Amendment to Contract Documents

Enrollment Number [   ]

000-nancycal-S2272

This amendment ("Amendment") is entered into between the parties identified on the attached program signature form. It amends the Enrollment or Agreement identified above. All terms used but not defined in this Amendment will have the same meanings provided in that Enrollment or Agreement.

Server and Cloud Enrollment
Custom Terms CTM

MILWAUKEE COUNTY MANDATORY TERMS AND CONDITIONS ADDENDUM TO ENTERPRISE AGREEMENT STATE AND LOCAL

The Milwaukee County Mandatory Terms and Conditions Addendum ("Addendum") to Enterprise Agreement State and Local is entered into between Microsoft, a corporation, ("Microsoft"), and Milwaukee County, a Wisconsin municipal body corporate ("County" or "Customer") (collectively, the "Parties," or individually, a "Party") and is effective as of the date of the last signature below ("Effective Date").

The Parties agree as follows:

1.   Venue. As outlined in the Master Agreement, Section 14, "Miscellaneous", paragraph f, "Applicable Law; dispute resolution".

2.   Insurance:

Microsoft agrees to maintain policies of insurance and proof of financial responsibility to cover costs as may arise from claims for damages to property of and/or claims which may arise out of or result from Microsoft's activities, by whomever performed, in such coverage and amounts as required and approved by the County. Acceptable proof of such coverage shall be furnished to the County prior to commencement of activities under this agreement. A Certificate of Insurance shall be submitted for review for each successive period of coverage for the duration of this agreement, unless otherwise specified by the County, in the minimum amounts specified below.

Microsoft may at its option meet the insurance requirements listed herein via commercial insurance, self-insurance, alternative risk financing solutions or a combination of these options.

 Microsoft shall provide evidence of the following coverages and minimum amounts:

<u>Type of Coverage</u>   <u>Minimum Limits</u>

Wisconsin Workers' Compensation and Employer's Liability & Disease	Statutory/Waiver of Subrogation $100,000/$500,000/$100,000
General Liability	$1,000,000 Per Occurrence
Bodily Injury and Property Damage to include: Personal Injury, Fire, Products and Completed Operations	$2,000,000 Aggregate
Automobile Liability	$1,000,000 Per Accident
Bodily Injury and Property Damage	
All Autos	
Technology Errors and Omissions	$5,000,000 Per Occurrence
Refer to Additional Provision A.1.	$5,000,000 Aggregate
Cyber Liability	$5,000,000 Per Occurrence
Refer to Additional Provision A.2.	$5,000,000 Aggregate

Milwaukee County shall be named as an Additional Insured on the General, Automobile, and Cyber Liability policies as respects the services provided in this agreement. A Waiver of Subrogation shall be afforded to Milwaukee County on the Workers' Compensation policy. A thirty (30) day written notice of cancellation or non-renewal shall be afforded to Milwaukee County.

The insurance specified above shall be placed with a Carrier approved to do business in the State of Wisconsin. All carriers must be A rated or better per AM Best's Rating Guide. Any requests for deviations from or waivers of required coverages or minimums shall be submitted in writing and approved by Milwaukee County's Risk Manager as a condition of this agreement.

A.1. Technology Errors & Omissions – Additional Provision.

Microsoft agrees to provide additional information on its technology errors & omissions coverage as respects policy type, i.e. errors and omissions for consultants, architects, and/or engineers, etc.; applicable retention levels; coverage form, i.e. claims made, occurrence; discover clause conditions, and effective retroactive and expiration dates, to Milwaukee County's Risk Manager as may be requested to obtain approval of coverage as respects this section.

It is understood and agreed that coverage which applies to the services inherent in this agreement will be extended for two (2) years after completion of all work contemplated on this project if coverage is written on a claims-made basis.

A.2. Cyber Liability – Additional Provisions.

Microsoft agrees to maintain and provide additional information on its cyber liability coverage as respects policy provisions; i.e., media, security, privacy, regulatory, etc.; applicable retention levels; coverage form; i.e., claims made, occurrence; discover clause conditions, and effective retroactive and expiration dates, to Milwaukee County's Risk Manager as may be requested to obtain approval of coverage as respects this section.

It is understood and agreed that coverage which applies to the services inherent in this agreement will be extended for two (2) years after completion of all work contemplated on this project if coverage is written on a claims-made basis.

At a minimum, cyber liability coverage will contain the following provisions at full policy limits:

- Media Liability Coverage; i.e., Liability coverage for defense costs and damages suffered by others for content-based injuries such as libel, slander, defamation, copyright infringement, trademark infringement, or invasion of privacy.

- Security Liability Coverage; i.e., Liability coverage for defense costs and damages suffered by others resulting from a failure of computer security, including liability caused by theft or disclosure of confidential information, unauthorized access, unauthorized use, denial of service attack or transmission of a computer virus.

