

AGREEMENT FOR SERVICES 210-S1210
AMENDMENT II
Software Services for Public Housing Authority

THIS AMENDMENT II to that Agreement for Services 210-S1210, made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as “County”) and HAPPY Software, Inc., a New York corporation, duly qualified to conduct business in the State of California, whose principle place of business is 11 Federal Street, Saratoga Springs, NY 12866 and whose Agent for Service of Process is CT Corporation Systems, 818 W Seventh St., Los Angeles, CA 90017; (hereinafter referred to as “Contractor”);

RECITALS

WHEREAS, Contractor has been engaged by County to provide software upgrade, maintenance, and support for HAPPY software and additional software or support services on an “as requested” basis for the Health and Human Services Agency Public Housing Authority (hereinafter referred to as “HHSA”), in accordance with Agreement for Services 210-S1210, dated October 19, 2011, and Amendment I, dated August 1, 2012, incorporated herein and made by reference a part hereof; and

WHEREAS, the parties hereto have mutually agreed to amend **ARTICLE I – Scope of Services**, **ARTICLE II – Term**, and **ARTICLE III – Compensation**; and

WHEREAS, the parties hereto have mutually agreed to add **ARTICLE XXXIV – Conflict Prevention and Resolution**.

NOW, THEREFORE, the parties do hereby agree that Agreement for Services 210-S1210 shall be amended a second time as follows:

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ARTICLE I

Scope of Services: Contractor agrees to furnish the personnel, services and equipment necessary to perform data migration, installation, set-up, training, and user licenses for the upgrade of the HAPPY Software currently in use by HHSA to Contractor's "Housing Pro" Software module in accordance with Exhibit "A" marked "Purchase Agreement Housing Pro Upgrade" and Exhibit "C", marked "Additional Modules," incorporated herein and made by reference a part hereof.

Contractor further agrees to furnish the personnel, services, and equipment necessary to perform software support in accordance with Exhibit "D", marked "Definition of Support", incorporated herein and made by reference a part hereof and which supersedes and replaces "Definition of Support" dated "1/11" included in Exhibit "A," marked "Purchase Agreement Housing Pro Upgrade", included in original Agreement dated October 19, 2011.

Additional upgrades and customization are allowable on a per-job-basis. Prior to the commencement of any work, Contractor shall provide a written estimate of work to be performed. The written estimate shall include any applicable annual software maintenance fees associated with the additional upgrades and customization. If said upgrade or customization is approved, the appropriate HHSA manager, Chief Fiscal Officer, Assistant Director, Chief Assistant Director or Director shall provide Contractor with written approval to proceed. Upgrades and customizations exceeding \$5,000 shall require prior approval from the County's Purchasing Agent. No work shall be performed without a valid written approval.

ARTICLE II

Term: This Agreement shall become effective upon final execution by the parties hereto and shall automatically renew for successive one-year terms, from year to year thereafter unless terminated earlier pursuant to the provisions contained herein this Agreement under the Article(s) titled "Default, Termination, and Cancellation" or "Fiscal Considerations."

ARTICLE III

Compensation for Services: For services provided herein, County agrees to pay Contractor monthly in arrears. Individual not to exceed amounts for each task shall be in accordance with Exhibit "A", marked "Purchase Agreement Housing Pro Upgrade" and Exhibit "C", marked "Additional Modules," incorporated herein and made by reference a part hereof. Payment for additional upgrades and customization shall be made in accordance with the approved written estimate as described in Article I "Scope of Services." Payment shall be made within thirty (30) days following County receipt and approval of itemized invoice(s) detailing services rendered. Travel reimbursement shall be made in accordance with Exhibit "B", marked "Board of Supervisors Travel Policy D-1", incorporated herein and made by reference a part hereof.

Software support shall be renewed annually on November 1 of each year. For the term November 1, 2013 through October 31, 2014 the cost of annual software support is \$11,375 and may increase by more no more than 8% annually thereafter for software then in use by County. If additional modules purchased are subject to annual support fees, such fees shall be quoted in writing at the time the software is purchased. Such fees shall be renewed annually on November

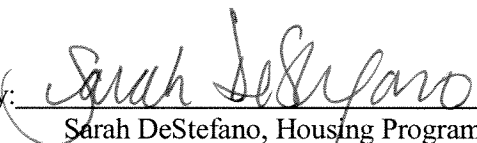
1 of each year and may increase by no more than 8% upon renewal. As long as this Agreement for Services is in effect, County agrees to pay Contractor the lump sum in advance for software maintenance and support. Said payment shall be made within thirty (30) days following County receipt and approval of itemized invoice(s) detailing services

ARTICLE XXXIV

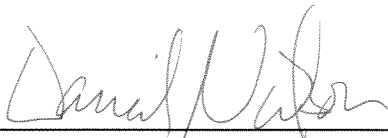
Conflict Prevention and Resolution: The terms of this Agreement shall control over any conflicting terms in any referenced document, except to the extent that the end result would constitute a violation of Federal or State law. In such circumstances, and only to the extent the conflict exists, this Agreement shall be considered the controlling document.

Except as herein amended, all other parts and section of that Agreement 210-S1210 shall remain unchanged and in full force and effect.

REQUESTING CONTRACT ADMINISTRATOR CONCURRENCE:

By:  Dated: 4/10/13
Sarah DeStefano, Housing Program Coordinator
Health and Human Services Agency

REQUESTING DEPARTMENT HEAD CONCURRENCE:

By:  Dated: 4-11-2013
Daniel Nielson, M.P.A., Director
Health and Human Services Agency

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IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to that Agreement for Services 210-S1210 on the dates indicated below.

