. Severability. If a provision of the Agreement or portion thereof is found to be invalid, illegal, or unenforceable under Applicable Law, it shall not invalidate or render unenforceable the remainder of such provision or the remaining provisions of the Agreement. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to affect their original intent as closely as possible in a mutually acceptable manner.

11.4. Export Compliance. The Services may be subject to export laws and regulations of the United States and other jurisdictions. Client shall not access or use Services in violation of any U.S. export law or regulation.

11.5. Anti-Corruption. Client acknowledges that it has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any LCPtracker employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate this restriction. If Client learns of any violation of this restriction, Client will promptly notify LCPtracker in writing.

11.6. Relationship of the Parties. The Parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties. LCPtracker will reach out from time to time with opportunities to Client in relation to other LCPtracker product opportunities and Client consents to this. No employee, director, or officer of LCPtracker shall be held personally liable under this Agreement. There are no third-party beneficiaries to this Agreement.

11.7. Waiver. No failure or delay by either Party in exercising any right or partial right, remedy, power, or privilege under this Agreement shall constitute a waiver of that right, remedy, power or privilege.

11.8. Assignment. Neither Party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other Party (not to be unreasonably withheld). Notwithstanding the foregoing, either Party may assign this Agreement in its entirety (including all Product Schedules), without consent of the other Party, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other Party, provided that the assignee agrees in writing to be bound by the terms of this Agreement and has sufficient funds to discharge the assignor's liabilities hereunder. A Party's sole remedy for any purported assignment by the other Party in breach of this paragraph shall be, at the non-assigning Party's election, termination of this Agreement upon written notice to the assigning Party and payment of all sums owing under the terms of this Agreement.

11.9. Entire Agreement. This Agreement, including all exhibits and all Product Schedules, constitutes the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the Party against whom the modification, amendment or waiver is to be asserted, and in order to effectively amend the terms of this Agreement, any amendment must specifically call out the Section of this Agreement to be amended.

11.10. Counterparts. This Agreement and any Product Schedule hereunder may be executed in one or more counterparts; each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

11.11. Force Majeure. In no event shall either Party be liable to the other Party, or be deemed to have breached this Agreement, for any failure or delay in performing its obligations under this Agreement (except for any obligations to pay Service Fees hereunder by Client), if and to the extent such failure or delay is caused by an event of Force Majeure ("**Force Majeure**" hereunder means any acts of God, government, war, terrorism, riot, fire, floods, earthquakes, explosions, strikes, lockouts, cessation of labor, trade disputes, breakdowns, accidents of any kind which are beyond the reasonable control of a Party, or passage of law or any action taken by a governmental

or public authority, which makes it commercially unreasonable to continue to have this Agreement in force).

11.12. Equitable Relief. Client acknowledges and agrees that a breach or threatened breach by Client of any of its obligations under Section 2.2, would cause LCPtracker irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, LCPtracker will be entitled to seek equitable relief from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

IN WITNESS WHEREOF, authorized representatives of the Parties have executed this Agreement effective as of the Effective Date defined above.

LCPtracker, Inc.

By: _____
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[LCPtracker Authorized Person Signature]

Name: __Kris Vincil__

[LCPtracker Authorized Person Name]

Title: __Business Unit Director__

[LCPtracker Authorized Person Title]

Date: __11/4/2021__

Client: Jackson County, Missouri

By: _____

[Client Authorized Person Signature]

Name: __Bob Crutsinger__

[Client Authorized Person Name]

Title: __Finance Director__

[Client Authorized Person Title]

Date: November 10, 2021

BULK PROJECT PRICING PRODUCT SCHEDULE, dated as of <u>November 3, 2021</u> ("Product Schedule"), to the Master Subscription Software as a Service Agreement, dated as of <u>November 3, 2021</u> (the "Agreement") between LCPtracker and Client

