BOARD OF SUPERVISORS
COUNTY OF KERN

SUPERVISORS

PHILLIP PETERS District 1
CHRIS PARLIER District 2
JEFF FLORES District 3
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JULIE GRAGG
CHIEF CLERK OF THE BOARD OF SUPERVISORS
Kern County Administrative Center
1115 Truxtun Avenue, 5th Floor
Bakersfield, CA 93301
Telephone (661) 868-3585
TTY (800) 735-2929

September 1, 2026

Board of Supervisors
Kern County Administrative Center
1115 Truxtun Avenue
Bakersfield, CA 93301

REQUEST FOR RETROACTIVE APPROVAL OF SOFTWARE LICENSE AND SUPPORT AGREEMENT, CONTAINING NON-STANDARD TERMS AND CONDITIONS, WITH QSI 2011, INC. (QUESTYS), FOR APPLICATION, SUPPORT, AND MAINTENANCE OF QUESTYS SOFTWARE PROGRAM, EFFECTIVE JULY 1, 2026
(Fiscal Impact: $22,494.87; General Fund; Budgeted)

The Clerk of the Board requests Board approval for a Software License and Support Agreement with QSI 2011, Inc. (Questys), for use of software application, support, and maintenance for Questys software module. Due to on-going contract negotiations at the time of the proposed effective date, this request is being brought forward retroactively.

The Clerk of the Board has used Questys to prepare and publish your Board's agendas since 1997. Questys is also used as a research tool by staff Countywide who access Board record archives stored within the program, and by Clerk of the Board staff to respond to California Public Records Act requests. Approval of a new agreement with Questys will allow the County to continue using this long-standing and extensive resource.

The most recent renewal of the software subscription was executed in 2020 as Amendment No. 5 to the original agreement dated December 9, 1996, for a term of five years. The current Agreement will begin a new subscription to the software module, effective July 1, 2026, to June 30, 2027, at a cost of $22,494.87, with automatic one-year term renewals until either party provides written notice of its intention not to renew prior to ninety days from the end of the term.

County Counsel has reviewed the Agreement and found the following non-standard terms:

- 7.1 – auto-renewal of term;
- 13 – warranty disclaimers;
- 14 – licensee IP indemnification;
- 145 – limitations of liability

While Counsel cannot approve the Agreement as to form, the software purchase was deemed to be low risk, and Counsel does not object to the item coming before your Board on consent.

Therefore, IT IS RECOMMENDED that your Board approve Agreement with QSI, 2011, Inc. (Questys), containing non-standard terms and conditions, for application, support, and maintenance of Questys software module, effective July 1, 2026, in the amount of $22,494.87; and authorize the Chief Clerk of the Board to sign.

Sincerely,

Julie Gragg

Julie Gragg
Chief Clerk of the Board

Attachment
cc: Auditor-Controller

SOFTWARE LICENSE AND SUPPORT AGREEMENT

This Software License and Support Agreement between QSI 2011 Inc. ("Questys"), and the County of Kern Clerk of the Board ("Licensee") is effective as of ________________ (the "Effective Date").

Whereas Questys and Licensee entered into a previous software license and support agreement dated August 19, 2020 for the provision of certain software modules (the "Old Agreement");

Whereas Questys proposes to license its software application to Licensee on the terms and conditions set out in this Agreement;

Whereas Questys desires to provide the Licensee with support and maintenance services related to its software application;

Whereas the Licensee has received the proper approvals such that it will license the software application;

Now therefore, the two parties agree to the following:

1 DEFINITIONS

1.1 Throughout this Agreement, except as otherwise expressly provided, the following words and expressions shall have the following meanings, and to the extent that any capitalized words are not defined in this Agreement but in either the Standard Support Service Level Agreement or in the Contractual Services Agreement, then those words shall have the meaning ascribed to them in those respective agreements with priority being assigned to the Contractual Services Agreement and then to the Standard Support Service Level Agreement.

1.1.1 "Add-on" means an individual component of the software that provides a specific functionality.

1.1.2 "Agreement" means this Software License Agreement, including all of its Schedules and all instruments supplementing, amending or confirming this Agreement.

1.1.3 "Confidential Information" means the Software and all information or material that either party treats as confidential which is:

1.1.3.1 Marked "Confidential," "Restricted," or "Proprietary Information" or other similar marking,

1.1.3.2 Known by the parties to be considered confidential or proprietary, or

1.1.3.3 Which should be known or understood to be confidential or proprietary by an individual exercising reasonable commercial judgment in the circumstances.

1.1.4 Confidential Information does not include information to the extent that such information is or becomes generally known to the public by any means other than a breach of the obligations of a receiving party hereunder;

1.1.4.1 Was previously known to the receiving party as evidenced by its written records;

1.1.4.2 Is rightly received by the receiving party from a third party who is not under an obligation of confidentiality; or

1.1.4.3 Is independently developed by the receiving party without reference to or use of the other party's Confidential Information which such independent development can be establish by evidence that would be acceptable to a court of competent jurisdiction.

1.1.5 "Completion of Services" means that the Software is fully operational and performing in conformity with the specifications set out herein. For purposes of this Agreement, Completion of Services will be deemed to have occurred on the date which the Organization commences using the Software as its predominate business system.

1.1.6 "Core Software" means that portion of the Software that provides the base functionality which, when installed and implemented, will always be in operation when the Software is in operation on the Designated Computer System.

1.1.7 "Event of Default" is deemed to have occurred if Questys:

1.1.7.1 Ceases to market or make available maintenance or support Services for the Software during a period in which the Licensee is receiving support services pursuant to the Standard Service Level Support Agreement, or,

1.1.7.2 Becomes insolvent, executes an assignment for the benefit of creditors, or becomes subject to bankruptcy or receivership proceedings,

1.1.7.3 Ceases business operations generally or

1.1.7.4 Has transferred all or substantially all of its assets or obligations set forth in this Agreement to a third party which has not assumed all of the obligations of Questys.

1.1.8 "Designated Computer System" shall mean the Licensee's platform and operating system environment which is operating the Software.

1.1.9 "Documentation" shall mean user guides, operating manuals, technical manuals, supporting materials, and other information relating to the use of the Software, whether distributed in print, magnetic, electronic, or video format.

1.1.10 "Maximum Concurrent Users" shall have the meaning ascribed to it in paragraph 3.

1.1.11 "Module" means a particular application component of the Software that-provides general functionality.

1.1.12 "Project" means services to be provided pursuant to additional Modules or Add-ons (including Third Party Software) that are to be licensed to Licensee and which services are provided pursuant to a Short Form Contractual Services Agreement

1.1.13 "Software" shall mean the licensed Questys application software consisting of the Core Software, the Modules and the Add-ons, including any updates provided subsequent to this Agreement, and including all copies made by whomsoever produced. Third Party software are not included in the definition of software.

