

**FIRST AMENDMENT TO  
ANALYTICS & TECHNICAL SERVICES AND APPLIED LEARNING AGREEMENT**

This **FIRST AMENDMENT TO ANALYTICS & TECHNICAL SERVICES AND APPLIED LEARNING AGREEMENT** ("Amendment") is effective this 15<sup>th</sup> day of January, 2019 ("Effective Date"), by and between **WICHITA STATE UNIVERSITY**, a state educational institution of Kansas and on behalf of its ENNOVAR group, located at 238 N. Mead Street, Wichita, Kansas 67202 (hereinafter "WSU") and the **CITY OF WICHITA**, Kansas, a municipal corporation, located at 455 N. Main, Wichita, Kansas 67202 (hereinafter "City") (individually referred to as "party" and collectively as "parties").

WITNESSETH:

**WHEREAS**, City and WSU entered into an **ANALYTICS & TECHNICAL SERVICES AND APPLIED LEARNING AGREEMENT** as of January 8, 2019, which expires on January 7, 2020 (the "Agreement"); and

**WHEREAS**, WSU and City wish to modify the Agreement according to the terms of this Amendment.

**NOW THEREFORE**, for valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. Section 12. INTELLECTUAL PROPERTY is hereby deleted and replaced in its entirety with the following:

12.1. WSU Intellectual Property. City acknowledges that WSU owns, holds, or may independently develop in the future, proprietary information and technology including licenses to pre-existing materials such as development tools, compilers, algorithms, files, specifications and documentation ("WSU IP"). City agrees that all WSU IP is proprietary to WSU and shall remain WSU's exclusive property.

12.2. City Intellectual Property. WSU acknowledges that City owns, holds, or may independently develop in the future, proprietary information and technology including licenses to pre-existing materials such as development tools, compilers, algorithms, files, specifications and documentation ("City IP"). WSU agrees that all City IP is proprietary to City and shall remain City's exclusive property. To the extent that any City IP is contained in the Work Product in connection with the SOS, City hereby grants WSU a perpetual, irrevocable, royalty-free, non-exclusive, license to perform, display, use, and reproduce, such City IP. To the extent that any City IP is included in any Work Product intended to be used in any WSU products, City grants WSU a perpetual, irrevocable, royalty-free, non-exclusive, non-transferable license to use, display, reproduce, modify, sublicense, sell, and distribute the City IP within such WSU product without the express written consent of City. Except for the rights granted to WSU in this Agreement, City reserves all right, title, and interest to the City IP.

12.3. Work Product. WSU shall promptly and fully disclose to City all inventions and works of authorship, including improvements, discoveries, ideas, technologies, know-how, work product, concepts, material, disclosures, software programs, computer language, programming aids, documentation, or any other intellectual property, conceived, developed, originated, fixed or reduced to practice by WSU in connection with any Services performed by it for City ("Work Product"). To the extent that any WSU IP is contained in the Work Product provided to City in connection with the SOS, WSU hereby grants City a perpetual, irrevocable, royalty-free, non-exclusive, license to perform, display, use, and reproduce, such WSU IP. To

the extent that any WSU IP is included in any Work Product intended to be used by City, WSU grants City a perpetual, irrevocable, royalty-free, non-exclusive, non-transferable license to use, display, reproduce, modify, sublicense, sell, and distribute the WSU IP within such City product without the express written consent of WSU. Except for the rights granted to City in this Agreement, WSU reserves all right, title, and interest to the WSU IP.

- 12.4. Third Party Intellectual Property. The analytic and technical services provided by WSU in connection with this Agreement and SOS may include the use of improvements, discoveries, ideas, technologies, know-how, work product, concepts, material, disclosures, software programs, computer language, programming aids, documentation, or other intellectual property owned by third parties ("Third Party IP"). Because Third Party IP is not owned or controlled by WSU, WSU has no rights in such Third Party IP. Accordingly, City shall be responsible for licensing and/or purchasing any Third Party IP that is necessary. Before WSU plans or commences Work that will trigger the need for third party licensing, WSU must obtain City written authorization of the specific application at issue.
2. All other provisions of the Agreement, except as otherwise amended, shall remain unchanged.
  3. The Agreement is fully incorporated herein as if reproduced below. This Amendment and the Agreement constitute the entire agreement between the Parties pertaining to its subject matter, and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties hereto with respect to such subject matter. In the event of a conflict in terms between the Agreement and this Amendment, the terms of this Amendment will control.
  4. The Agreement and all Amendments may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Agreement and all Amendments may be delivered using pdf or similar file type transmitted via electronic mail, cloud based server, e-signature technology or other similar electronic means.

[Remaining page intentionally left blank. Signature page to follow.]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment and/or authorized same to be executed by their duly authorized representatives as of the dates shown below the respective signatures.

WICHITA STATE UNIVERSITY

CITY OF WICHITA, KANSAS

  
SIGNATURE

\_\_\_\_\_  
SIGNATURE

Dr. John Tomblin  
PRINTED NAME

Jeff Longwell  
PRINTED NAME

Vice President for  
Research and Technology Transfer  
TITLE

Mayor, City of Wichita KS  
TITLE

2/8/19  
DATE

\_\_\_\_\_  
DATE

tonya.witherspoon@wichita.edu  
316-978-5219

mmayta@wichita.gov  
316-268-4318

CONTACT INFORMATION (PHONE, E-MAIL)

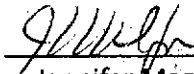
CONTACT INFORMATION (PHONE, E-MAIL)

APPROVED AS TO  
FORM AND  
SUBSTANCE  
  
ASSOCIATE GENERAL COUNSEL

Attest:

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to Form:

  
\_\_\_\_\_  
Jennifer Magaña, City Attorney and  
Director of Law