COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM

(3) ✓ 12/16/16 (L)

Today's Date: 11/18/2016

DOCUMENT TITLE: SOFTWARE ACCESS AGREEMENT AS AN ADDENDUM TO THE THIRD PARTY WORKERS' COMPENSATION ADMINISTRATION AGREEMENT – CORVEL ENTERPRISE COMP, INC.

COMM. MTG. DATE: 11/15/2016 **CAM #:** 16-1377 **ITEM #:** CM-6 **CAM attached:** ☒YES ☐NO

Routing Origin: CAO **Router Name/Ext:** Astrid Sperling/5001 **Action Summary attached:** ☒YES ☐NO

CIP FUNDED: ☐ YES ☐ NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least $50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

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1) City Attorney's Office: Documents to be signed/routed? ☒YES ☐NO # of originals attached: 3

Is attached Granicus document Final? ☒YES ☐NO Approved as to Form: ☒YES ☐NO

Date to CCO: 11-29 Candace Duff (Attorney's Name) CRD (Initials)

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2) City Clerk's Office: # of originals: 3 **Routed to:** Gina Ri/CMO/X5013 **Date:** ~~11/30/16~~

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3) City Manager's Office: **CMO LOG #:** NO 94 Document received from: 11/30/16

Assigned to: L. FELDMAN ☑ S. HAWTHORNE ☐ C. LAGERBLOOM ☐
L. FELDMAN as CRA Executive Director ☐

☐ APPROVED FOR LEE FELDMAN'S SIGNATURE ☐ N/A FOR L. FELDMAN TO SIGN

PER ACM: **S. HAWTHORNE** _____ (Initial/Date) **C. LAGERBLOOM** _____
(Initial/Date) ☐ **PENDING APPROVAL** *(See comments below)*
Comments/Questions: _____

Forward ___ originals to ☑ Mayor ☐ CCO **Date:** 11/30/16 CCO received 12/14/16

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4) City Clerk's Office: Retains 1 original and forwards 2 originals and 1 copy to: **Guy Hine/Risk /5494/**
Attach __ certified Reso # ____ ☐YES ☒NO
Original Route form to CAO

Rev. 7/6/16

CORVEL ENTERPRISE COMP, INC.
CAREMC ACCESS

This CareMC License Agreement (this "Access") is entered into as November 1, 2016, (the "Effective Date") by and between CorVel Enterprise Comp, Inc., a wholly-owned subsidiary of CorVel Corporation ("CorVel"), 2010 Main Street, Suite 600, Irvine, CA 92614 ("CorVel") and **City of Ft. Lauderdale, FL.**, ("Customer").

RECITALS

WHEREAS, CorVel has developed a proprietary software solution (the "CareMC Application") which is accessible via the CorVel web site located at URL www.caremc.com (the "CareMC Site"), through which CorVel provides its customers with the option of utilizing certain Third Party Claims Administration Services and bundled Managed Care Services, including certain Bill Review Services, online (such automated and online components of CorVel's Managed Care Services, "Online Services"); and

WHEREAS, Customer issued a Request for Proposal for Third Party Claims Administration Services ("Master Services Agreement") and awarded such RFP to CorVel; and

WHEREAS, CorVel has developed a proprietary smartphone application ("My Care Services" smartphone app) for Customer and Customer's claimants accessible via claimant's own independent smartphone including but not limited to Apple's iOS 7.0+ or Android 4.0+ or other smartphone device with such access capabilities; and

WHEREAS, CorVel provides its customers with the option of accessing certain Third Party Claims Administration Services and bundled Managed Care Services by means of CorVel's proprietary software solution (the "CareMC Application") via the CorVel web site located at the URL "www.caremc.com" (the "CareMC Site"); and

WHEREAS, CorVel and Customer have entered into the Agreement for Third Party Workers' Compensation Administration Services (the "Master Agreement") with an Effective Date of September 20, 2016; and

WHEREAS, Customer desires to be provided with access to and use of the CareMC Application by means of an Internet browser under the terms and conditions set forth in this License Agreement.

NOW, THEREFORE, in consideration of the premises set forth above, the promises made herein, and other good and valuable consideration the receipt which is hereby acknowledged, the parties agree as follows:

1. ACCESS TO THE CAREMC APPLICATION

A. Terms of Use. The parties acknowledge and agree that the terms and conditions under which particular Third Party Claims Administration Services and bundled Managed Care Services are provided by CorVel and the terms and conditions under which Customer may access and use the CareMC Application in order to utilize the online and automated components of such Third Party Claims Administration Services and bundled Managed Care Service (the "Online Services") shall be governed by the terms and conditions of this License Agreement.

B. Registration Information. Prior to accessing the CareMC Application, Customer shall provide CorVel with certain registration information requested therein ("Registration Information"). Customer represents and warrants that (i) the Registration Information Customer provides is true, accurate, current and complete, and (ii) the Registration Information will be updated as necessary to keep such data true, accurate, current and complete.

C. Passwords and Levels of Access. As soon as practicable after the execution of this License Agreement, CorVel shall provide a master password to Customer that allows Customer initial access to the Online Services (the "Master Password"). Customer shall then designate two groups of Authorized Users. The first group of Authorized Users ("Restricted Users") shall have access to all data available on the CareMC Site except data that constitutes or contains "protected health information" ("PHI Data") as such term is defined in any applicable state or federal statutes or regulations. Each Restricted User shall initially access the Online Services by means of the Master Password, then shall be required to choose his/her own unique password (each, a "Restricted Password") for all future access. The second group of Authorized Users ("Non-Restricted Users") shall have access to all data available through the CareMC Application, including PHI Data, but shall only have access to PHI Data to the extent necessary for Customer to render payment on a claim, and then only to those portions or amounts of PHI Data that are determined by CorVel, in its sole discretion, to be the minimum necessary for Customer to render payment on such claim. Each Non-Restricted User will be required to choose a second unique password (each, a "Non-Restricted Password") which will enable his/her to access PHI Data on the foregoing terms.

D. Non-Restricted Users. Customer represents and warrants to CorVel that each Non-Restricted User who accesses PHI Data will do so solely in order for Customer to render payment on the applicable claim.

E. Security of Passwords. Customer acknowledges and agrees that it shall be solely responsible for (i) selecting Authorized Users, (ii) assigning the various levels of authority and access each Authorized User may have to the CareMC Application, Online Services and Customer Data, including by determining which Authorized Users shall be Non-Restricted Users, (iii) ensuring that only Authorized Users have access to the Master Password, only Restricted Users have access to the Restricted Passwords and only Non-Restricted Users have access to Non-Restricted Passwords, (iv) implementing a system to control, track and account for all Restricted Passwords and Non-Restricted Passwords, (v) strictly maintaining the confidentiality and integrity of the Master Password, Restricted Passwords and Non-Restricted Passwords and levels of authority among Authorized Users, and (iv) ensuring that Authorized Users shall at all times comply with the terms and conditions of this License Agreement. Customer further agrees that it shall notify CorVel immediately in writing if the security or integrity of a password has been compromised.

F. Customer Data. Responsibility for ensuring that the content and data input into the CareMC Application by Customer or Authorized Users ("Customer Data") is accurate, reflects Customer's requirements and is entered correctly lies solely with Customer. All data generated by and through Customer's use of the CareMC Application and Online Services shall reside on CorVel's server. CorVel reserves the right to temporarily suspend access to any Customer Data that it determines, in its sole discretion, violates the terms and conditions of this License Agreement or any applicable laws.

G. Changes to the CareMC Application. CorVel reserves the right, at any time in its sole discretion and without liability to Customer, to delete or change features of the CareMC Application, CareMC Site or Online Services provided such changes do not materially alter the functionality, efficiency or performance of the CareMC Application.

2. LICENSE AND RESTRICTIONS

A. Limited License. Subject to the terms and conditions of this License Agreement, CorVel grants to Customer during the License Term (as defined in Section 8A below) a limited, non-exclusive, non-transferable, non-sublicensable license to access and use, and allow Authorized Users to access and use, the CareMC Application via the CareMC Site solely for Customer's own internal business use and operations. Customer shall access and use the CareMC Application in accordance with the user's guides and online instruction provided to Customer by CorVel ("Documentation") and all applicable laws, statutes, rules and regulations.

B. Restrictions. Customer shall not, and shall not allow Authorized Users or any third party to (i) rent, lease, re-license or otherwise provide access to the CareMC Application or Online Services to any third party, (ii) alter, modify or create derivative works of the CareMC Application, (iii) use any reverse compilation, decompilation or disassembly techniques or similar methods to determine any design structure, concepts and construction method of the CareMC Application or replicate the functionality of the CareMC Application for any purpose, or (iv) copy the CareMC Application or any content, materials, information and other data provided by CorVel on the CareMC Site or used in providing the Online Services ("CorVel Content") and/or Documentation without CorVel's prior written consent.

C. Third Parties. Customer shall not allow any third party to have access to the CareMC Application or Online Services without prior written consent of CorVel and ensuring that (i) such third party enters into a legally enforceable written agreement with CorVel, or (ii) CorVel and Customer shall enter into a Letter Agreement whereby Customer assumes all responsibility and liability for access by such third party.