1.1.14 "Source Code" of the Software means the Software written in programming languages, including all comments and procedural code, such as job control language statements, in a form intelligible to trained programmers and capable of being translated into object code for operation on computer equipment through assembly or compiling, and accompanied by documentation, including flow charts, schematics, statements of principles of operations, and architecture standards, describing the data flows, data structures, and control logic of the Software in sufficient detail to enable a trained programmer through study of such documentation to maintain and/or modify the Software without undue experimentation.

1.1.15 "User" means an agent of Licensee who has been provided with permission by Questys to be a User or an employee of Licensee while that agent or employee is engaged in using the Software.

2 SCHEDULES

2.1 The Schedules described below and appended to this Agreement shall be deemed to be integral parts of this Agreement except for SCHEDULE C which is provided solely for historical and reference purposes.

2.1.1 SCHEDULE A - Description of Software, Software & Maintenance Fees, Payment Milestones and Deliverables

2.1.2 SCHEDULE B - Questys Standard Support Service Level Agreement

2.1.3 SCHEDULE C - Software License and Support Agreement Amendment No. 5 dated August 19, 2020 (Old Agreement)

3 LICENSE

3.1 Subject to the terms and conditions of this Agreement, including without limitation the payment of the License Fees, Questys hereby grants the Licensee a non-transferable, non-exclusive and limited license to:

3.1.1 Use the Software on Licensee's Designated Computer System for its own internal business purposes or operations with access to third parties as reasonably necessary for the intended use and otherwise in accordance with the Documentation. The Software is in "use" on a computer when it is loaded into temporary memory (i.e., RAM) of that computer;

3.1.2 Copy the Documentation and copy the Software into any machine readable form for back-up, archival or training purposes in support of the Licensee's use of the Software on the Designated Computer System PROVIDED THAT:

3.1.2.1 The Licensee shall maintain a record of the number and location of copies made and to erase all such copies promptly when no longer in use or necessary;

3.1.2.2 The copies, together with the original, shall remain the property of Questys; and

3.1.2.3 The Licensee has not removed or obscured any copyright, trademark or other proprietary notices from the Documentation, Software and related materials supplied by Questys; and

3.1.3 The Software and related materials supplied by Questys are protected by copyright and trademark laws. Title, ownership rights and intellectual property rights in the Software and related materials supplied by Questys remain with Questys and any rights not expressly granted are reserved. Use of the Software and related materials supplied by Questys is subject to the applicable copyright laws and the express rights and restrictions of this Agreement.

3.1.4 The Software that is delivered to the Licensee includes all of the Modules, Core Software and the Add-ons. The Licensee's use of these components is subject to the restrictions detailed in paragraph 4.

3.1.5 The number of Users who may access the Software at any one time is limited to the "Maximum Concurrent Users" as listed in SCHEDULE A. Any request to increase the number of Maximum Concurrent Users may entail additional license fees. The Licensee is not restricted in the number of employees or agents who may be permitted to use the Software. The restriction only applies to those accessing the Software at the same time.

3.1.6 The license rights granted herein and the other terms and conditions of this Agreement do not apply to any third party software listed in SCHEDULE A to this Agreement. Such third party software is licensed pursuant to and subject to all of the terms and conditions set out in the applicable third party license agreements for such software. For greater certainty and without limiting the generality of the foregoing, Questys makes no warranties, express or implied with respect to the third party software, including without limitation, their merchantability or fitness for a particular purpose and Questys accepts no liability of any kind whatsoever with respect to third party software.

4 LICENSE RESTRICTIONS

4.1 Without limiting the generality of the License granted in paragraph 3 and any other restrictions listed in this Agreement, Licensee shall not, and will not allow, direct or authorize any other party, directly or indirectly, to:

4.1.1 Use the Software for any purpose other than in connection with Licensee's primary business or operations;

4.1.2 Disassemble, de-compile, reverse engineer, defeat license encryption mechanisms, or translate any part of the Software,

4.1.3 Attempt to reconstruct or discover the Source Code of the Software or to otherwise convert it into human readable code;

4.1.4 Modify or create derivate works of the Software;

4.1.5 Rent, lease, lend, or use the Software for timesharing or bureau use;

4.1.6 Allow a third party to copy, access, or use the Software;

4.1.7 Take any actions that would cause the Software to become subject to any open source or quasi-open source license agreement or;

4.1.8 Attempt to access a Module or Add-on for which a license has not been granted.

4.2 Licensee shall be wholly liable to Questys for any misuse of the Software and these restrictions are absolute except as and only to the extent that this Agreement may expressly permit Questys to do otherwise.

4.3 Licensee requires a separate License for each environment into which the Software or any portion thereof is read in machine-readable form for operation on such Designated Computer System in a production environment.

4.4 The Licensee may only use the Software for which it has paid the license fees. Upon the payment of the applicable license fee Licensee shall be provided with the electronic key which will permit Licensee to use the components of the Software for which it has paid a license fee. The Licensee may at any time request a further license to use additional components, the use of which shall be subject to the payment of the appropriate license fee and the provision of an electronic key.

4.5 Prior to the use of the Software for the initial and each renewal term, the use of the Software will be subject to the Licensee's receipt from Questys of an electronic key permitting access to the Software. The receipt of the key is subject to the renewal of the Standard Support Service Level Agreement. The Licensee acknowledges that it will not be able to use the Software in any fashion without the use of the key and that it understands fully its obligations in order to receive each applicable key.

4.6 Automated Access and AI Restrictions. Licensee shall not, and shall not permit any third party (including automated systems, bots, or artificial intelligence tools) to access, query, or interact with the Software, its outputs, or proprietary data, in any manner that: (a) extracts, harvests, mines, scrapes, or otherwise collects proprietary data or system outputs; (b) evaluates, analyzes, benchmarks against, reverse engineers or replicates the functionality, processes, workflows, features or algorithms of the Software; or (c) is used to train, develop, or improve any machine learning or artificial intelligence system. Licensee is responsible for any such prohibited activity performed by its Users, contractors, or systems acting on its behalf.

5 LICENSE FEES

5.1 The rights granted to Licensee hereunder are subject to the Licensee paying to Questys the following license fees:

5.1.1 A license fee to use the Software; license fee(s) in relation to the Modules for which the Licensee has requested access.

5.1.2 The appropriate license fees are detailed in SCHEDULE A and the Modules for which a license is provided are also listed in SCHEDULE A (including the details of the applicable license fees). The list of licenses for Modules may be amended from time to time by a Statement of Work that specifically references this Agreement and which amends SCHEDULE A by detailing those Modules that are being licensed or will no longer be licensed in accordance with the terms of this Agreement.

5.1.3 Where a Project is undertaken, the license fees applicable to the Software related to the Project shall be detailed in a short form Contractual Services Agreement

5.2 The failure to pay such license fees within ninety days of an invoice shall automatically terminate this Agreement despite any cure periods provided elsewhere herein and paragraph 8.1 shall apply.