- Privacy Liability Coverage; i.e., Liability coverage for defense costs and damages suffered by others for any failure to protect personally identifiable or confidential third-party corporate information, whether or not due to a failure of network security.

- Regulatory Proceedings; i.e., Liability coverage for defense costs for proceedings brought by a governmental agency in connection with a failure to protect private information and/or a failure of network security. Coverage includes fines and penalties where insurable by law and compensatory damages.

- Breach Event Expenses; i.e., Reimbursement coverage for the insured's costs to respond to a data privacy or security incident. Covered expenses include computer forensics expenses, legal expenses, costs for a public relations firm and related advertising to restore your reputation, consumer notification, call centers, and consumer credit monitoring services.

3.   **Maintenance of Records; Audits**.

(a)   **Maintenance of Records**. Microsoft shall maintain accurate and complete documents and records relating to charges under the Agreement and documents relating to confidentiality, subcontracts and intellectual property ownership. All financial records shall be maintained in accordance with generally accepted accounting principles. All such documents and records shall be kept and maintained by Microsoft and shall be made available to County during the term of the Agreement and for a period of three (3) years thereafter unless County provides Microsoft with permission to dispose of any such material prior to such time. Such audit shall take place at County's reasonable request in writing.

(b)   Inapplicable.

Any subcontractors or other parties performing work on the Agreement will be bound by the same terms and responsibilities as Microsoft. All subcontracts or other agreements for work performed on the Agreement will include written notice that the subcontractors or other parties understand and will comply with the terms and responsibilities. Any and all County contracts and solicitations for contracts shall include a statement that the Microsoft and any subcontractors understand and will abide by the requirements of this section.

4.   Public Records.

Both Parties understand that County is bound by the public records law, and as such, all of the terms of the Agreement are subject to and conditioned on the provisions of Wis. Stat. § 19.21, et seq. Except as otherwise authorized by County in writing, records that are subject to the Wisconsin Public Records Law shall be maintained for a period of three years after receipt of final payment under the Agreement.

In the event that County receives a request to disclose any Microsoft information defined as "Confidential Information" or labeled as such by Microsoft, County will promptly provide Microsoft notice of the open records request to enable Microsoft to resist any required disclosure and/or to obtain suitable protection regarding such required disclosure by County. In the event the designation of "Confidential Information" of such Microsoft information is challenged by the requestor and Microsoft resists disclosure by County, Microsoft hereby agrees to provide legal counsel or other necessary assistance to County to defend the designation of confidentiality and agrees to be responsible for any costs or damages arising out of County's agreement to withhold such Microsoft information from disclosure based on Microsoft's express written guidance.

5.   Conflict of Interest and Non-Collusion.

(a)   **Conflict of Interest**. Microsoft will not knowingly employ as a director, officer, employee, agent or subcontractor any elected or appointed officer of County or any member of his/her immediate family.

(b)   **Non-Collusion**. Microsoft hereby represents and agrees that neither it nor any other person or entity acting on its behalf has entered into any contingent fee arrangement with any firm, employee of County, or other person or entity concerning the obtaining of the Agreement. In addition, Microsoft agrees that a duly authorized Microsoft representative will sign a non-collusion affidavit, in a form acceptable to County that Microsoft has not received from County any incentive or special payments, or considerations not related to the provision of the software and services described in the Agreement, if requested by the County.

6.   Miscellaneous.

In addition to the terms stated in Paragraph 14 of the Agreement - Miscellaneous (m) Order of precedence, the Parties agree that this paragraph will be deleted in its entirety and replaced as follows:

> **m.   Order of precedence**. Microsoft acknowledges, accepts and agrees that the Addendum shall take precedence over the Agreement entered between the Parties on _____. The Addendum shall take precedence over the terms of any Statement of Work ("SOW"), amendment, purchase order, change orders or any other documents entered between the Parties which is incorporated by reference into the Agreement. In the event of a conflict between the terms of the Addendum and the Agreement or any documents incorporated by reference therein, the terms of the Addendum shall prevail.

> In the event of a conflict between any documents in this Agreement or the Addendum, their terms will control in the following order from highest to lowest priority: (1) Addendum, (2) Agreement, (3) any Enrollment, (4) any Product Terms, (5) the Online Services Terms, (6) orders submitted under this Agreement; and, (7) any other documents in this Agreement.

Except for changes made by this Amendment, the Enrollment or Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Enrollment or Agreement identified above, this Amendment shall control.

This Amendment must be attached to a signature form to be valid.

Microsoft Internal Use Only:

Microsoft MC Mandatory Terms (CTM) 08172018.docx	CTM	CTM-CTC-ENR	BD