D. Ownership. CorVel owns and shall retain all right, title and interest in and to the CareMC Application, Documentation, CareMC Site, Online Services, CorVel Content and any intellectual property rights inherent therein or arising therefrom. In addition to CorVel's rights in the individual elements of the CorVel Content, CorVel owns a copyright in the selection, coordination, arrangement and enhancement of the CorVel Content. Neither Customer nor any Authorized User shall obtain any ownership rights, express or implied, or any other rights other than those expressly set forth herein in the CareMC Application, Documentation or CorVel Content.

E. Compliance Monitoring and Audits. CorVel may monitor and, at its expense, perform an audit of Customer's use of the CareMC Application and CareMC Site to verify that Customer and Authorized Users are using the CareMC Application in compliance with the terms of this License Agreement. CorVel reserves the right to temporarily suspend Customer's or any Authorized User's access to the CareMC Application in the event Customer or such Authorized User engages in, or CorVel in good faith suspects is engaged in, any unauthorized conduct. CorVel shall use reasonable efforts to immediately notify Customer in writing of its suspension in services, the reasons for such suspension, including the facts and circumstances it believes constitute Customer's unauthorized conduct and shall agree to a reasonable time to conduct the review of the suspension in access. To the extent CorVel requires access to Customer's facilities to conduct an audit hereunder, such access shall be made upon reasonable notice and conducted during Customer's regular business hours. If an audit conducted during any portion of the Term in which Customer is required to pay fees under this Agreement reveals that Customer has underpaid fees to CorVel or is using the CareMC Application beyond the license restrictions and/or any terms of this Agreement, Customer will be invoiced for any such underpaid fees and will pay CorVel's reasonable expenses associated with such audit. The foregoing remedies shall be in addition to, and shall not limit CorVel's ability to terminate this Agreement based on material breach or pursue damages or other remedies available under law and equity.

3. INFRASTRUCTURE, MAINTENANCE AND SUPPORT

A. CorVel Infrastructure Obligations. Subject to Customer's compliance with the terms and conditions of this License Agreement, CorVel shall be responsible for providing and maintaining the hardware, software and other equipment required to host the CareMC Application for Customer ("CareMC Infrastructure"). The CareMC Infrastructure is subject to modification by CorVel from time to time for purposes such as adding new functionality, maximizing operating efficiency and upgrading hardware, provided such modifications shall not in the aggregate degrade the performance of the Online Services utilized by Customer. Customer understands and acknowledges that such modifications may require changes to Customer's Internet access and/or telecommunications infrastructure to maintain Customer's desired level of performance. CorVel shall give Customer reasonable prior written notice of any such modifications.

B. Customer Infrastructure Obligations. Except for the CareMC Infrastructure, which will be provided by CorVel, Customer shall be responsible for obtaining and maintaining all hardware, software, equipment, Internet access and/or telecommunications services and other items or services furnished by third party venders or providers ("Third Party Providers") required to enable Customer to access and use the CareMC Application and CareMC Site as contemplated hereunder.

C. Support. CorVel will provide general support regarding questions on the CareMC Application and CareMC Site via email and by telephone from Monday through Friday between the hours of 5:00 a.m. and 6:00 p.m. Pacific Standard Time, excluding holidays.

D. Scheduled Maintenance. CorVel will use reasonable efforts to (i) perform any scheduled downtime outside of Customer's normal business hours, (ii) notify Customer of all scheduled downtimes at least seventy-two (72) hours in advance, and (iii) perform software updates to the CareMC Application with minimal disruption to Customer's use of the Online Services.

E. System Monitoring. CorVel will use reasonable efforts to continuously monitor its web servers and database servers to ensure that they are functioning properly.

F. Security. CorVel will implement and use reasonable efforts to maintain secure systems through the use of firewalls, virtual private networks (VPN), and other security technologies. CorVel will use reasonable efforts to immediately report to Customer any security violations that affect the data of Customer.

G. Disaster Recovery and Backup. CorVel will use reasonable efforts to perform nightly backups of essential data on its web servers and database servers. CorVel has implemented third party backup and restoration technology to enable high speed recovery of data. CorVel utilizes redundant load balanced Win 2000 servers for 24x7, 365 day access, except for regularly scheduled system maintenance and upgrade processes. SQL Server databases are hosted on clustered servers offering fall-over capability, redundant communication links, and load balanced application servers. Backup tapes are restored into a test environment not less than quarterly to confirm validity of backups. The CareMC Site has redundant inbound Internet and Intranet connectivity.

H. Professional Managed Care Services. If Customer requires any additional professional services relating to the CareMC Application or Online Services from CorVel including but not limited to integration with Customer's electronic data interfaces (EDIs) or other Customer systems, Customer shall submit a written request to CorVel for such services. CorVel shall, in good faith, consider providing such services at its then-current professional services fee rate and standard terms and conditions.

4. REPRESENTATIONS AND WARRANTIES

A. Customer Representations. Customer represents that (i) it has the legal authority to provide the Customer Data to CorVel hereunder, and (ii) it is fully aware and knowledgeable of and shall comply with its duties and responsibilities with respect to the privacy and confidentiality of medical records and protected health information under applicable federal and state laws, including but not limited to those imposed by HIPAA. Upon written notice to Customer, CorVel may modify or temporarily suspend Customer's access to and use of the CareMC Application, Online Services and/or CareMC Site as necessary to comply with any law or regulation.

B. CorVel Warranties. CorVel warrants that (i) it shall use commercially reasonable professional practices and good workmanship in providing the CareMC Application, and (ii) Customer support will be performed consistent with generally accepted industry standards. These warranties extend only to Customer.

C. Exclusive Remedy. For any breach of the foregoing warranties, CorVel's entire liability and Customer's exclusive remedy will be the correction of the problems or errors that cause the breach of warranty, if feasible, or termination of the Agreement.

5. DISCLAIMERS AND LIMITATIONS OF LIABILITY

A. Disclaimers. TO THE EXTENT ALLOWED BY APPLICABLE LAW, EXCEPT FOR THE LIMITED WARRANTIES DESCRIBED IN SECTION 4B ABOVE, CORVEL MAKES NO OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, GOOD TITLE, SATISFACTORY QUALITY AND NONINFRINGEMENT. CUSTOMER SPECIFICALLY ACKNOWLEDGES AND AGREES AS FOLLOWS:

(i) Internet Usage. Customer acknowledges that the Internet is essentially an unregulated, insecure and unreliable environment, and that the ability of Customer to access and use the CareMC Application is dependent on the Internet and hardware, software and services provided by various Third Party Providers. CORVEL SHALL NOT BE RESPONSIBLE FOR CUSTOMER'S INABILITY TO ACCESS OR USE THE CAREMC APPLICATION TO THE EXTENT SOLELY CAUSED BY FAILURES OR INTERRUPTIONS OF ANY HARDWARE, SOFTWARE OR SERVICES PROVIDED BY CUSTOMER OR THIRD PARTY PROVIDERS.

(ii) CareMC Application. CUSTOMER ACKNOWLEDGES AND AGREES THAT CORVEL DOES NOT WARRANT THAT THE CAREMC APPLICATION OR ONLINE SERVICES ARE ERROR FREE, THAT CUSTOMER WILL BE ABLE TO ACCESS OR USE THE CAREMC APPLICATION OR ONLINE SERVICES WITHOUT PROBLEMS OR INTERRUPTIONS, OR THAT THE CAREMC SITE AND CAREMC APPLICATION ARE NOT SUSCEPTIBLE TO INTRUSION, ATTACK OR COMPUTER VIRUS INFECTION.

(iii) Network Intrusions. CUSTOMER AGREES THAT CORVEL WILL NOT BE LIABLE FOR DAMAGES ARISING FROM ANY BREACH, UNAUTHORIZED ACCESS TO, MISUSE OF, OR INTRUSION INTO, CUSTOMER DATA RESIDING ON CORVEL'S SERVER(S) OR ANY NETWORK USED BY CUSTOMER TO THE EXTENT SUCH DAMAGES WERE BEYOND CORVEL'S REASONABLE CONTROL.

B. Exclusion of Damages.

(i) Exclusion of Damages. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY

SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOST REVENUES) UNDER THIS AGREEMENT, WHETHER OR NOT FORESEEABLE AND REGARDLESS OF WHETHER CLAIMS UNDER THIS AGREEMENT ARE BROUGHT UNDER TORT, CONTRACT OR ANY OTHER LEGAL OR EQUITABLE THEORY.

(iii) Acknowledgment. The parties acknowledge that the limitations and disclaimers set forth in this Agreement were an essential element in setting consideration under this Agreement.

6. INDEMNIFICATION

A. Indemnification by CorVel. Subject to section 6D below, CorVel shall defend any third party claim against the Customer arising from the death of or physical injury to any person or damage to the Customer's property to the extent proximately caused by the negligence of Corvel or its agents or employees, and indemnify and hold harmless the Customer and its employees from and against damages, liabilities and reasonable costs and expenses, including reasonable legal fees ("Losses") incurred in connection therewith.

