

AMENDMENT TO AGREEMENT BETWEEN ULTIMATE SOFTWARE GROUP, INC. AND CITY OF ANN ARBOR FOR HOSTED HUMAN RESOURCES AND PAYROLL SYSTEM

This Amendment (this "Amendment"), dated as of June 10, 2020 ("Effective Date") is made by and between The Ultimate Software Group, Inc. ("Ultimate Software") and City of Ann Arbor ("Customer").

WHEREAS, Ultimate Software and Customer entered into Hosted Agreement for Hosted Human Resources and Payroll System with an effective date of November 20, 2006 (hereafter "Hosted Agreement"), along with various addenda, supplements, amendments, etc. to same, including without limitation, Supplement with an effective date of April 20, 2007 (UltiPro SQL Access Tools Supplement"), Purchase Order with an effective date of March 3, 2014 ("TALX PO"), Supplement with an effective date of October 19, 2015 ("UltiPro Testing Environment Services Supplement"), Supplement with an effective date of July 1, 2018 ("UltiPro ACA Services Supplement"), Supplement with an effective date of January 30, 2020 ("UltiPro Onboarding Supplement") (hereinafter collectively referred to as the "Agreement");

NOW, THEREFORE, the Parties have agreed to amend the Agreement as follows:

1. The term of the Agreement shall be extended for a term of sixty (60) months from July 1, 2020 through June 30, 2025 ("Renewal Term"). Thereafter, the Agreement shall automatically renew for successive renewal terms of one (1) year each. Customer may not terminate the Agreement during this Renewal Term except for non-appropriation of funds or as set forth below. The Customer may terminate the Agreement after the Renewal Term by serving written notice of its intention at least ninety (90) days prior to the date of next such renewal period. Either party shall have the right to terminate the Agreement upon thirty (30) days prior written notice upon any breach hereof by the other party, provided the party in breach shall not have cured such breach during such thirty (30) day period.
2. Commencing on July 1, 2020 and through June 30, 2021, the Subscription Fee attributable to Exhibit A of the Hosted Agreement, Section 3 Software Programs, the Subscription Fee attributable to the UltiPro SQL Access Tools Supplement, and the Subscription Fee attributable to the TALX PO shall be bundled into the newly revised Subscription Fee as set forth in Exhibit I attached hereto.
3. Commencing July 1, 2020 and through June 30, 2025, the Subscription Fee attributable to HR Only Employees shall be revised to \$1.50 per HR Only Employee per month. Commencing July 1, 2025 and thereafter, any increase shall not exceed three percent (3%) per annum.
4. During the period commencing July 1, 2020 and through June 30, 2021, Customer agrees to an increase in the Subscription Fees pursuant to the UltiPro Testing Services Supplement as follows:
 - i. July 1, 2020 through June 30, 2021 – one percent per annum (1%)
5. During the period commencing July 1, 2020 and through June 30, 2021, Customer agrees to an increase in the Subscription Fees pursuant to UltiPro ACA Services Supplement as follows:
 - ii. July 1, 2020 through June 30, 2021 – one percent per annum (1%)
6. During the period commencing July 1, 2020 through June 30, 2021, Customer agrees to an increase in the Subscription Fees pursuant to UltiPro Time and Attendance and attributable to each tier of UTA Active Employees (Tier 1, Tier 2, and Tier 3) as follows:
 - iii. July 1, 2020 through June 30, 2021 – one percent per annum (1%)
7. During the remainder of the Renewal Term and thereafter, Customer agrees to an increase in the Subscription Fees pursuant to the Agreement as follows:
 - iv. July 1, 2021 through June 30, 2022 – one percent per annum (1%)
 - v. July 1, 2022 through June 30, 2023 – one percent per annum (1%)
 - vi. July 1, 2023 through June 30, 2024 – one percent per annum (1%)
 - vii. July 1, 2024 through June 30, 2025 – one percent per annum (1%)
 - viii. July 1, 2025 and thereafter - any increase thereafter shall not exceed three percent (3%) per annum.
8. The parties agree that Ultimate Software shall not increase the Subscription Fee during the Initial Term (as defined in the UltiPro Onboarding Supplement) of the UltiPro Onboarding Supplement.
9. That Article VI of the Hosted Agreement is deleted and replaced with the following:

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- A. Ultimate Software shall procure and maintain during the life of this Agreement the insurance policies, outlined below. Prior to commencement of work under this Agreement, Ultimate Software shall name Customer as an insured and provide documentation through City-approved means (currently myCOI), demonstrating it has obtained the policies and endorsements required herein. Ultimate Software shall add registration@mycoitracking.com to its safe sender’s list so that it will receive necessary communication from myCOI. The required insurance policies are as follows:
1. Professional Liability Insurance or Errors and Omissions Insurance protecting Ultimate Software and its employees in an amount not less than \$1,000,000.
 2. Cyber Liability Insurance in an amount not less than \$2,000,000.
 3. Third Party Crime Coverage in an amount not less than \$1,000,000 that names the City as loss payee.
- B. Any insurance provider of Ultimate Software shall be authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company’s Key Rating Guide of “A-” Overall and a minimum Financial Size Category of “V”. Insurance policies and certificates issued by non-authorized insurance companies are not acceptable unless approved in writing by the City.
- C. To the fullest extent permitted by law, Ultimate Software shall indemnify, defend, and hold the City, its officers and employees harmless from all suits, claims, judgments and expenses, including reasonable attorney’s fees, resulting or alleged to result, from any gross negligence or willful misconduct by its employees occurring in performance of this Agreement. , except to the extent that any suit, claim, judgment or expense are finally judicially determined to have resulted from the City’s gross negligence or willful misconduct or its failure to comply with any of its material obligations set forth in this Agreement.
10. All other provisions of the Agreement that are not in conflict with this Amendment remain unchanged and are hereby reaffirmed by the Parties.
11. The parties agree that any signature (including but not limited to any electronic symbol attached to, or associated with, a contract or other record and adopted by a person with the intent to sign, authenticate or accept such contract or record) hereto shall have the same legal validity and enforceability as a manually executed signature to the fullest extent permitted by applicable law, and the parties hereby waive any objection to the contrary. This Amendment may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original of this Amendment but all counterparts together, shall constitute one and the same instrument. Each counterpart may be executed by electronic signature or manual signature. Delivery of an executed counterpart of this Amendment by telecopier or facsimile transmission or other electronic means shall be effective as delivery of a manually executed counterpart of this Amendment.

IN WITNESS WHEREOF, the Parties have hereto by their duly authorized representatives executed this Amendment.

City of Ann Arbor

The Ultimate Software Group, Inc.

By:

By:

Name:
Christopher Taylor

Name:

Title:
Mayor

Title:

Date:

Date:

City of Ann Arbor

City of Ann Arbor

By:

By:

Name:

Jacqueline Beaudry

Title:

City Clerk

Date:

Name:

Tom Crawford

Title:

Interim City Administrator

Date:

Approved as to substance

City of Ann Arbor

By:

Name:

John Fournier

Title:

Interim HR Director

Date:

Approved as to form and content

City of Ann Arbor

By:

Name:

Stephen K. Postema

Title:

City Attorney

Date:

EXHIBIT 1 –

Subscription Fee attributable to Exhibit A of the Hosted Agreement, Section 3 Software Programs, the UltiPro SQL Access Tools Supplement, and the TALX PO

\$12.00 per Active Employee per month