Terms not defined herein shall have the meaning ascribed to them in the Agreement. The address for invoicing the Client is by email at **cwallace@jacksongov.org** attn **Cindy Wallace** (Client to inform LCPtracker in writing thirty days in advance if this changes). Both parties hereto that LCPtracker is providing access to the following Services subject to the terms and conditions of the Agreement and this Product Schedule as follows:

A. SERVICES
Subscription Term is one years and begins on the date of this Product Schedule.

Services	Unit	Service Fees
Standard Start Up Fee (web-based) comprises: • Configuration and setup of administrative account/database • 3-4 Implementation sessions comprising Admin #1, Admin #2, contractor training, and Go Live (these may be combined) • 8 hours of prevailing wage data entry • A single one-hour training session on how to data load prevailing wage data, if needed	One-time	$5,950.00
OnSite Module – Start Up Fee To include mapping of one form. Additional forms may be mapped at $500/form.	One-time	$500.00
Bulk project Service Fee for access to LCPtracker Professional (Pricing here based on Construction Capacity being below $25 million for the sum of all construction projects listed in Client's account) comprising: • Unlimited administrative Users at no cost to Client • Unlimited contractor Users at no cost directly to Client • Phone, email, and live chat technical support for administrative and registered contractor Users (not training) • Unlimited administrator and registered contractor User access to on-demand, pre-recorded web training videos during the Term	Annual	$10,000.00
OnSite Add-on Module - Capacity: Up to $25 million Advanced tablet-based application for construction site compliance interviews.	Annual	$2,000.00
	Total	$18,450.00

B. BULK PROJECT PRICING TABLE

Bulk Project Service Fee <u>2021 Pricing</u> for Administrator access to the Services (upon reaching the applicable tier) every year of the Subscription Term			
Construction Capacity in the relevant yearly period of the Subscription Term	LCPtracker Professional Annual Access Service Fees	Daily Reporter Add-on Module Annual Access Service Fees	Onsite Add-on Module Annual Access Service Fees
Up to $5 million	$3,450.00	$1,800.00	$1,500.00
Up to $10 million	$6,700.00	$3,300.00	$1,500.00
Up to $25 million	$10,000.00	$5,000.00	$2,000.00
Up to $50 million	$17,500.00	$8,800.00	$2,600.00
Up to $100 million	$23,000.00	$11,600.00	$3,000.00
Up to $200 million	$29,500.00	$15,000.00	$3,000.00
Up to $300 million	$37,500.00	$18,800.00	$4,000.00
Up to $400 million	$44,500.00	$22,000.00	$4,000.00
Up to $500 million	$52,000.00	$26,000.00	$5,200.00

Up to $750 million	$58,500.00	$29,000.00	$5,200.00
Up to $1 billion	$65,000.00	$32,400.00	$6,200.00
Up to $2 billion	$75,000.00	$37,600.00	$7,200.00
Up to $4 billion	$107,000.00	$53,600.00	$10,300.00
Up to $6 billion	$138,000.00	$69,000.00	$13,400.00
Up to $8 billion	$167,500.00	$83,700.00	$15,500.00
Up to $10 billion	$196,000.00	$98,000.00	$18,500.00

For Bulk Project Pricing of $2 billion and above, Client can choose to increase Client's level of Construction Capacity in $500 million increments. The fee for this is $8,300 per $500 million in additional Construction Capacity. The associated Daily Reporter module fee is $4,200, and the Onsite module fee is $800 per each additional $500 million.

C. CONSTRUCTION CAPACITY

(a) "**Construction Capacity**" means the sum total of all active ("*Open/Active*") projects in the Client's account (which sum also includes all accounts under this Product Schedule in their Affiliates' accounts) in the Services. The value of projects marked as "*Open/Active*" within the LCPtracker Professional database is determined by the accurate total of project "*Budget*" amounts.