-- COUNTY OF EL DORADO --

Dated: _____

By: _____

Ron Briggs, Chair
Board of Supervisors
"County"

ATTEST:
James S. Mitrison
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Dated: _____

-- CONTRACTOR --

HAPPY SOFTWARE, INC
A NEW YORK CORPORATION

By:  _____
Joe Mastrianni, President
"Contractor"

Dated: 4/10/2013

By:  _____
Corporate Secretary

Dated: 4/10/2013

ABH

Definition of Support

PLEASE READ CAREFULLY

Definitions

(i) "Incident" means a single issue, problem, or product usage question a Licensee requests HAPPY Software, Inc. (HAPPY) to analyze or resolve.

(ii) "Software" means the current version of the listed modules of software of proprietary HAPPY product(s) designated on the Purchase Agreement or one single version immediately prior to the current version.

(iii) "Support" means the assistance provided to Agency by HAPPY for the then-current version of the Software.

(iv) "Update" means bug fixes and changes to maintain compliance with regulations. Updates are identified by a change in the number to the right of the decimal point in the product version number (e.g., Housing Pro 7.1).

(v) "Upgrade" means a significant improvement to an existing product through added functionality and/or enhanced performance. Upgrades are identified by a change in the number to the left of the decimal point in the product version number (e.g., an upgrade from Housing Pro 7.0 to 8.0).

General

By installing, accessing, or otherwise using the Software, Licensee agrees to be bound by these Support terms.

The Software is sold with Support. Support is sold at the time of the purchase and must be renewed at the end of each term to allow continued use of the licensed Software. Support begins upon the implementation "Go Live" date, or your Support renewal date, indicated on your Purchase Agreement and will continue for twelve (12) months. Support must be paid in advance of renewal date and is non-refundable. Support shall automatically renew for successive one-year periods unless either party delivers written notice to the other party of its intention not to renew. Termination by the Licensee requires sixty (60) days prior written notice. Support is non-transferable and is valid only for the Licensee. HAPPY may limit or terminate Support, or may elect not to renew Support to any Licensee who uses the services in an irregular, excessive, abusive, or fraudulent manner, as determined by HAPPY in its sole discretion.

Description of Support and Maintenance Services

If Licensee has paid all the applicable license and support fees to HAPPY Software, Inc. (HAPPY), the following terms apply.

1. Updates

The Software is updated from time to time and whenever changes in Federal Regulations published as "Final" in the Federal Register are made and when such changes necessitate a change to the software. Changes to the Software will be made within 90 days of the effective date of the Final rule. Updates may require additional inputting or re-inputting of data by your agency and such inputting of data is not the responsibility of HAPPY. The only warranty we make is that the updated software will be fit for use and conform to the new regulations. Updates will be mailed to you, made available for download via the Internet or installed by HAPPY, at HAPPY's option. Instructions describing how to update the Software and a listing of changes to the Software will be included with Updates. Training and installation are not included. New versions of the Software will not include any customization for your agency except in modules specifically designed to survive Updates. Updates may require you to change or replace your existing hardware or system software. A new version of FileMaker® Pro, the operating environment for the Software, may be required for new versions of the Software and is not included with Updates. We reserve the right to update or change the Software at any time. Updates must be installed in a timely manner to ensure compliance with changed regulations and to avoid interruptions in use of the Software.

Definition of Support

2. Technical Support

Incidents

Licensee will receive Support for an unlimited number of incidents. HAPPY will answer your questions and help you to resolve your problems with the Software to the best of our ability. HAPPY reserves the right to limit each support contact to one hour or one incident.

Availability

Support includes access to Technical Support representatives via phone, mail, email, fax, and web-based systems during regular business hours. Regular business hours are from 9:00 am to 5:00 pm Eastern Time, Monday through Friday. Support availability may occasionally deviate from published hours due to downtime for systems and server maintenance, company events, observed U.S. holidays, and events beyond HAPPY's control. Phone and other communication charges for contacts with HAPPY are the responsibility of the Licensee.

Response Time

HAPPY will attempt to respond to Licensees within published response times. This shall not be deemed a representation or warranty on HAPPY's behalf regarding the time within which a resolution, if any, may be available for any particular Incident. No remedy is available for HAPPY's failure to meet the published response time goal.

Remote Assistance

In certain cases, remote access to your system may be required to most efficiently resolve an issue. HAPPY uses an industry standard remote assistance tool to provide this Support and reserves the right to refuse service or charge for Support should remote assistance via our standard tool be denied.

Limitations

Support shall not include or be responsible for Incidents resulting from the following:

- Third-party services, products, or service providers
- Hardware, network or system connections or configurations
- Migration of Software to a new server or host computer
- Improper use, operation or neglect of the Software
- Alteration or modification to the Software
- Failure to implement recommendations in respect to solutions
- Use of the software for a purpose for which it was not designed
- Use that is inconsistent with published regulations and official guidance

Incidents not included in the standard Support contract will be billed at standard hourly rates. HAPPY will notify the Licensee in advance if a fee will be charged for services outside the scope of "Support".

Upgrades

Upgrades to the software are not included in the Support contract. Availability, pricing and information about Upgrades, including required database engine changes, will be provided in advance.

Terms and Conditions

HAPPY shall have the right to change or add to the terms of Support, and to change, delete, discontinue, or impose conditions on any feature or aspect of Support (including but not limited to pricing, technical support options, and other support-related policies) upon written notice to Licensee not less than 90 days prior to the next renewal date. Such change shall become effective on the next renewal date, unless a notice of intention not to renew is received in accordance hereto.