5.3 In addition to the above required license fees, any services applicable to the installation, implementation, training or configuration of the Software (both at the time the initial license is granted and for any subsequent licenses) may require additional professional service fees for the provision of the applicable professional services both of which would be subject to this Agreement.

6 SUPPORT

6.1 In consideration of payment of the annual support and maintenance fee set out in SCHEDULE A (the "Support and Maintenance Fees"), Questys will provide:

6.1.1 Priority response on support requests regarding the Software, as described in the Questys Service Level Agreement Attached as SCHEDULE B;

6.1.2 Remote diagnosis of operational issues related to the Software, provided that the Licensee has obtained, at its cost, the necessary software, hardware and instruction to allow Questys to provide such assistance.

6.1.3 Updates for the Software at no extra charge except for magnetic media and courier costs, these updates to include minor changes, enhancements, improvements, and problem resolutions;

6.2 In consideration of the services set out above, the Licensee agrees to pay the Support and Maintenance Fees in accordance with the payment schedule set out in SCHEDULE A. Despite anything in the support terms or this Agreement to the contrary, the Support and Maintenance Fees may be increased by Questys at the annual renewal time for Support and Maintenance and additionally if new modules are added to and become subject to this Agreement as described in paragraph 4.4.

7 TERM AND TERMINATION

7.1 Unless terminated earlier in accordance with the terms hereof, this Agreement shall commence on the Effective Date and is for a duration of one (1) year (the "Initial Term"). After the Initial Term, this Agreement shall automatically renew for successive one (1) year periods (each a "Renewal Term") subject to Questys' then current price structure unless either party provides written notice to the other party of its intention not to renew prior to ninety (90) days from the end of the then current term. The Initial Term and each Renewal Term shall collectively be referred to as the "Term".

7.1.1 Questys may terminate this Agreement where Licensee fails to comply with its obligations of confidentiality set out in paragraph 10 or the obligations under paragraph 4.1 of this Agreement, whereby Questys must notify the Licensee in writing of such default (a "Default Notice"). Upon receipt of a Default Notice, the Licensee must correct the default at no additional cost to Questys, or issue a written notice of its own disputing the alleged default, in either case within ten (10) days immediately following receipt of a Default Notice.

7.1.2 If the Licensee fails to correct the default, or issue a notice disputing the alleged default, in either case within ten (10) days following receipt of the Default Notice, Questys may terminate the whole of this Agreement including the grant of license to the Software. Once a dispute has been settled, to the extent that any issues still remain unresolved in the Default Notice, Licensee shall have ten (10) days to remedy such breach following the date of the settlement of the other issues.

7.1.3 Despite the above, for any Default Notice alleging a breach of paragraph 4.1.3, Questys may terminate this Agreement at any time following the delivery of a Default Notice despite Licensee rectifying such default.

8 PROCEDURE FOLLOWING TERMINATION

8.1 If this Agreement is terminated for any reason except an Event of Default, then within thirty (30) days following such termination, the Licensee shall destroy/return the Software and any documentation to Questys, at Questys' absolute discretion, and the Licensee shall certify, under the hand of a duly authorized officer of the Licensee, that all copies of the Software and Documentation or any part thereof, in any form, within the possession or control of the Licensee have been destroyed/returned to Questys.

8.2 Upon the termination of this Agreement for any reason whatsoever:

8.2.1 The parties agree that the Standard Support Service Level Agreement expires on its own terms, and

8.2.2 The confidentiality provisions shall survive and be binding on both parties for five (5) years from the date of termination.

9 QUESTYS' PROPRIETARY RIGHTS

9.1 The grant of the License herein contained permits the limited use of the Software by the Licensee. Title to and all property in the Software, its name, logo and computer stored data shall remain exclusively with Questys.

9.2 The Licensee hereby acknowledges that the Software and the Documentation is the property of Questys and that the Software constitutes a trade secret, and agrees to exercise due care and diligence in safeguarding the Software, the Documentation and Questys' proprietary interest.

9.3 The Licensee also acknowledges that any negligence or deliberate violation of this Agreement on its part which results in failure to protect Questys' proprietary interest in the Software shall actually and materially damage Questys.

9.4 In order to ensure compliance with the terms of this Agreement, Questys shall be entitled, upon reasonable notice to Licensee and subject to Questys' compliance with Licensee's reasonable security measures, to enter upon the Licensee's premises during normal business hours and require the Licensee to produce such information, records and documents as may be required to ascertain compliance.

9.5 Questys may revise or update the Software from time to time at its discretion.

10 OWNERSHIP OF SOFTWARE AND CONFIDENTIALITY OBLIGATIONS

10.1 The Licensee acknowledges that the Software contains proprietary information and Confidential Information of Questys which shall, at all times, remain the property of Questys and, in addition to its obligations outlined paragraph 4, the Licensee agrees to treat such Confidential Information in accordance with paragraph 10.2 and 10.3.

10.2 The Licensee will take the same care to safeguard the Software as it takes to safeguard its own Confidential Information of a like nature and such care shall not be any less than would be taken by a reasonable person to safeguard its own confidential information.

10.3 In order to assist Licensee with the protection of its proprietary information and Confidential Information and to enable Questys to ensure that the Licensee is complying with its obligations, Licensee shall permit Questys to visit during normal business hours any premises at which the Software is used or installed and shall provide Questys with access to its Software. Questys shall provide Licensee with reasonable notice of any such audit.

11 LIMITED WARRANTY OF PERFORMANCE

11.1 Questys warrants to Licensee that:

11.1.1 The Software shall function as described in the user documentation accompanying the Software from the Completion of Services if the Software is properly used in accordance with Questys' instructions and the terms of this Agreement.

11.1.2 The Software (including Software updates) will be provided via electronic delivery.

11.2 In the event an error is discovered in the Software outside the warranty period and the error can be reproduced by Questys, Questys will make reasonable commercial efforts to provide Licensee with a correction or suitable workaround in accordance with the terms of this Agreement. Questys reserves the right to correct any defects about which it is made aware and to produce Releases at a time of Questys' own choosing and at Questys' discretion. Licensee's sole recourse in the event the Software does not conform to the applicable documentation is the repair and replacement of the Software.

11.3 The warranty above is void if the Licensee modifies the Software without the written consent of Questys. Examples of such modifications include, but are not limited to, the de-compiling and modifying of the source code, and tampering with the base set-up of the system.

11.4 For clarity, the parties agree that THE LICENSEE shall have the right to configure the Software using the Questys configuration tools.

11.5 The Licensee assumes sole responsibility for the selection of the Software to achieve the Licensee's intended results, and for the installation, use and results obtained from the Software.