B. Further Indemnification by CorVel. Subject to Section 6D below, CorVel shall defend any third party suit or action against Customer to the extent such suit or action is based on a claim that Customer's permitted use of the CareMC Application under this Agreement constitutes an infringement of a United States patent, trademark, trade name, trade secret, copyright or other United States intellectual property right, and CorVel will pay those Losses finally awarded against Customer in any monetary settlement or final, non-appealable judgment of such suit or action which are specifically attributable to such claim. This indemnity does not apply to any claims based on Customer's use of the CareMC Application (i) in violation of this Agreement or the Documentation (as defined in the CareMC License Agreement), (ii) in combination with any other software, hardware, network or system where the alleged infringement relates to such combination, or (iii) based on CorVel's compliance with Customer's instructions, designs or specifications where the alleged infringement relates to such compliance. If any portion of the CareMC Application becomes, or in CorVel's opinion is likely to become, the subject of a claim of infringement, then CorVel may, at its option and expense, procure for Customer the right to continue using the CareMC Application or replace or modify the affected portion of the CareMC Application so that it becomes non-infringing. If neither alternative is reasonably available, CorVel may terminate this Agreement. THE FOREGOING STATES CORVEL'S ENTIRE LIABILITY AND CUSTOMER'S SOLE REMEDY FOR INFRINGEMENT CLAIMS.

C. Customer Indemnification. Except as prohibited by the Florida Constitution or by the laws of the State of Florida, only to the extent specified in and subject to the limitations specified in Section 768.28, Florida Statutes (2016), as may be amended or revised, Customer agrees to indemnify CorVel from and against actions at law to recover damages in tort for money damages for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the City while acting within the scope of the employee's office or employment under circumstances in which Customer, if a private person, would be liable to the claimant, in accordance with the general laws of the State of Florida. The foregoing sentence does not serve as a waiver of Customer's sovereign immunity or any other legal defenses available to it..

D. Conditions. The parties' indemnification obligations under this Section 6 are contingent upon: (i) the indemnified party giving prompt written notice to the indemnifying party of any claim under this Section (provided, however, that failure to give such notification shall not affect the indemnification provided hereunder except to the extent, and only to the extent, that the indemnifying party shall have been actually prejudiced as a result of such failure), (ii) the indemnifying party having the right, but not the obligation, to assume sole control of the defense or settlement of the claim, and (iii) at the indemnifying party's request and expense, the indemnified party cooperating in the investigation and defense of such claim(s). If the indemnifying party assumes the defense of any claim hereunder, the indemnified party shall be entitled to participate in (but not control) such defense and to retain its own counsel, at its own expense. The indemnifying party shall not settle or consent to an adverse judgment in any such claim that adversely affects the rights or interests of the indemnified party or imposes additional obligations on the indemnified party, without the prior express written consent of the indemnified party.

7. INSURANCE

A. CorVel Insurance. CorVel, at its sole expense, agrees to maintain, at all times during the term of the Agreement, the required professional liability, errors and omissions, workers' compensation, general, and auto liability insurance coverages as set forth on the Certificate of Insurance provided with the executed Service Agreement with an effective date of *[insert date]*.

B. Customer Insurance. Customer, at its sole expense, agrees to keep in force comprehensive general liability insurance and professional liability insurance with coverage limits in accordance with acceptable industry standards for the term of this Agreement. Upon request by CorVel, Customer shall furnish CorVel with a certificate of such insurance. Customer shall provide CorVel with prior written notice of any cancellation, non-renewal or material change to any such insurance coverages pursuant to its insurance policies. It is agreed that Customer shall be deemed in compliance with this Section 7B by being self-insured under terms and conditions and with sufficient reserves as is customary within the industry for companies of comparable size and operations.

8. LICENSE TERM AND TERMINATION

A. Term. The Term of the License Agreement shall run coterminous with the Master Agreement unless terminated pursuant to Section 8B or 8C hereunder this License Agreement.

B. Termination for Convenience. Either party shall have the right to terminate this License Agreement for any reason or for no reason, upon ninety (90) days written notice to the other party.

C. Termination for Cause. This License Agreement may be terminated by either party for cause as follows: (i) upon thirty (30) days written notice if the other party breaches or defaults under any material provision of this Agreement and does not cure such breach prior to the end of such thirty (30) day period, (ii) effective immediately and without notice if the other party ceases to do business, or otherwise terminates its business operations, except as a result of an assignment, as permitted under the terms and conditions of this License Agreement, or (iii) effective immediately and without notice if the other party becomes insolvent or seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against the other (and not dismissed within ninety (90) days).

D. Effect. Except to the extent expressly provided to the contrary herein, any right of action for breach of the License Agreement prior to termination, and the following provisions shall survive the termination of this License Agreement: Sections 1G, 2D, 4, 5 and 6. Additionally, upon termination or expiration of the License Agreement (i) CorVel shall provide Customer with any proprietary data belonging to Customer, in the current format in which it is stored at CorVel at the termination of the License Agreement, (ii) all licenses granted under this License Agreement shall terminate immediately, (iii) all rights to use the CareMC Application and Online Services shall cease immediately, and (iv) each party shall promptly return all information, documents, manuals and other materials belonging to the other party related to this License Agreement, whether in printed or electronic form, except as otherwise provided in this License Agreement, including without limitation all confidential information of the other party then currently in its possession.

E. Funding Out Clause. This agreement depends on continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by Customer upon a thirty (30) day prior written notice. Termination for any of these reasons is not a default by the Customer nor does it give rise to a claim against Customer.

9. CONFIDENTIALITY

A. Definition of Confidential Information. "Confidential Information" shall mean any non-public data, information and other materials regarding the products, services or business of a party (and/or, if either party is bound to protect the confidentiality of any third party's information, of a third party) provided to either party by the other party where such information is marked or otherwise communicated as being "proprietary" or "confidential" or the like, or where such information should, by its nature, be reasonably considered to be confidential and/or proprietary. Without limiting the foregoing, the parties agree that (i) the CareMC Application, Documentation, CorVel Content (as defined in the in the CareMC License Agreement) and all software, source code, source documentation, inventions, know-how, and ideas, updates and any documentation and information relating thereto constitutes Confidential Information of CorVel, (ii) the Customer Data (as defined in the CareMC License Agreement) constitute Confidential Information of Customer, and (iii) this Agreement, the Exhibits and Schedules attached hereto, and the terms and conditions set forth herein and therein are Confidential Information of both parties.

B. Disclosure and Use of Confidential Information. The Confidential Information disclosed by either party ("Disclosing Party") to the other ("Receiving Party") constitutes the confidential and proprietary information of the Disclosing Party and the Receiving Party agrees to treat such Confidential Information in the same manner as it treats its own similar proprietary information, but in no case will the degree of care be less than reasonable care. The Receiving Party shall use the Confidential Information of the Disclosing Party only in performing under this Agreement and shall retain the Confidential Information in confidence and not disclose it to any third party (except as authorized under this Agreement) without the Disclosing Party's express written consent. The Receiving Party shall disclose the Disclosing Party's Confidential Information only to those employees and contractors of the Receiving Party who have a need to know such information for the purposes of this Agreement, and such employees and contractors must be bound by this Agreement or have entered into agreements with the Receiving Party containing confidentiality provisions covering the Confidential Information with terms and conditions at least as restrictive as those set forth herein.

C. Exceptions. Notwithstanding the foregoing, the parties' confidentiality obligations hereunder shall not apply to information which: (i) is already known to the Receiving Party prior to disclosure by the Disclosing Party, (ii) becomes publicly available without fault of the Receiving Party, (iii) is rightfully obtained by the Receiving Party from a third party without restriction as to disclosure, (iv) is approved for release by written authorization of the Disclosing Party, (v) is developed independently by the Receiving Party without use of or access to the Disclosing Party's Confidential Information, or (v) is required to be disclosed by law, rule, regulation, court of competent jurisdiction or governmental order, provided, however, that the Receiving Party shall advise the Disclosing Party of the Confidential Information required to be disclosed promptly upon learning thereof in order to afford the Disclosing Party a reasonable opportunity to contest, limit or assist the Receiving Party in crafting the disclosure, and then such disclosure shall be made only to the extent necessary to satisfy such requirements.

D. Use of Data. Nothing shall prohibit CorVel from using aggregate, non-identifying, statistical data generated through its customers', including Customer, use of the CareMC Application and Online Services for analytical purposes, provided that CorVel shall not use or disclose any such data or information in a manner that would reveal the identity of, or other confidential information concerning, Customer. Such aggregate, non-identifying statistical data could include, without limitation, statistics regarding usage of the CareMC Application and Online Services, the number of case referrals generated through the CareMC

Application and Online Services and the efficiencies gained by CorVel customers through their use of the CareMC Application and Online Services.

10. GENERAL PROVISIONS

A. Choice of Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of this Agreement and for any other legal proceeding shall be in Broward County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida. . BY ENTERING INTO THIS AGREEMENT, BOTH PARTIES EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF, THIS AGREEMENT..

B. Compliance with Laws. Both parties shall comply with all federal, state, and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.

C. Contacts for Notices. All written notice required or permitted hereunder shall be in writing and shall be sufficient if personally delivered or sent by facsimile or internationally recognized delivery service to the address or fax number set forth below, unless such address or fax number is changed by notice, to the other party, as permitted hereunder. Any notices shall be deemed given on the date received, as indicated (i) by receipt of electronic answer back in the case of facsimile, or (ii) the records of the delivery service, if by courier.