(b) The original winning bid amount for Client's construction project must be provided by Client to LCPtracker so it may be entered accurately in the relevant project "*Budget*" field in the LCPtracker Professional services platform. The winning bid amount must be updated by Client if change orders exceed 25% of the original total project winning bid amount for the relevant project (through written requests to LCPtracker Support Department – support@LCPtracker.com).

(c) The winning bid amount is what is required to be included in the "*Budget*" field and includes all material, all labor, and all other related costs on the awarded bid on the project for all phases. This field must be kept updated and accurate by the Client (through written requests to LCPtracker Support Department – support@LCPtracker.com) at all times for LCPtracker to accurately invoice the Client.

(d) Failure by Client or their Affiliates to accurately update LCPtracker Support Department of changes to the "*Budget*" field will be a material breach under the Agreement and will not remove the Client's obligation to pay the amounts due for the Services based on an accurate "*Budget*" field. If a project is completed and closed (responsibility of Client to perform to avoid being billed for it), the project will no longer be counted in that month's open active projects for billing.

(e) Periodically LCPtracker performs audits of project "*Budget*" fields to ensure accuracy and may reach out to Client to confirm the project "*Budget*" amounts accuracy. Failure by Client to timely respond to a request for information in relation to any such audit will allow LCPtracker to adjudicate that labor wages will account for 25% of the supplied project "*Budget*" amount and amend the relevant "*Budget*" amount accordingly in the Services for billing purposes. Client will be free to dispute this value with LCPtracker by providing accurate information in relation to Construction Capacity at any time.

D. PAYMENT TERMS

(a) Service Fees are due under this Product Schedule are due on the date hereof or on the yearly anniversary hereof unless provided otherwise.

(b) Service Fees for access to the Services detailed above will change if one of the following events occurs: (i) If the sum of all "*Budget*" amounts for projects entered in LCPtracker during the then current year of the Subscription Term exceed the Construction Capacity level purchased (Client will be invoiced for an amount equal to the difference between the Construction Capacity level provided for that year of the Subscription Term and the cost level for which the current correct Construction Capacity applies, prorated for the number of months remaining in the then current year of the Subscription Term. This invoice shall be due and payable upon receipt. The new rate will then be applicable to the immediately following year of the Subscription Term), (ii) The Construction Capacity increases beyond the previously purchased level on the annual anniversary of this Product Schedule, or (iii) A notice is given to Client pursuant to Section D(d) below.

(c) Fees for optional additional professional services to be included into the Services shall be invoiced and due upon delivery of the applicable service at the then current pricing of LCPtracker, unless any such service exceeds thirty (30) days, then invoices will be rendered at the end of each month and payable upon receipt thereof by Client by email.

(d) The prices and terms of this Product Schedule are subject to change at the sole discretion of LCPtracker. A thirty (30) day notice will be provided to Client of such changes by an email to the Client contact and will only become effective to Client on said renewal date.

(e) If Client elects to pay by credit card, the credit card payment fee of four percent (4%) imposed on LCPtracker shall be added to Client's payment to be charged. Client is responsible for providing complete and accurate billing and contact information to LCPtracker and notifying LCPtracker of any changes to such information.

(f) If Client has no active projects at the time of a yearly renewal and Client wishes to keep its account open (in such case the then current LCPtracker active database fee shall apply).

E. ADDITIONAL TERMS: (if any)

Ver LCP.V9.21

LCPtracker, Inc.

By: _Kris Vincil_

[*LCPtracker Authorized Person Signature*]

Name: _Kris Vincil_

[*LCPtracker Authorized Person Name*]

Title: _Business Unit Director_

[*LCPtracker Authorized Person Title*]

Date: _11/4/2021_

Client: Jackson County, Missouri

By: _____

[*Client Authorized Person Signature*]

Name: _Bob Crutsinger_

[*Client Authorized Person Name*]

Title: _Finance Director_

[*Client Authorized Person Title*]

Date: November 8, 2021

APPROVED AS TO FORM

_____
County Counselor