12 EXCLUSIONS TO WARRANTIES

12.1 Questys shall not be liable for any breach of the foregoing warranties which results from causes beyond the reasonable control of Questys, including:

12.1.1 Where the installation, integration, modification or enhancement of the Software has not been carried out by Questys or its authorized agent, or where Licensee has taken any action which is expressly prohibited by the Documentation or this Agreement;

12.1.2 Any use or combination of the Software with any software, equipment or services not supplied by or on behalf of Questys;

12.1.3 User error, or other use of the Software in a manner or in an operating environment for which it was not intended or other than as permitted in this Agreement;

12.1.4 Licensee's failure to install a new Update which has been released to remedy an error or bug, and which Questys has stated to Licensee is a required Update necessary for security purposes or for legislative compliance purposes or other reasons as Questys may determine is important in its sole discretion; or

12.1.5 Any other event of force majeure.

13 NO OTHER WARRANTIES

13.1 TO THE GREATEST EXTENT PERMITTED BY LAW, THE SOFTWARE IS LICENSED AND ALL OTHER MATERIALS AND SERVICES ARE PROVIDED TO THE LICENSEE "AS IS" AND THERE ARE NO WARRANTIES, REPRESENTATIONS OR CONDITIONS, EXPRESSED OR IMPLIED, WRITTEN OR ORAL, ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING, USAGE OF TRADE OR OTHERWISE, REGARDING THEM OR ANY OTHER PRODUCT, SERVICE OR MATERIAL PROVIDED HEREUNDER OR IN CONNECTION HEREWITH.

13.2 QUESTYS, ITS LICENSORS AND SUPPLIERS DISCLAIM ANY IMPLIED WARRANTIES OR CONDITIONS REGARDING THE SOFTWARE AND ANY OTHER PRODUCTS, SERVICES AND MATERIALS PROVIDED HEREUNDER OR IN CONNECTION HEREWITH, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABLE QUALITY, MERCHANTABILITY, DURABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT.

13.3 QUESTYS DOES NOT REPRESENT OR WARRANT THAT THE SOFTWARE SHALL OPERATE ERROR FREE OR IN THE COMBINATIONS SELECTED, THAT IT SHALL MEET ANY OR ALL OF THE LICENSEE'S PARTICULAR REQUIREMENTS, OR THAT ALL ERRORS OR DEFECTS IN THE SOFTWARE CAN BE FOUND OR CORRECTED.

13.4 NO AGREEMENTS VARYING OR EXTENDING ANY EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT SHALL BE BINDING ON EITHER PARTY UNLESS IN WRITING AND SIGNED BY AN AUTHORIZED SIGNING OFFICER OF QUESTYS.

14 INTELLECTUAL PROPERTY INDEMNITY

14.1 In the event there is a third party claim against Licensee alleging that Licensee's use of the Software in accordance with this Agreement constitutes an infringement of a Canadian or United States patent, copyright, trade-mark or trade secret, Questys shall, at its expense, defend Licensee and pay any final judgment against Licensee or settlement agreed to by Questys on Licensee's behalf; provided that Licensee promptly notifies Questys of any such claim or proceeding and shall give Questys full and complete authority, information, and assistance to defend such claim or proceeding. This indemnity is only effective where:

14.1.1 Licensee has not made any admissions or begun settlement negotiations either prior to or after providing notice to Questys of the applicable claim except with Questys' prior written consent,

14.1.2 Questys shall have sole control of the defense of any claim or proceeding and all negotiations for its compromise or settlement, and

14.1.3 Licensee has not modified the Software in any manner whatsoever except with the prior written consent of Questys.

14.2 Any breach by Licensee of its covenants under this paragraph 14 shall nullify this indemnity but not the sole right of Questys to have full and complete authority of the defense to defend such claim or proceeding and of all negotiations related therewith. In the event that the Licensee's use of the Software is finally held to be infringing or Questys deems that it may be held to be infringing, Licensee agrees that the sole remedy available to it is that Questys shall, at Questys' election:

14.2.1 Procure for the Licensee the right to continue use of the Application Software; or

14.2.2 Modify or replace the Software so that it becomes non-infringing.

14.3 The foregoing states Questys' entire liability, and the Licensee's exclusive remedy, with respect to any claims of infringement of any copyright, patent, trade-mark, trade secret or other property interest rights relating to the Software, or any part thereof or use thereof. Questys' obligations under this paragraph 14 shall survive the termination and/or expiration of this Agreement.

14.4 Licensee may, at Licensee's sole cost and expense—which is outside the scope of this indemnity—retain counsel of its own choosing who shall be permitted to attend all settlement conferences and hearings or other court appearances (except where the court has specifically made an order against such attendance) related to the proceeding.

15 REMEDIES AND LIMITATION OF LIABILITY

15.1 The Licensee and Questys recognize that circumstances may arise entitling the Licensee to damages for breach or other fault on the part of Questys arising from this Agreement. The parties agree that in all such circumstances the Licensee's remedies and Questys' liabilities will be limited as set forth below and that these provisions will survive notwithstanding the termination or other discharge of the obligations of the parties under this Agreement.

15.1.1 EXCEPT FOR DAMAGES ARISING OUT OF (a) QUESTYS' BREACH OF ITS CONFIDENTIALITY OBLIGATIONS OR (b) INDEMNITY OBLIGATIONS PROVIDED IN PARAGRAPH 14, BOTH PARTIES AGREE THAT QUESTYS' LIABILITY (UNDER BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER ALTERNATIVE LEGAL THEORIES), IF ANY, FOR ANY DAMAGES RELATING TO THIS AGREEMENT SHALL NOT EXCEED THE LICENSE FEES OR THE SUPPORT AND MAINTENANCE FEES, AS APPLICABLE, PAID TO QUESTYS BY LICENSEE DURING THE THEN-CURRENT TERM OF THIS AGREEMENT.

15.1.2 IN ADDITION TO THE FOREGOING NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL OR OTHER DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOST REVENUE OR LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF DATA, FAILURE TO REALIZE EXPECTED SAVINGS, OR COST OF SUBSTITUTE GOODS OR SERVICES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF SUCH OTHER PARTY HAS BEEN ADVISED OF THE LIKELIHOOD OF THE OCCURRENCE OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY .

15.1.3 PARAGRAPHS 15.1.1 AND 15.1.2 SHALL APPLY IN RESPECT OF ANY CLAIM, DEMAND OR ACTION BY A PARTY IRRESPECTIVE OF THE NATURE OF THE CAUSE OF ACTION UNDERLYING SUCH CLAIM, DEMAND OR ACTION, INCLUDING, BUT NOT LIMITED TO, BREACH OF CONTRACT OR TORT.

15.2 Where remedies are expressly afforded by this Agreement, such remedies are intended by the parties to be the sole and exclusive remedies of the Licensee for liabilities of Questys arising out of or in connection with this Agreement, notwithstanding any remedy otherwise available at law or in equity.

16 INTENT

16.1 The parties hereby confirm that the waivers and disclaimers of liability, releases from liability, limitations and apportionments of liability, and exclusive remedy provisions expressed throughout this License Agreement shall apply even in the event of default, negligence (in whole or in part), strict liability or breach of contract of the person released or whose liability is waived, disclaimed, limited, apportioned or fixed by such remedy provision, and shall extend to such person's affiliates and to its shareholders, directors, officers, employees and affiliates.