If to CorVel:

CorVel Corporation
2010 Main Street, Suite 600
Irvine, California 92614
Attn: Director, Legal Services
Phone: (949) 851-1473
Fax: (866) 434-2469
Email: Corporate_Legal@corvel.com

If to Customer:

City of Ft Lauderdale

_____

_____

Attn: _____

Phone: _____

Fax: _____

E-mail: _____

D. Assignment. Neither this Agreement nor any rights, licenses or obligations hereunder, may be assigned by either party without the prior written consent of the non-assigning party. Notwithstanding the foregoing, CorVel may assign this Agreement to any acquiror of all or of substantially all of CorVel's equity securities, assets or business related to the subject matter of this Agreement. Any attempted assignment in violation of this Agreement shall be void and without effect.

E. Severability. Should any term of this Agreement be declared void or unenforceable by any arbitral tribunal or court of competent jurisdiction, such declaration shall have no effect on the remaining terms hereof, which shall continue in full force and effect.

F. Waiver. The failure of either party to enforce any rights granted hereunder or to take action against the other party in the event of any breach hereunder shall not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.

G. Relationship of the Parties. The relationship of CorVel and Licensee established by this Agreement is that of independent contractors, and nothing contained in this Agreement shall be construed (i) to give either party the power to direct or control the day-to-day activities of the other, or (ii) to constitute the parties as partners, franchisee-franchiser, joint venturers, co-owners or otherwise as participants in a joint or common undertaking, or otherwise give rise to fiduciary obligations between the parties.

H. Force Majeure. Except for the obligation to make payments, nonperformance by either party shall be excused to the extent that performance is rendered impossible by war, acts of terrorism, strikes, fire, flood, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the control of the non-performing party.

I. Entire Agreement. This Agreement constitutes the entire, final, complete and exclusive agreement between the parties and supersedes all previous agreements or representations, oral or written, relating to the subject matter of this Agreement. This Agreement may not be modified or amended except in writing signed by a duly authorized representative of

each party. Both parties acknowledge having read the terms and conditions set forth in this Agreement and all attachments hereto, understand all terms and conditions, and agree to be bound thereby.

J. Counterparts. This Agreement may be executed in two counterparts, each of which shall be an original and together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties by their duly authorized representatives have executed this Agreement as of the Effective Date set forth above.

CORVEL ENTERPRISE COMP, INC.

By: Richard Schweppe

Name: Richard Schweppe

Title: CFO/Sec./Treasurer

Date: 11/8/16

ATTEST:

Jeffrey A. Modarelli, City Clerk

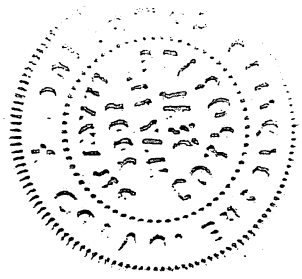
City of Fort Lauderdale

John P. "Jack" Seiler, Mayor

Lee R. Feldman, City Manager

Approved as to form:
Cynthia A. Everett, City Attorney

By:
Candace Duff
Assistant City Attorney



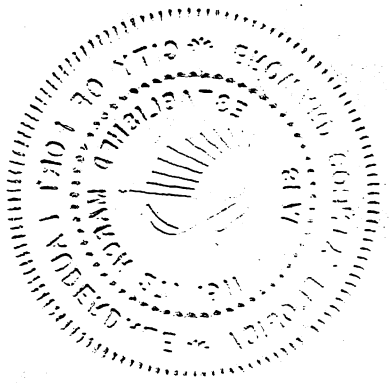


EXHIBIT A

My Care Smartphone Claims App Attachment

End User License Agreement

Such access shall provide Customer's claimants an opportunity to review the current status of their individual claim. For access by Customer claimant, such Customer claimant will be required to have a smartphone including but not limited to an Apple iOS 7.0+ smartphone or Android 4.0+ smartphone or other smartphone device with such access capabilities. Customer acknowledges the terms of Attachment A hereunder which shall be a part of the My Care App and which the End User ("Claimant") shall be responsible for. The My Care App is at no costs to Customer for these Services.

Terms are non-negotiable as these are part of the Smart Phone App

PLEASE READ THIS LICENSE AGREEMENT BEFORE USING THE APP. USE OF THE APP INDICATES END USER'S ACCEPTANCE OF THIS END USER LICENSE AGREEMENT. IF END USER DOES NOT AGREE WITH THE TERMS, END USER SHOULD NOT USE THE APP.

1. License Grant; License Restrictions. Either of CorVel Enterprise Comp, Inc. or CorVel Healthcare Corporation, as applicable, ("CorVel") provides the mobile software application program and user manual(s) or help files contained therein, and any modifications, updates, revisions, or enhancements thereto received by End User from CorVel (collectively, the "App"), and licenses its use solely pursuant to the terms stated below:

a. End User is granted a nontransferable license to use the App under the terms stated in this Agreement for personal use. End User may not use the App for commercial purposes. Title and ownership of the App and of the copyright in the App remains with CorVel;

b. The App may be used by End User on a single mobile device, which End User owns or uses and for which the App is designed to operate;

c. End User may not make copies, translations, or modifications of or to the App. End User may not alter, obscure, or remove the copyright notice on any copy of the App;

d. End User may not assign, sell, distribute, lease, rent, sublicense, or transfer the App or this license or disclose the App to any other person. End User may not reverse-engineer, disassemble, or decompile the App or otherwise attempt to discover the source code or structural framework of the App; and

e. CorVel may terminate this Agreement and the license granted hereunder at any time. This Agreement and the license granted hereunder automatically terminates if End User fails to comply with any provision of this Agreement. End User agrees upon termination to: (i) cease using the App and providing or accessing any data or information by or through the App, and (ii) destroy the App, together with all copies, modifications, and merged portions in any form, including any copy on End User's mobile device or on any computer.

2. Limited Warranty. The App is provided "AS IS" and with all faults. NO WARRANTIES ARE EXPRESSED AND NONE SHALL BE IMPLIED. CORVEL SPECIFICALLY EXCLUDES ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. CORVEL DOES NOT WARRANT THAT USE OF THE APP WILL BE UNINTERRUPTED OR ERROR-FREE.

3. Maintenance & Support. The App is maintained by CorVel or its subcontractors. From time to time, CorVel may provide modifications, updates, revisions, or enhancements, all of which are offered pursuant to the terms and conditions of this Agreement. CorVel does not provide support to End Users. All support requests should be directed at End User's employer or other person responsible to manage End User's claims and not at CorVel.

4. Consent to use Data. All data or information submitted by End User through the App shall be used by CorVel in accordance with CorVel's Privacy Policy posted at: http://www.corvel.com/privacy-policy/

5. Limitations of Liability (End User). IN NO EVENT WILL CORVEL'S LIABILITY FOR ACTUAL DIRECT DAMAGES ARISING OUT OF THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE APP EXCEED $100. IN NO EVENT WILL CORVEL BE LIABLE FOR ANY LOST PROFITS, SALES, BUSINESS, DATA, COSTS OF

PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM THE USE OF THE APP OR OTHERWISE ARISING FROM THIS AGREEMENT, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. The parties agree that the above limits represent a reasonable allocation of risk.

6. Governing Law; Exclusive Jurisdiction. This Agreement is governed by the laws of California. End User agrees that the federal or state courts sitting in State of California, shall be the exclusive courts of jurisdiction and venue for any litigation, special proceeding or other proceeding as between the parties that may be brought, or arise out of, or in connection with, or by reason of this Agreement. The United Nations Convention on Contracts for the International Sale of Goods is expressly disclaimed.

7. Indemnification (End User). End User shall defend, indemnify and hold harmless CorVel from and against damages, liabilities and reasonable costs and expenses, including reasonable legal fees arising out of or relating to: (i) End User's use of the App in violation of the terms of this Agreement, (ii) data or content included in or omitted from content and data input into the App by End User or any other third party using End User's mobile device, and (iii) any claim by an employee of End User or End User's insureds brought against CorVel due to the recommendations made by CorVel through the App.

8. Disclaimer. CorVel shall not be responsible or liable for any third party claims arising from the negligent acts, errors, omissions, willful misconduct or fraud caused by End User in connection with its use of the App or otherwise attributable this Agreement.

9. Assignment. End User may not assign any of End User's rights or delegate any of End User's obligations under this Agreement without the prior written consent of CorVel. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

10. Notice. All notices required to be sent hereunder shall be in writing and shall be deemed to have been given when mailed by first class mail to the address listed below.

11. Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force.

12. Waiver. The waiver by either party of a breach of any provision of this Agreement or the failure by either party to exercise any right hereunder shall not operate or be construed as a waiver of any subsequent breach of that right or as a waiver of any other right.

13. Export Administration. End User agrees to comply fully with all relevant export laws and regulations of the United States ("Export Laws") to assure that neither the App nor any direct product thereof is (1) exported, directly or indirectly, in violation of Export Laws; or (2) are used for any purposes prohibited by the Export Laws, including, without limitation, nuclear, chemical, or biological weapons proliferation.

14. Entire Agreement. This Agreement shall constitute the complete agreement between the parties and supersede all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement. This Agreement may not be modified or amended except in writing signed by a duly authorized representative of each party; no other act, document, usage or custom shall be deemed to amend or modify this Agreement.

15. Survival. The provisions of Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 shall survive the termination of this Agreement.

Copyrights

Copyright © 2014 CorVel. All rights reserved.

This documentation and the corresponding App are the property of CorVel and are licensed to the user under the terms of this End User License Agreement. Unauthorized use or copying of the App, documentation, or any other associated materials is a violation of state and federal laws. These materials must be returned to CorVel if so demanded.

COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM

(3) ✓ 12/16/16 (L)

Today's Date: 11/18/2016

DOCUMENT TITLE: SOFTWARE ACCESS AGREEMENT AS AN ADDENDUM TO THE THIRD PARTY WORKERS' COMPENSATION ADMINISTRATION AGREEMENT – CORVEL ENTERPRISE COMP, INC.

COMM. MTG. DATE: 11/15/2016 **CAM #:** 16-1377 **ITEM #:** CM-6 **CAM attached:** ☒YES ☐NO

Routing Origin: CAO **Router Name/Ext:** Astrid Sperling/5001 **Action Summary attached:** ☒YES ☐NO

CIP FUNDED: ☐ YES ☐ NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least $50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

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1) City Attorney's Office: Documents to be signed/routed? ☒YES ☐NO # of originals attached: 3

Is attached Granicus document Final? ☒YES ☐NO Approved as to Form: ☒YES ☐NO

Date to CCO: 11-29 Candace Duff (Attorney's Name) CRD (Initials)

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2) City Clerk's Office: # of originals: 3 **Routed to:** Gina Ri/CMO/X5013 **Date:** 11/30/16

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3) City Manager's Office: **CMO LOG #:** NO 94 Document received from: 11/30/16

Assigned to: L. FELDMAN ☑ S. HAWTHORNE ☐ C. LAGERBLOOM ☐
L. FELDMAN as CRA Executive Director ☐

☐ APPROVED FOR LEE FELDMAN'S SIGNATURE ☐ N/A FOR L. FELDMAN TO SIGN

PER ACM: **S. HAWTHORNE** _____ (Initial/Date) **C. LAGERBLOOM** _____
(Initial/Date) ☐ **PENDING APPROVAL** *(See comments below)*
Comments/Questions: _____

Forward ___ originals to ☑ Mayor ☐ CCO **Date:** 11/30/16 CCO received 12/14/16

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4) City Clerk's Office: Retains 1 original and forwards 2 originals and 1 copy to: **Guy Hine/Risk /5494/**
Attach __ certified Reso # ____ ☐YES ☒NO
Original Route form to CAO

Rev. 7/6/16

CORVEL ENTERPRISE COMP, INC.
CAREMC ACCESS

This CareMC License Agreement (this "Access") is entered into as November 1, 2016, (the "Effective Date") by and between CorVel Enterprise Comp, Inc., a wholly-owned subsidiary of CorVel Corporation ("CorVel"), 2010 Main Street, Suite 600, Irvine, CA 92614 ("CorVel") and **City of Ft. Lauderdale, FL.,** ("Customer").

RECITALS

WHEREAS, CorVel has developed a proprietary software solution (the "CareMC Application") which is accessible via the CorVel web site located at URL www.caremc.com (the "CareMC Site"), through which CorVel provides its customers with the option of utilizing certain Third Party Claims Administration Services and bundled Managed Care Services, including certain Bill Review Services, online (such automated and online components of CorVel's Managed Care Services, "Online Services"); and

WHEREAS, Customer issued a Request for Proposal for Third Party Claims Administration Services ("Master Services Agreement") and awarded such RFP to CorVel; and

WHEREAS, CorVel has developed a proprietary smartphone application ("My Care Services" smartphone app) for Customer and Customer's claimants accessible via claimant's own independent smartphone including but not limited to Apple's iOS 7.0+ or Android 4.0+ or other smartphone device with such access capabilities; and

WHEREAS, CorVel provides its customers with the option of accessing certain Third Party Claims Administration Services and bundled Managed Care Services by means of CorVel's proprietary software solution (the "CareMC Application") via the CorVel web site located at the URL "www.caremc.com" (the "CareMC Site"); and

WHEREAS, CorVel and Customer have entered into the Agreement for Third Party Workers' Compensation Administration Services (the "Master Agreement") with an Effective Date of September 20, 2016; and

WHEREAS, Customer desires to be provided with access to and use of the CareMC Application by means of an Internet browser under the terms and conditions set forth in this License Agreement.

NOW, THEREFORE, in consideration of the premises set forth above, the promises made herein, and other good and valuable consideration the receipt which is hereby acknowledged, the parties agree as follows:

1. ACCESS TO THE CAREMC APPLICATION

A. Terms of Use. The parties acknowledge and agree that the terms and conditions under which particular Third Party Claims Administration Services and bundled Managed Care Services are provided by CorVel and the terms and conditions under which Customer may access and use the CareMC Application in order to utilize the online and automated components of such Third Party Claims Administration Services and bundled Managed Care Service (the "Online Services") shall be governed by the terms and conditions of this License Agreement.

B. Registration Information. Prior to accessing the CareMC Application, Customer shall provide CorVel with certain registration information requested therein ("Registration Information"). Customer represents and warrants that (i) the Registration Information Customer provides is true, accurate, current and complete, and (ii) the Registration Information will be updated as necessary to keep such data true, accurate, current and complete.

C. Passwords and Levels of Access. As soon as practicable after the execution of this License Agreement, CorVel shall provide a master password to Customer that allows Customer initial access to the Online Services (the "Master Password"). Customer shall then designate two groups of Authorized Users. The first group of Authorized Users ("Restricted Users") shall have access to all data available on the CareMC Site except data that constitutes or contains "protected health information" ("PHI Data") as such term is defined in any applicable state or federal statutes or regulations. Each Restricted User shall initially access the Online Services by means of the Master Password, then shall be required to choose his/her own unique password (each, a "Restricted Password") for all future access. The second group of Authorized Users ("Non-Restricted Users") shall have access to all data available through the CareMC Application, including PHI Data, but shall only have access to PHI Data to the extent necessary for Customer to render payment on a claim, and then only to those portions or amounts of PHI Data that are determined by CorVel, in its sole discretion, to be the minimum necessary for Customer to render payment on such claim. Each Non-Restricted User will be required to choose a second unique password (each, a "Non-Restricted Password") which will enable his/her to access PHI Data on the foregoing terms.

D. Non-Restricted Users. Customer represents and warrants to CorVel that each Non-Restricted User who accesses PHI Data will do so solely in order for Customer to render payment on the applicable claim.

E. Security of Passwords. Customer acknowledges and agrees that it shall be solely responsible for (i) selecting Authorized Users, (ii) assigning the various levels of authority and access each Authorized User may have to the CareMC Application, Online Services and Customer Data, including by determining which Authorized Users shall be Non-Restricted Users, (iii) ensuring that only Authorized Users have access to the Master Password, only Restricted Users have access to the Restricted Passwords and only Non-Restricted Users have access to Non-Restricted Passwords, (iv) implementing a system to control, track and account for all Restricted Passwords and Non-Restricted Passwords, (v) strictly maintaining the confidentiality and integrity of the Master Password, Restricted Passwords and Non-Restricted Passwords and levels of authority among Authorized Users, and (iv) ensuring that Authorized Users shall at all times comply with the terms and conditions of this License Agreement. Customer further agrees that it shall notify CorVel immediately in writing if the security or integrity of a password has been compromised.

F. Customer Data. Responsibility for ensuring that the content and data input into the CareMC Application by Customer or Authorized Users ("Customer Data") is accurate, reflects Customer's requirements and is entered correctly lies solely with Customer. All data generated by and through Customer's use of the CareMC Application and Online Services shall reside on CorVel's server. CorVel reserves the right to temporarily suspend access to any Customer Data that it determines, in its sole discretion, violates the terms and conditions of this License Agreement or any applicable laws.

G. Changes to the CareMC Application. CorVel reserves the right, at any time in its sole discretion and without liability to Customer, to delete or change features of the CareMC Application, CareMC Site or Online Services provided such changes do not materially alter the functionality, efficiency or performance of the CareMC Application.

2. LICENSE AND RESTRICTIONS

A. Limited License. Subject to the terms and conditions of this License Agreement, CorVel grants to Customer during the License Term (as defined in Section 8A below) a limited, non-exclusive, non-transferable, non-sublicensable license to access and use, and allow Authorized Users to access and use, the CareMC Application via the CareMC Site solely for Customer's own internal business use and operations. Customer shall access and use the CareMC Application in accordance with the user's guides and online instruction provided to Customer by CorVel ("Documentation") and all applicable laws, statutes, rules and regulations.

B. Restrictions. Customer shall not, and shall not allow Authorized Users or any third party to (i) rent, lease, re-license or otherwise provide access to the CareMC Application or Online Services to any third party, (ii) alter, modify or create derivative works of the CareMC Application, (iii) use any reverse compilation, decompilation or disassembly techniques or similar methods to determine any design structure, concepts and construction method of the CareMC Application or replicate the functionality of the CareMC Application for any purpose, or (iv) copy the CareMC Application or any content, materials, information and other data provided by CorVel on the CareMC Site or used in providing the Online Services ("CorVel Content") and/or Documentation without CorVel's prior written consent.

C. Third Parties. Customer shall not allow any third party to have access to the CareMC Application or Online Services without prior written consent of CorVel and ensuring that (i) such third party enters into a legally enforceable written agreement with CorVel, or (ii) CorVel and Customer shall enter into a Letter Agreement whereby Customer assumes all responsibility and liability for access by such third party.