17 INJUNCTIVE RELIEF

17.1 The Licensee agrees that the breach of any term, provision or condition of this Agreement by the Licensee may cause irreparable damage to Questys in which case an award of damages may not be adequate relief to Questys. Therefore, the Licensee agrees that in addition to all the remedies available to Questys in the event of any breach of this Agreement by the Licensee, Questys shall have the right to obtain timely injunctive relief to protect its proprietary right.

18 COUNTERPARTS

18.1 This Agreement may be executed in counterparts (whether by facsimile or PDF signature or otherwise), each of which when so executed shall constitute an original and all of which together shall constitute one and the same instrument.

19 GOVERNING LAW

19.1 The validity and interpretation of this Agreement and each clause and part thereof shall be governed by the law of the State of California without reference to principles of conflict of laws.

20 ENTIRE AGREEMENT

20.1 This Agreement contains all the terms and conditions agreed on by the parties hereto with regard to the matters dealt with herein, and no understandings or agreements, verbal or otherwise, exist between the parties except as herein expressly set out. This Agreement completely replaces all other software license agreements that may have been entered into between the parties (including all precursor entities, including previous partner entities and those entities that have amalgamated with N. Harris Computer Corporation), and all other prior software license agreements governing Licensee use or access to the Software with any prior partners of Questys.

21 RIGHT TO ASSIGN

21.1 This Agreement and the rights and liabilities hereunder shall not be assigned by the Licensee unless consent in writing is obtained from Questys.

22 SUCCESSORS AND ASSIGNS

22.1 This Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

23 SEVERABILITY

23.1 If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.

24 WAIVER

24.1 No waiver of any default shall constitute a waiver of any other breach or default, whether of the same or any other covenant or condition. No waiver, benefit, privilege or service voluntarily given or performed by other parties shall give the other any contractual right by custom, estoppel, or otherwise.

25 FORCE MAJEURE

25.1 No default, delay or failure to perform on the part of Questys shall be considered a breach of this Agreement where such default, delay or failure is due to a force majeure or to circumstances beyond its control. Such circumstances will include, without limitation, strikes, riots, civil disturbances, actions or inactions concerning government authorities, epidemics, war, terrorist acts, embargoes, severe weather, fire, earthquakes, acts of God or the public enemy or default of a common carrier or other disasters or events.

26 MEDIATION

26.1 The parties agree to submit any claim, controversy or dispute arising out of or relating to this Agreement or the relationship created by this Agreement to non-binding mediation before bringing a claim, controversy or dispute in a court or before any other tribunal. The mediation is to be conducted by either an individual mediator or a mediator appointed by mediation services mutually agreeable to the parties. The mediation shall take place at a time and location which is also mutually agreeable; provided; however, in no event shall the mediation occur later than ninety (90) days after either party notifies the other of its desire to have a dispute be placed before a mediator. Such mediator shall be knowledgeable in software system agreements. The costs and expenses of mediation, including compensation and expenses of the mediator (and except for the attorney's fees incurred by either party), is to be shared by the parties equally. If the parties are unable to resolve the claim, controversy or dispute within ninety (90) days after the date either party provides the other notice of mediation, then either party may bring and initiate a legal proceeding to resolve the claim, controversy or dispute unless the time period is extended by a written agreement of the parties.

27 ALLOCATION OF RISK

27.1 Licensee acknowledges that the limited warranties, disclaimers and limitations of liability contained in this Agreement are fundamental elements of the basis of bargain between Licensee and Questys and set forth an allocation of risk reflected in the fees and payments due hereunder.

IN WITNESS WHEREOF, Licensee and Questys have executed this Contract as evidenced by dual signature below.

ACCEPTED	ACCEPTED
Questys Authorized Signature:	Licensee Authorized Signature:
Print name: Susan McCormick	Print name:
Title: Executive Vice President	Title:
Date:	Date:

SCHEDULE A DESCRIPTION OF SOFTWARE, SOFTWARE & MAINTENANCE FEES, PAYMENT MILESTONES AND DELIVERABLES

This is Schedule 'A' attached to and made part of the Software License and Support Agreement dated __________ ______, as updated by the execution of this Agreement by and between Questys and the County of Kern Clerk of the Board.

1 LICENSED QUESTYS CORE SOFTWARE PREVIOUSLY LICENSED UNDER THE TERMS OF SCHEDULE "C" AND NOW SUBJECT TO THIS AGREEMENT

CMx Server License (Questys Core)
Questys Access
Questys Agenda Management
44 Questys Concurrent User Licenses

2 PAYMENT TERMS

Licensee has already paid for their current maintenance term, starting July 1, 2026. The next payment will be due on or before June 30, 2027, and annually thereafter subject to annual revision.

SCHEDULE B QUESTYS STANDARD SUPPORT SERVICE LEVEL AGREEMENT

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Service Level Agreement

Version 2025.1

QUESTYS – SERVICE LEVEL AGREEMENT

Contract Term: 1 Year (renewable annually)

Support Channels: Email (support@questys.com) or Telephone (toll free: 877-799-5656)

Support Requests Allowed: Unlimited

Who Can Report: Individuals who are trained in the use of Questys can report issues to Customer Support.

Hours of Coverage: Coverage hours are 8:30 a.m. to 8:00 p.m. Eastern Standard Time from Monday through Friday, excluding designated statutory holidays. Support outside of these hours can be made available and is billable on an hourly basis. Weekend assistance is available at a cost and must be scheduled in advanced.

Accessing Support: Online access to the Harris Hub (https://questys.na2.teamsupport.com/mytickets) is provided 24 hours a day, 7 days a week. Telephone support requests will be answered live during business days, though staff may be involved serving other customers. If your call is not answered live, please leave a message, including the support request tracking number you received from the electronic filing, if applicable, as well as your name and phone number. Messages are typically responded to within two hours (see Table 1 for respond time commitments). Email may also be used to submit support requests.

Auto Acknowledgement: When electronic filing, the system will assign a tracking number to your request, and you will be able to use that to view, update and close your support requests.

Connection Methods: To enable Harris to provide support to Customer in an effective and efficient manner, Harris requires either remote access (through VPN or RDP) or a communication link using a secure screensharing software (e.g. Microsoft Teams).

Access to Documentation: Through the Harris Hub you will be able to access published documentation, available downloads, knowledge base articles, and release notes.

Request Response Time: A technical support engineer will respond to all requests within the time frames specified in Table 1. Business hours are 8:30 a.m. to 8:00 p.m. Eastern Standard Time from Monday through Friday, excluding designated statutory holidays. We process requests in the order of their priority followed by order of submission.

What we will do if we don't hear back from you: If we don't hear back from you in ten business days, we will close your support request and mark it as "Closed / No response from customer."

Resolution of Bug-Related Requests: We will keep your request open and follow up when a fix is available in a production release. We will also contact you if we post an experimental build that will help with your problem.