D. Ownership. CorVel owns and shall retain all right, title and interest in and to the CareMC Application, Documentation, CareMC Site, Online Services, CorVel Content and any intellectual property rights inherent therein or arising therefrom. In addition to CorVel's rights in the individual elements of the CorVel Content, CorVel owns a copyright in the selection, coordination, arrangement and enhancement of the CorVel Content. Neither Customer nor any Authorized User shall obtain any ownership rights, express or implied, or any other rights other than those expressly set forth herein in the CareMC Application, Documentation or CorVel Content.

E. Compliance Monitoring and Audits. CorVel may monitor and, at its expense, perform an audit of Customer's use of the CareMC Application and CareMC Site to verify that Customer and Authorized Users are using the CareMC Application in compliance with the terms of this License Agreement. CorVel reserves the right to temporarily suspend Customer's or any Authorized User's access to the CareMC Application in the event Customer or such Authorized User engages in, or CorVel in good faith suspects is engaged in, any unauthorized conduct. CorVel shall use reasonable efforts to immediately notify Customer in writing of its suspension in services, the reasons for such suspension, including the facts and circumstances it believes constitute Customer's unauthorized conduct and shall agree to a reasonable time to conduct the review of the suspension in access. To the extent CorVel requires access to Customer's facilities to conduct an audit hereunder, such access shall be made upon reasonable notice and conducted during Customer's regular business hours. If an audit conducted during any portion of the Term in which Customer is required to pay fees under this Agreement reveals that Customer has underpaid fees to CorVel or is using the CareMC Application beyond the license restrictions and/or any terms of this Agreement, Customer will be invoiced for any such underpaid fees and will pay CorVel's reasonable expenses associated with such audit. The foregoing remedies shall be in addition to, and shall not limit CorVel's ability to terminate this Agreement based on material breach or pursue damages or other remedies available under law and equity.

3. INFRASTRUCTURE, MAINTENANCE AND SUPPORT

A. CorVel Infrastructure Obligations. Subject to Customer's compliance with the terms and conditions of this License Agreement, CorVel shall be responsible for providing and maintaining the hardware, software and other equipment required to host the CareMC Application for Customer ("CareMC Infrastructure"). The CareMC Infrastructure is subject to modification by CorVel from time to time for purposes such as adding new functionality, maximizing operating efficiency and upgrading hardware, provided such modifications shall not in the aggregate degrade the performance of the Online Services utilized by Customer. Customer understands and acknowledges that such modifications may require changes to Customer's Internet access and/or telecommunications infrastructure to maintain Customer's desired level of performance. CorVel shall give Customer reasonable prior written notice of any such modifications.

B. Customer Infrastructure Obligations. Except for the CareMC Infrastructure, which will be provided by CorVel, Customer shall be responsible for obtaining and maintaining all hardware, software, equipment, Internet access and/or telecommunications services and other items or services furnished by third party venders or providers ("Third Party Providers") required to enable Customer to access and use the CareMC Application and CareMC Site as contemplated hereunder.

C. Support. CorVel will provide general support regarding questions on the CareMC Application and CareMC Site via email and by telephone from Monday through Friday between the hours of 5:00 a.m. and 6:00 p.m. Pacific Standard Time, excluding holidays.

D. Scheduled Maintenance. CorVel will use reasonable efforts to (i) perform any scheduled downtime outside of Customer's normal business hours, (ii) notify Customer of all scheduled downtimes at least seventy-two (72) hours in advance, and (iii) perform software updates to the CareMC Application with minimal disruption to Customer's use of the Online Services.

E. System Monitoring. CorVel will use reasonable efforts to continuously monitor its web servers and database servers to ensure that they are functioning properly.

F. Security. CorVel will implement and use reasonable efforts to maintain secure systems through the use of firewalls, virtual private networks (VPN), and other security technologies. CorVel will use reasonable efforts to immediately report to Customer any security violations that affect the data of Customer.

G. Disaster Recovery and Backup. CorVel will use reasonable efforts to perform nightly backups of essential data on its web servers and database servers. CorVel has implemented third party backup and restoration technology to enable high speed recovery of data. CorVel utilizes redundant load balanced Win 2000 servers for 24x7, 365 day access, except for regularly scheduled system maintenance and upgrade processes. SQL Server databases are hosted on clustered servers offering fall-over capability, redundant communication links, and load balanced application servers. Backup tapes are restored into a test environment not less than quarterly to confirm validity of backups. The CareMC Site has redundant inbound Internet and Intranet connectivity.

H. Professional Managed Care Services. If Customer requires any additional professional services relating to the CareMC Application or Online Services from CorVel including but not limited to integration with Customer's electronic data interfaces (EDIs) or other Customer systems, Customer shall submit a written request to CorVel for such services. CorVel shall, in good faith, consider providing such services at its then-current professional services fee rate and standard terms and conditions.

4. REPRESENTATIONS AND WARRANTIES

A. Customer Representations. Customer represents that (i) it has the legal authority to provide the Customer Data to CorVel hereunder, and (ii) it is fully aware and knowledgeable of and shall comply with its duties and responsibilities with respect to the privacy and confidentiality of medical records and protected health information under applicable federal and state laws, including but not limited to those imposed by HIPAA. Upon written notice to Customer, CorVel may modify or temporarily suspend Customer's access to and use of the CareMC Application, Online Services and/or CareMC Site as necessary to comply with any law or regulation.

B. CorVel Warranties. CorVel warrants that (i) it shall use commercially reasonable professional practices and good workmanship in providing the CareMC Application, and (ii) Customer support will be performed consistent with generally accepted industry standards. These warranties extend only to Customer.

C. Exclusive Remedy. For any breach of the foregoing warranties, CorVel's entire liability and Customer's exclusive remedy will be the correction of the problems or errors that cause the breach of warranty, if feasible, or termination of the Agreement.

5. DISCLAIMERS AND LIMITATIONS OF LIABILITY

A. Disclaimers. TO THE EXTENT ALLOWED BY APPLICABLE LAW, EXCEPT FOR THE LIMITED WARRANTIES DESCRIBED IN SECTION 4B ABOVE, CORVEL MAKES NO OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, GOOD TITLE, SATISFACTORY QUALITY AND NONINFRINGEMENT. CUSTOMER SPECIFICALLY ACKNOWLEDGES AND AGREES AS FOLLOWS:

(i) Internet Usage. Customer acknowledges that the Internet is essentially an unregulated, insecure and unreliable environment, and that the ability of Customer to access and use the CareMC Application is dependent on the Internet and hardware, software and services provided by various Third Party Providers. CORVEL SHALL NOT BE RESPONSIBLE FOR CUSTOMER'S INABILITY TO ACCESS OR USE THE CAREMC APPLICATION TO THE EXTENT SOLELY CAUSED BY FAILURES OR INTERRUPTIONS OF ANY HARDWARE, SOFTWARE OR SERVICES PROVIDED BY CUSTOMER OR THIRD PARTY PROVIDERS.

(ii) CareMC Application. CUSTOMER ACKNOWLEDGES AND AGREES THAT CORVEL DOES NOT WARRANT THAT THE CAREMC APPLICATION OR ONLINE SERVICES ARE ERROR FREE, THAT CUSTOMER WILL BE ABLE TO ACCESS OR USE THE CAREMC APPLICATION OR ONLINE SERVICES WITHOUT PROBLEMS OR INTERRUPTIONS, OR THAT THE CAREMC SITE AND CAREMC APPLICATION ARE NOT SUSCEPTIBLE TO INTRUSION, ATTACK OR COMPUTER VIRUS INFECTION.

(iii) Network Intrusions. CUSTOMER AGREES THAT CORVEL WILL NOT BE LIABLE FOR DAMAGES ARISING FROM ANY BREACH, UNAUTHORIZED ACCESS TO, MISUSE OF, OR INTRUSION INTO, CUSTOMER DATA RESIDING ON CORVEL'S SERVER(S) OR ANY NETWORK USED BY CUSTOMER TO THE EXTENT SUCH DAMAGES WERE BEYOND CORVEL'S REASONABLE CONTROL.

B. Exclusion of Damages.

(i) Exclusion of Damages. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY

SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOST REVENUES) UNDER THIS AGREEMENT, WHETHER OR NOT FORESEEABLE AND REGARDLESS OF WHETHER CLAIMS UNDER THIS AGREEMENT ARE BROUGHT UNDER TORT, CONTRACT OR ANY OTHER LEGAL OR EQUITABLE THEORY.

(iii) Acknowledgment. The parties acknowledge that the limitations and disclaimers set forth in this Agreement were an essential element in setting consideration under this Agreement.

6. INDEMNIFICATION

A. Indemnification by CorVel. Subject to section 6D below, CorVel shall defend any third party claim against the Customer arising from the death of or physical injury to any person or damage to the Customer's property to the extent proximately caused by the negligence of Corvel or its agents or employees, and indemnify and hold harmless the Customer and its employees from and against damages, liabilities and reasonable costs and expenses, including reasonable legal fees ("Losses") incurred in connection therewith.