What We Need to Help You

We want to be as responsive as possible to your support needs. To accomplish this goal, customer support staff relies on your knowledge, self-sufficiency, and thoroughness during the troubleshooting process. You reap the benefits from this effort — it allows support staff to focus on the more difficult problems and make the product more robust. It also helps control the amount you are charged for support.

- **Knowledge:** You should be experienced in the installation, operation, and maintenance of the hardware, desktop, and network operating systems, and applications in your environment before you install Questys.

- **Self-sufficiency:** Please be as self-sufficient as possible when you encounter problems. You can do this by referring to technical documentation for your environment and by searching the Hub site to determine if your issue is addressed before you submit it to our customer support staff.
- **Complete information:** As with any troubleshooting process, accurate and timely resolution depends on information. When you request support, please fill in all relevant fields in the request form, provide a detailed problem description, screenshots, and attach any appropriate log files.
- **Preparation:** If you call us for support, be prepared to provide the same level of information as is requested on the request submission form. You can help reduce the time to resolution by completing the online support request form and attaching files as directed. Then, simply provide us with the request number when you call. In addition, please have immediate access to the computer(s) on which the Questys products are running.

Disclaimer

Please note that any suggestions for enhancements to Questys that you submit will become the property of Questys. Questys may use this information for any Questys business purposes, without restriction, including for product support and development. Questys will not use information that personally identifies you without your permission.

Limitations

Questys Support helps to identify and resolve issues with the Questys software. This Support begins as soon as the implementation project gets underway and may be provided by Technical Support or R&D, depending on the situation. From time to time, an issue may manifest itself in Questys software but its true cause lies in a third–party product, or in the customer's infrastructure. Questys is happy to spend the time to investigate such issues and resolve them when they are within Questys. Should it be determined that the issue lies elsewhere, time may be billed at $200/hour (or the then-current Professional Services rate), plus a $300 administration fee, upon authorization by the customer.

The following are not covered by Questys' Standard Support Agreement, but may be available as separate services on a time and materials basis:

a) Onsite support;

b) Troubleshooting of third party applications or personal computer problems;

c) Services required due to misuse of Questys maintained software;

d) Services required due to software corrections, customizations, or modifications not developed by Questys;

e) Services required by the Customer to be performed by Questys outside of Questys' regular business hours;

f) Services required to resolve or work-around problems that cannot be reproduced in Questys' development environment;

g) Services which relate to tasks other than maintenance of the Customer's existing implementation and configuration of Questys, including but not limited to, enhancing or adapting Questys for specific operating environments, Questys server moves and migrations;

h) Services requested by the Customer to implement or train software updates provided by Questys;

i) Any services beyond standard troubleshooting. Support requests that span over 2 hours (i.e. custom queries, etc.) may be converted to professional services with additional costs involved.

Table 1. Service Level Agreement

Priority	Definition	Initial Response Time*	Commitment (Questys and Customer)	Examples
1 (High)	Operation/Service down or critically impacted. Business process impacted. No known workaround.	4 Hours	Questys and customer will commit necessary resources to fix problem or obtain a workaround.	• Users cannot login • Business process halted
2 (Medium)	Operation affected, but not down. Business process is not affected. Workaround may be available.	8 Hours	Questys and customer will commit resources during normal business hours to resolve issue or obtain workaround.	• Cannot create documents • Cannot access documents • Application response is exceptionally slow
3 (Normal)	Moderate to negligible impact. No impact to business.	24 Hours	Questys and customer will commit necessary resources during normal business hours to restore operation to satisfactory levels.	• Non critical feature not working • Feature works but requires user intervention
4 (Info.)	Request for information, documentation issues, and enhancement requests.	48 Hours	Request-dependent.	• Help file clarification • Form design not in production

* Response time targets are during business hours only.

Escalation Process

This escalation process has been put in place to ensure that issues are dealt with appropriately. If Customer is not satisfied with the resolution of an issue or the response to a request, they are encouraged to escalate as follows:

1. Contact the assigned support engineer for an update
2. Contact the Manager of Strategic Projects
3. Contact the Director of Customer Success
4. Contact the Executive Vice President

Holiday Schedule

Please note that Harris' offices will be closed on designated days, as outlined below. In instances where Holidays fall on a weekend, Harris offices will be closed on either the preceding Friday or the following Monday:

1. New Year's Day
2. President's day
3. Memorial Day
4. Independence Day
5. Labor Day
6. Columbus Day
7. Thanksgiving (2 days)
8. Christmas Eve
9. Christmas Day

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SCHEDULE C SOFTWARE LICENSE AND SUPPORT AGREEMENT AMENDMENT NO. 5 DATED AUGUST 19, 2020 (OLD AGREEMENT)

AMENDMENT NO. 5 TO AGREEMENT
BETWEEN QSI 2011, INC. (formerly DECISION MANAGEMENT COMPANY, INC.)
AND KERN COUNTY

THIS AMENDMENT TO AGREEMENT with QUESTYS SOLUTIONS, dated AUG 19 2020, is made and entered into by and between the COUNTY OF KERN, a political subdivision of the State of California, as represented by the Clerk of the Board, having its principal office at 1115 Truxtun Avenue, Bakersfield, California 93301 (hereinafter referred to as "COUNTY"), and QSI 2011, INC., successor in interest to Questys Solutions, a California corporation, having its principal place of business at 2302 Martin, Suite 475, Irvine, CA 92612 (hereinafter referred to as "QUESTYS SOLUTIONS").

WHEREAS:

a. COUNTY and QUESTYS SOLUTIONS entered into an Agreement dated December 9, 1996; (hereinafter referred to as "Agreement") for the purpose of purchasing computer hardware, software and services of QUESTYS SOLUTIONS to establish an imaging system; and

b. On September 11, 2001, COUNTY and QUESTYS SOLUTIONS entered into Amendment No. 1 (Kern County Agreement 852-2001), for optical disk imaging system upgrade and to extend the term of the Agreement to September 11, 2006; and

c. On August 22, 2006, COUNTY and QUESTYS SOLUTIONS entered into Amendment No. 2 (Kern County Agreement 817-2006) to include the Granicus Integration Module and to extend the term of the Agreement to September 11, 2011; and

d. On May 3, 2011, COUNTY and QUESTYS SOLUTIONS entered into Amendment No. 3 (Kern County Agreement 229-2011) to extend the term of the Agreement to September 10, 2016; and

e. On January 6, 2012, Decision Management Company, Inc., sold its assets to QSI 2011, Inc., and continue to do business as QUESTYS SOLUTIONS; and

f. On March 15, 2016, COUNTY and QUESTYS SOLUTIONS entered into Amendment No. 4 (Kern County Agreement 124-2016) to extend the term of the Agreement to September 10, 2020; and

g. The Agreement contains terms and conditions that both the COUNTY and QUESTYS SOLUTIONS desire to be applicable to all software licenses held by COUNTY and purchased from QUESTYS SOLUTIONS; and

h. COUNTY and QUESTYS SOLUTIONS desire to extend the term of the Agreement for an additional five years, from September 11, 2020 through September 10, 2025; and

i. COUNTY and QUESTYS SOLUTIONS also desire to increase the total dollar amount of the Agreement by $105,520.

NOW, THEREFORE, IT IS AGREED by and between the parties hereto that the Agreement is hereby amended as follows:

1. The first line of the last paragraph of Section 2.A is hereby amended to read as follows:

"This Agreement shall be deemed in force as of the date first above written and shall remain in effect through and until September 10, 2025, unless sooner terminated as hereinafter provided."

2. The Riders to the Agreement are hereby amended as designated herein below, and the Exhibits to the Riders which are attached hereto are incorporated herein by this reference:

Rider C	Software List, Prices & Maintenance See attached Exhibit C to Rider C
Rider J	Rider J is hereby deleted in its entirety and replaced with the attached Rider J: Annual Support and Maintenance Terms and Conditions. COUNTY further acknowledges that any mention of Harris or Harris Enterprise Resource Planning shall mean QSI 2011, Inc.

3. Except as amended herein, all terms and conditions of the Agreement, as previously amended, shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 5 to Agreement on the day and year first above written.

APPROVED AND RECOMMENDED:

By: Kathleen Krause
Kathleen Krause
Clerk of the Board

COUNTY OF KERN

By: Carol J Cox
Carol Cox
Purchasing Agent

APPROVED AS TO FORM:

By: ______________________
~~Gurujodha Khalsa~~
County Counsel

QSI 2011, INC.

By: Diane Kowalcik

Date: 8/14/20

APPROVED AS TO CONTENT:

By: ______________________
Mac Avancena, Jr., Chief Information Technology Officer
County Administrative Office
Information Technology Division

Date: 8/18/20

RIDER C
TABLE C-1 THIRD-PARTY SOFTWARE
EXHIBIT C

Third-party software recommended by QUESTYS SOLUTIONS to be purchased by County is as follows:

No additional software

Current software/license inventory is as follows:

Display Code	Description	# of units
A0001	1 Concurrent User Authoring License	3
A0005	5 Concurrent User Authoring License	1
QN01	Enterprise Questys Server License (CMx) – Includes one (1) Scan Station License and nine (9) Concurrent User Authoring Licenses	1
QN03	LegisStream Add-on Server Module (LSx)	1
QN09	Questys Enterprise Server Granicus Integration Module	1
S0001	Single User Named Scanning Station	3
V0010	10 Concurrent User Search/Retrieval License	1
V0025	25 Concurrent User Search/Retrieval License	1

SOFTWARE MAINTENANCE (includes all Questys software purchased to date from QUESTYS SOLUTIONS)

Year 25 (FY 2020/2021) $20,280
Year 26 (FY 2021/2022) $20,787
Year 27 (FY 2022/2023) $21,307
Year 28 (FY 2023/2024) $21,307
Year 29 (FY 2024/2025) $21,839

The total dollar amount to be paid to QUESTYS SOLUTIONS under this Agreement shall be increased by $105,520 to cover the software maintenance charges for years 25 through 29, and will remain unchanged if COUNTY migrates to a newer version of Questys software during the term of the Agreement.

All software upgrades will be uploaded over the Internet.

Actual travel expenses for all services rendered under this Agreement, including software maintenance, in an amount not to exceed $7,500 for the term of this Agreement, will be paid as invoiced at rates not to exceed the current COUNTY employee reimbursement rates.

Travel and other expenses for services outside the scope of this Agreement will be reimbursed under separate written agreement.

Rider J

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Annual Software Support Maintenance Terms & Conditions

PURPOSE

The purpose of this document, *Annual Software Support Maintenance Terms & Conditions* (the "Agreement") is to provide QSI 2011, Inc. ("Harris") customers (the "Customer") with additional information on the services which are included as part of the annual software support fees, standard support coverage, a listing of call priorities, an outline of escalation procedures, and details on current service rates. This Agreement, between the customer and QSI 2011, Inc. ("Harris") will serve as a guideline for Harris' support staff but may be superseded by an existing, signed software support contract, where applicable.

Harris reserves the right to make modifications to this Agreement as required; provided, however, Harris shall not reduce the scope of Support Services provided hereunder without the prior consent of the customer.

STANDARD SUPPORT AND MAINTENANCE SERVICES

The following services are included as part of Harris' software support contract:

- Toll Free Telephone support
- Sunset Rule Program: same (business) day call back program
- Software for Life
  - Guaranteed Support on your existing applications for life
  - Cost effective upgrade solutions
- Scheduled assistance for installations, upgrades & other special projects (there may be charges depending on the scope of work)
- Technical troubleshooting, including assessment, diagnosis, documentation, and ultimate resolution of issues that pertain specifically to the customer's software (troubleshooting does not extend to any hardware or operating system components, unless the customer has a hardware support contract)
- E-mail support call logging and notification
- Free / web-based Support Sessions
- Free FTP access for upload/downloads
- Online access 24 hours a day, 7 days a week ("24 x 7"). Harris' online portal (the "Hub") can be used to log support issues and check for status updates on issues. Access to published documentation pertaining to a customer's particular software line (if available) may be contained in the Knowledge Base article section within the Hub. The Hub also enables the customer to assign a specific priority based on the specific level of urgency for a particular circumstance. In summary, the Hub benefits include the ability to:
  - Log, view, update and close support tickets
  - Update contact information
  - Access published documentation
  - Access available downloads
  - Access Knowledge Base

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- Access to new software releases, service packs and updates
  - Defect corrections
  - New features and planned enhancements
  - State and/or Federal mandated changes
  - Payroll regulated changes
  - Participation in BETA program
  - Release notes
- Free monthly training webinars (see calendar on our website)
- Customer Care Program
  - Newsletters
  - Technical support bulletins
  - Advance communications on new products and services
  - Regional User Groups
  - On-site visits (by request – travel expenses may be billable)
- Design review for potential enhancements or custom modifications
- Account Manager Services (business reviews, CRF assistance, site visits, meeting coordination)
- NPS (Net Promoter Score Program): NPS is a customer loyalty program, measuring feedback and driving constant improvement to the customer experience.
- Access to annual customer conference (registration fees apply) and access to conference presentation materials post-conference.
- Free product web demonstrations (by request, scheduling required)

STANDARD COVERAGE

Our standard hours of support are from 8:30 a.m. EST to 8:00 p.m. EST, Monday to Friday, excluding designated statutory holidays. Support can be made available from 8:00 p.m. EST through to 8:30 a.m. EST and is billable on an hourly basis. Weekend assistance is available and must be scheduled in advance and in most cases is billable.