B. Further Indemnification by CorVel. Subject to Section 6D below, CorVel shall defend any third party suit or action against Customer to the extent such suit or action is based on a claim that Customer's permitted use of the CareMC Application under this Agreement constitutes an infringement of a United States patent, trademark, trade name, trade secret, copyright or other United States intellectual property right, and CorVel will pay those Losses finally awarded against Customer in any monetary settlement or final, non-appealable judgment of such suit or action which are specifically attributable to such claim. This indemnity does not apply to any claims based on Customer's use of the CareMC Application (i) in violation of this Agreement or the Documentation (as defined in the CareMC License Agreement), (ii) in combination with any other software, hardware, network or system where the alleged infringement relates to such combination, or (iii) based on CorVel's compliance with Customer's instructions, designs or specifications where the alleged infringement relates to such compliance. If any portion of the CareMC Application becomes, or in CorVel's opinion is likely to become, the subject of a claim of infringement, then CorVel may, at its option and expense, procure for Customer the right to continue using the CareMC Application or replace or modify the affected portion of the CareMC Application so that it becomes non-infringing. If neither alternative is reasonably available, CorVel may terminate this Agreement. THE FOREGOING STATES CORVEL'S ENTIRE LIABILITY AND CUSTOMER'S SOLE REMEDY FOR INFRINGEMENT CLAIMS.

C. Customer Indemnification. Except as prohibited by the Florida Constitution or by the laws of the State of Florida, only to the extent specified in and subject to the limitations specified in Section 768.28, Florida Statutes (2016), as may be amended or revised, Customer agrees to indemnify CorVel from and against actions at law to recover damages in tort for money damages for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the City while acting within the scope of the employee's office or employment under circumstances in which Customer, if a private person, would be liable to the claimant, in accordance with the general laws of the State of Florida. The foregoing sentence does not serve as a waiver of Customer's sovereign immunity or any other legal defenses available to it..

D. Conditions. The parties' indemnification obligations under this Section 6 are contingent upon: (i) the indemnified party giving prompt written notice to the indemnifying party of any claim under this Section (provided, however, that failure to give such notification shall not affect the indemnification provided hereunder except to the extent, and only to the extent, that the indemnifying party shall have been actually prejudiced as a result of such failure), (ii) the indemnifying party having the right, but not the obligation, to assume sole control of the defense or settlement of the claim, and (iii) at the indemnifying party's request and expense, the indemnified party cooperating in the investigation and defense of such claim(s). If the indemnifying party assumes the defense of any claim hereunder, the indemnified party shall be entitled to participate in (but not control) such defense and to retain its own counsel, at its own expense. The indemnifying party shall not settle or consent to an adverse judgment in any such claim that adversely affects the rights or interests of the indemnified party or imposes additional obligations on the indemnified party, without the prior express written consent of the indemnified party.

7. INSURANCE

A. CorVel Insurance. CorVel, at its sole expense, agrees to maintain, at all times during the term of the Agreement, the required professional liability, errors and omissions, workers' compensation, general, and auto liability insurance coverages as set forth on the Certificate of Insurance provided with the executed Service Agreement with an effective date of *[insert date]*.

B. Customer Insurance. Customer, at its sole expense, agrees to keep in force comprehensive general liability insurance and professional liability insurance with coverage limits in accordance with acceptable industry standards for the term of this Agreement. Upon request by CorVel, Customer shall furnish CorVel with a certificate of such insurance. Customer shall provide CorVel with prior written notice of any cancellation, non-renewal or material change to any such insurance coverages pursuant to its insurance policies. It is agreed that Customer shall be deemed in compliance with this Section 7B by being self-insured under terms and conditions and with sufficient reserves as is customary within the industry for companies of comparable size and operations.

8. LICENSE TERM AND TERMINATION

A. Term. The Term of the License Agreement shall run coterminous with the Master Agreement unless terminated pursuant to Section 8B or 8C hereunder this License Agreement.

B. Termination for Convenience. Either party shall have the right to terminate this License Agreement for any reason or for no reason, upon ninety (90) days written notice to the other party.

C. Termination for Cause. This License Agreement may be terminated by either party for cause as follows: (i) upon thirty (30) days written notice if the other party breaches or defaults under any material provision of this Agreement and does not cure such breach prior to the end of such thirty (30) day period, (ii) effective immediately and without notice if the other party ceases to do business, or otherwise terminates its business operations, except as a result of an assignment, as permitted under the terms and conditions of this License Agreement, or (iii) effective immediately and without notice if the other party becomes insolvent or seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against the other (and not dismissed within ninety (90) days).

D. Effect. Except to the extent expressly provided to the contrary herein, any right of action for breach of the License Agreement prior to termination, and the following provisions shall survive the termination of this License Agreement: Sections 1G, 2D, 4, 5 and 6. Additionally, upon termination or expiration of the License Agreement (i) CorVel shall provide Customer with any proprietary data belonging to Customer, in the current format in which it is stored at CorVel at the termination of the License Agreement, (ii) all licenses granted under this License Agreement shall terminate immediately, (iii) all rights to use the CareMC Application and Online Services shall cease immediately, and (iv) each party shall promptly return all information, documents, manuals and other materials belonging to the other party related to this License Agreement, whether in printed or electronic form, except as otherwise provided in this License Agreement, including without limitation all confidential information of the other party then currently in its possession.

E. Funding Out Clause. This agreement depends on continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by Customer upon a thirty (30) day prior written notice. Termination for any of these reasons is not a default by the Customer nor does it give rise to a claim against Customer.

9. CONFIDENTIALITY

A. Definition of Confidential Information. "Confidential Information" shall mean any non-public data, information and other materials regarding the products, services or business of a party (and/or, if either party is bound to protect the confidentiality of any third party's information, of a third party) provided to either party by the other party where such information is marked or otherwise communicated as being "proprietary" or "confidential" or the like, or where such information should, by its nature, be reasonably considered to be confidential and/or proprietary. Without limiting the foregoing, the parties agree that (i) the CareMC Application, Documentation, CorVel Content (as defined in the in the CareMC License Agreement) and all software, source code, source documentation, inventions, know-how, and ideas, updates and any documentation and information relating thereto constitutes Confidential Information of CorVel, (ii) the Customer Data (as defined in the CareMC License Agreement) constitute Confidential Information of Customer, and (iii) this Agreement, the Exhibits and Schedules attached hereto, and the terms and conditions set forth herein and therein are Confidential Information of both parties.

B. Disclosure and Use of Confidential Information. The Confidential Information disclosed by either party ("Disclosing Party") to the other ("Receiving Party") constitutes the confidential and proprietary information of the Disclosing Party and the Receiving Party agrees to treat such Confidential Information in the same manner as it treats its own similar proprietary information, but in no case will the degree of care be less than reasonable care. The Receiving Party shall use the Confidential Information of the Disclosing Party only in performing under this Agreement and shall retain the Confidential Information in confidence and not disclose it to any third party (except as authorized under this Agreement) without the Disclosing Party's express written consent. The Receiving Party shall disclose the Disclosing Party's Confidential Information only to those employees and contractors of the Receiving Party who have a need to know such information for the purposes of this Agreement, and such employees and contractors must be bound by this Agreement or have entered into agreements with the Receiving Party containing confidentiality provisions covering the Confidential Information with terms and conditions at least as restrictive as those set forth herein.

C. Exceptions. Notwithstanding the foregoing, the parties' confidentiality obligations hereunder shall not apply to information which: (i) is already known to the Receiving Party prior to disclosure by the Disclosing Party, (ii) becomes publicly available without fault of the Receiving Party, (iii) is rightfully obtained by the Receiving Party from a third party without restriction as to disclosure, (iv) is approved for release by written authorization of the Disclosing Party, (v) is developed independently by the Receiving Party without use of or access to the Disclosing Party's Confidential Information, or (v) is required to be disclosed by law, rule, regulation, court of competent jurisdiction or governmental order, provided, however, that the Receiving Party shall advise the Disclosing Party of the Confidential Information required to be disclosed promptly upon learning thereof in order to afford the Disclosing Party a reasonable opportunity to contest, limit or assist the Receiving Party in crafting the disclosure, and then such disclosure shall be made only to the extent necessary to satisfy such requirements.

D. Use of Data. Nothing shall prohibit CorVel from using aggregate, non-identifying, statistical data generated through its customers', including Customer, use of the CareMC Application and Online Services for analytical purposes, provided that CorVel shall not use or disclose any such data or information in a manner that would reveal the identity of, or other confidential information concerning, Customer. Such aggregate, non-identifying statistical data could include, without limitation, statistics regarding usage of the CareMC Application and Online Services, the number of case referrals generated through the CareMC

Application and Online Services and the efficiencies gained by CorVel customers through their use of the CareMC Application and Online Services.

10. GENERAL PROVISIONS

A. Choice of Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of this Agreement and for any other legal proceeding shall be in Broward County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida. . BY ENTERING INTO THIS AGREEMENT, BOTH PARTIES EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF, THIS AGREEMENT..

B. Compliance with Laws. Both parties shall comply with all federal, state, and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.

C. Contacts for Notices. All written notice required or permitted hereunder shall be in writing and shall be sufficient if personally delivered or sent by facsimile or internationally recognized delivery service to the address or fax number set forth below, unless such address or fax number is changed by notice, to the other party, as permitted hereunder. Any notices shall be deemed given on the date received, as indicated (i) by receipt of electronic answer back in the case of facsimile, or (ii) the records of the delivery service, if by courier.

If to CorVel:

CorVel Corporation
2010 Main Street, Suite 600
Irvine, California 92614
Attn: Director, Legal Services
Phone: (949) 851-1473
Fax: (866) 434-2469
Email: Corporate_Legal@corvel.com

If to Customer:

City of Ft Lauderdale

_____

_____

Attn: _____

Phone: _____

Fax: _____

E-mail: _____

D. Assignment. Neither this Agreement nor any rights, licenses or obligations hereunder, may be assigned by either party without the prior written consent of the non-assigning party. Notwithstanding the foregoing, CorVel may assign this Agreement to any acquiror of all or of substantially all of CorVel's equity securities, assets or business related to the subject matter of this Agreement. Any attempted assignment in violation of this Agreement shall be void and without effect.

E. Severability. Should any term of this Agreement be declared void or unenforceable by any arbitral tribunal or court of competent jurisdiction, such declaration shall have no effect on the remaining terms hereof, which shall continue in full force and effect.

F. Waiver. The failure of either party to enforce any rights granted hereunder or to take action against the other party in the event of any breach hereunder shall not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.

G. Relationship of the Parties. The relationship of CorVel and Licensee established by this Agreement is that of independent contractors, and nothing contained in this Agreement shall be construed (i) to give either party the power to direct or control the day-to-day activities of the other, or (ii) to constitute the parties as partners, franchisee-franchiser, joint venturers, co-owners or otherwise as participants in a joint or common undertaking, or otherwise give rise to fiduciary obligations between the parties.

H. Force Majeure. Except for the obligation to make payments, nonperformance by either party shall be excused to the extent that performance is rendered impossible by war, acts of terrorism, strikes, fire, flood, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the control of the non-performing party.

I. Entire Agreement. This Agreement constitutes the entire, final, complete and exclusive agreement between the parties and supersedes all previous agreements or representations, oral or written, relating to the subject matter of this Agreement. This Agreement may not be modified or amended except in writing signed by a duly authorized representative of

each party. Both parties acknowledge having read the terms and conditions set forth in this Agreement and all attachments hereto, understand all terms and conditions, and agree to be bound thereby.

J. Counterparts. This Agreement may be executed in two counterparts, each of which shall be an original and together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties by their duly authorized representatives have executed this Agreement as of the Effective Date set forth above.

CORVEL ENTERPRISE COMP, INC.

By: Richard Schweppe

Name: Richard Schweppe

Title: CFO/Sec./Treasurer

Date: 11/8/16

ATTEST:

Jeffrey A. Modarelli, City Clerk

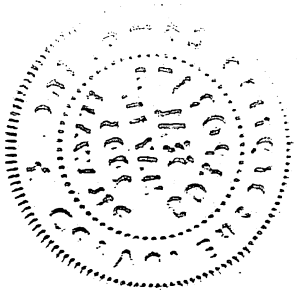
City of Fort Lauderdale

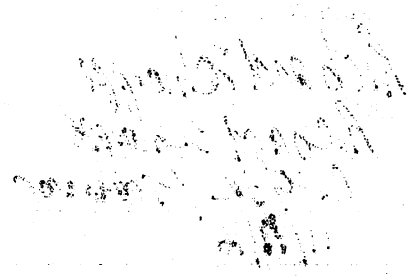
John P. "Jack" Seiler, Mayor

Lee R. Feldman, City Manager

Approved as to form:
Cynthia A. Everett, City Attorney

By:
Candace Duff
Assistant City Attorney





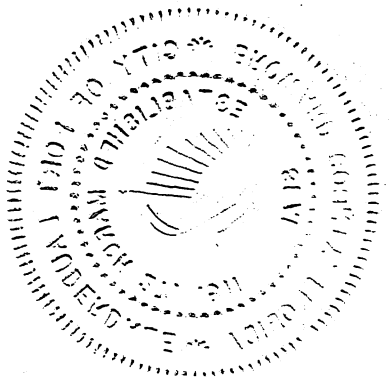


EXHIBIT A

My Care Smartphone Claims App Attachment

End User License Agreement

Such access shall provide Customer's claimants an opportunity to review the current status of their individual claim. For access by Customer claimant, such Customer claimant will be required to have a smartphone including but not limited to an Apple iOS 7.0+ smartphone or Android 4.0+ smartphone or other smartphone device with such access capabilities. Customer acknowledges the terms of Attachment A hereunder which shall be a part of the My Care App and which the End User ("Claimant") shall be responsible for. The My Care App is at no costs to Customer for these Services.

Terms are non-negotiable as these are part of the Smart Phone App

PLEASE READ THIS LICENSE AGREEMENT BEFORE USING THE APP. USE OF THE APP INDICATES END USER'S ACCEPTANCE OF THIS END USER LICENSE AGREEMENT. IF END USER DOES NOT AGREE WITH THE TERMS, END USER SHOULD NOT USE THE APP.

1. License Grant; License Restrictions. Either of CorVel Enterprise Comp, Inc. or CorVel Healthcare Corporation, as applicable, ("CorVel") provides the mobile software application program and user manual(s) or help files contained therein, and any modifications, updates, revisions, or enhancements thereto received by End User from CorVel (collectively, the "App"), and licenses its use solely pursuant to the terms stated below:

a. End User is granted a nontransferable license to use the App under the terms stated in this Agreement for personal use. End User may not use the App for commercial purposes. Title and ownership of the App and of the copyright in the App remains with CorVel;

b. The App may be used by End User on a single mobile device, which End User owns or uses and for which the App is designed to operate;

c. End User may not make copies, translations, or modifications of or to the App. End User may not alter, obscure, or remove the copyright notice on any copy of the App;

d. End User may not assign, sell, distribute, lease, rent, sublicense, or transfer the App or this license or disclose the App to any other person. End User may not reverse-engineer, disassemble, or decompile the App or otherwise attempt to discover the source code or structural framework of the App; and

e. CorVel may terminate this Agreement and the license granted hereunder at any time. This Agreement and the license granted hereunder automatically terminates if End User fails to comply with any provision of this Agreement. End User agrees upon termination to: (i) cease using the App and providing or accessing any data or information by or through the App, and (ii) destroy the App, together with all copies, modifications, and merged portions in any form, including any copy on End User's mobile device or on any computer.

2. Limited Warranty. The App is provided "AS IS" and with all faults. NO WARRANTIES ARE EXPRESSED AND NONE SHALL BE IMPLIED. CORVEL SPECIFICALLY EXCLUDES ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. CORVEL DOES NOT WARRANT THAT USE OF THE APP WILL BE UNINTERRUPTED OR ERROR-FREE.

3. Maintenance & Support. The App is maintained by CorVel or its subcontractors. From time to time, CorVel may provide modifications, updates, revisions, or enhancements, all of which are offered pursuant to the terms and conditions of this Agreement. CorVel does not provide support to End Users. All support requests should be directed at End User's employer or other person responsible to manage End User's claims and not at CorVel.

4. Consent to use Data. All data or information submitted by End User through the App shall be used by CorVel in accordance with CorVel's Privacy Policy posted at: http://www.corvel.com/privacy-policy/

5. Limitations of Liability (End User). IN NO EVENT WILL CORVEL'S LIABILITY FOR ACTUAL DIRECT DAMAGES ARISING OUT OF THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE APP EXCEED $100. IN NO EVENT WILL CORVEL BE LIABLE FOR ANY LOST PROFITS, SALES, BUSINESS, DATA, COSTS OF

PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM THE USE OF THE APP OR OTHERWISE ARISING FROM THIS AGREEMENT, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. The parties agree that the above limits represent a reasonable allocation of risk.

6. Governing Law; Exclusive Jurisdiction. This Agreement is governed by the laws of California. End User agrees that the federal or state courts sitting in State of California, shall be the exclusive courts of jurisdiction and venue for any litigation, special proceeding or other proceeding as between the parties that may be brought, or arise out of, or in connection with, or by reason of this Agreement. The United Nations Convention on Contracts for the International Sale of Goods is expressly disclaimed.

7. Indemnification (End User). End User shall defend, indemnify and hold harmless CorVel from and against damages, liabilities and reasonable costs and expenses, including reasonable legal fees arising out of or relating to: (i) End User's use of the App in violation of the terms of this Agreement, (ii) data or content included in or omitted from content and data input into the App by End User or any other third party using End User's mobile device, and (iii) any claim by an employee of End User or End User's insureds brought against CorVel due to the recommendations made by CorVel through the App.

8. Disclaimer. CorVel shall not be responsible or liable for any third party claims arising from the negligent acts, errors, omissions, willful misconduct or fraud caused by End User in connection with its use of the App or otherwise attributable this Agreement.

9. Assignment. End User may not assign any of End User's rights or delegate any of End User's obligations under this Agreement without the prior written consent of CorVel. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

10. Notice. All notices required to be sent hereunder shall be in writing and shall be deemed to have been given when mailed by first class mail to the address listed below.

11. Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force.

12. Waiver. The waiver by either party of a breach of any provision of this Agreement or the failure by either party to exercise any right hereunder shall not operate or be construed as a waiver of any subsequent breach of that right or as a waiver of any other right.

13. Export Administration. End User agrees to comply fully with all relevant export laws and regulations of the United States ("Export Laws") to assure that neither the App nor any direct product thereof is (1) exported, directly or indirectly, in violation of Export Laws; or (2) are used for any purposes prohibited by the Export Laws, including, without limitation, nuclear, chemical, or biological weapons proliferation.

14. Entire Agreement. This Agreement shall constitute the complete agreement between the parties and supersede all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement. This Agreement may not be modified or amended except in writing signed by a duly authorized representative of each party; no other act, document, usage or custom shall be deemed to amend or modify this Agreement.

15. Survival. The provisions of Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 shall survive the termination of this Agreement.

Copyrights

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