RESPONSE TIMES

Response times will vary and are dependent on the priority of the call. We do our best to ensure that we deal with incoming calls in the order that they are received, however calls will be escalated based on the urgency of the issue reported. Our response time guidelines are as follows:

Priority 1: 1 - 4 hours
Priority 2: 1 - 8 hours
Priority 3: 1 - 24 hours

CALL PRIORITIES

In an effort to assign our resources to incoming calls as effectively as possible, we have identified three types of call priorities, 1, 2 & 3. A Priority 1 call is deemed by our support staff to be an Urgent or High Priority call, Priority 2 is classified as a Medium Priority and Priority 3 is deemed to be a Low Priority. The criteria used to establish guidelines for these calls are as follows:

Priority 1 – High

- System Down (Software Application, Hardware, Operating System, Database)
- Inability to process payroll checks

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- Inability to process accounts payable checks
- Inability to process bills
- Program errors without workarounds
- Incorrect calculation errors impacting a majority of records
- Aborted postings or error messages preventing data integration and update
- Performance issues of severe nature impacting critical processes
- Hand-held interface issues preventing billing

Priority 2 - Medium

- System errors that have workarounds
- Calculation errors impacting a minority of records
- Reports calculation issues
- Printer related issues (related to interfaces with our software and not the printer itself)
- Security issues
- Hand-held issues not preventing billing
- Performance issues not impacting critical processes
- Usability issues
- Workstation connectivity issues (Workstation specific)

Priority 3 - Low

- Report formatting issues
- Training questions, how to, or implementing new processes
- Aesthetic issues
- Issues with workarounds for large majority of accounts
- Recommendations for enhancements on system changes
- Questions on documentation

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CALL PROCESS

All support issues or questions reported to Harris are tracked via a support ticket. Harris' Support Analysts cannot provide assistance unless a support ticket is logged. The current process for logging tickets is outlined below.

A support ticket must be placed through one of the following methods:

- **Online (Hub):** https://support.questys.com
- **Email:** support@questys.com
- **Phone:** 1-800-383-6029

Customer ticket information must contain the following:

- Organization/Company Name
- Contact Person
- Software Product and/or Version
- Module and/or Menu Selection
- Nature of the question or issue
- Detailed Description of the question or issue
- Serial Number / Patron Number / Account Number / Serving Date, etc. (where applicable)

The more information you provide, the faster we can help you with your support request. Specific details, such as the employee #, account #, G/L #, are very useful. Attaching supporting material, such as screenshots and report output, are also helpful in identifying and/or resolving the issue

Our support system or one of our support analysts will provide you with a call id to track your issue and your call will be logged into our support tracking database.

Your call will be stored in a queue and the first available support representative will be assigned to deal with your issue.

As the support representative assigned to your call investigates your issue, you will be contacted and advised as to where the issue stands and the course of action that will be taken for resolution. If we require additional information, you will be contacted by the assigned support representative to supply the information required.

All correspondence and actions associated with your call will be tracked against your all in our support database. At any time, if available to you, you may log onto eSupport to see the status of your call.

Once your call has been resolved, you will receive an automated notification by email that your call has been closed. This email will contain the entire event history of the call from the time the call was created and leading up to the resolution of the call. You also have the option of viewing both your open and closed calls, if available to you, via our website.

If your issue needs to be escalated to a development resource or programmer for resolution, your issue will be logged into our development tracking database and you will be provided with a separate id number to track the progress of the issue. At this time, your support call will be closed and replaced by the

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development id number. The development id number will remain open until your issue has been completely resolved. Issues escalated to development will be scheduled for resolution and may not be resolved immediately depending on the nature and complexity of the issue.

Contact the support department at your convenience for a status update on your development issues, or log onto our website (if available to you) to view your issues on-line.

ESCALATION PROCESS

Harris' escalation process is defined below. This process has been put in to place to ensure that issues are dealt with appropriately. If, at any time, the customer is not satisfied with the resolution of the issue, or the response to the ticket, they are encouraged to escalate with Harris' Support Services organization as follows:

- **Level 1:** Contact the support representative working on your issue
- **Level 2:** Contact the Director of Client Services
- **Level 3:** Contact the Vice-President of Operations
- **Level 4:** Contact the Executive Vice-President

Escalation Process within our Internal Ticket Tracking System:

- Customer ticket is logged with Harris Support
- If a customer ticket is a Priority 1 and has not been responded to within 4 hours, the Harris Support Analysts responsible for the ticket are notified via email, and the ticket is escalated internally. Priority 2 tickets will be escalated if not responded to within 8 hours, and Priority 3 tickets will be escalated if not responded to within 12 hours
- If a customer's Priority 1 ticket has not been responded to 4 hours after the designated timeframe, Harris' Support Supervisor(s) are notified and the call is escalated
- If a customer's Priority 1 ticket has not been responded to after 6 hours from the designated timeframe, Harris' Vice-President of Support is notified and the call is escalated
- If a customer's Priority 1 ticket has not been responded to after 7 hours from the designated timeframe, Harris' Executive Management Team is notified and the call is escalated

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HOLIDAY SCHEDULE

Please note that our offices will be **closed** on designated days, as outlined below. In instances where the Statutory Holiday falls on a weekend, Harris offices will be closed on either the preceding Friday or following Monday:

- New Year's Day
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Thanksgiving Day
- Day After Thanksgiving
- Christmas Eve
- Christmas Day

BILLABLE SUPPORT SERVICES

The services listed below are examples of services that are out of scope of your support and maintenance agreement and are therefore considered billable services.

- Extended telephone training (greater than 15 minutes)
- Forms redesign or creation (includes Bill Prints, Notice Prints and Letters)
- Setup & changes to hand-held interface or creation of new interface
- Setup of new services or changes to services (PAP, ACH, etc)
- File imports/exports - Interfaces to other applications
- Refreshes, backups, restores, setting up test areas
- Setup of new printers, printer setup changes
- Custom modifications (reports, bills, forms, reversal of customizations)
- Setting up additional companies / agencies / tokens / general ledgers
- Data conversions / global modification to setup table data
- Database maintenance, repairs & optimization
- Correction of issues that are a direct result of user error
- Extended Hardware & Operating System support
- Upgrades & support of third party software
- Installations / re-installations (workstations, servers)
- Style sheet changes (exception – one signature change per year, per system will be provided at no charge)

TEST DATABASES & ENVIRONMENTS

We support customers in the maintenance of independent Test Environments for testing purposes. This allows customers the opportunity to test fixes, modifications, new business processes and/or scenarios without risking any potentially unwanted changes to the live environment. The creation of Test Databases & Environments is a billable service, quotations & incremental maintenance rates will be provided on request.

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CONNECTION METHODS

To ensure we can support our clients in an effective and efficient manner, Harris requires that a communication link is established via https://harriserp.screenconnect.com, the Harris ERP Remote Support portal. Communication via the Harris ERP Remote Support portal is secure, via SSL, and is encrypted with AES-256 block encryption and RSA, provided by the Microsoft RSA/Schannel Cryptographic Provider. These particular implementations of the AES-256 and RSA algorithms have been designated as FIPS compliant for Windows servers/machines.

While other connection methods may be available (i.e. Virtual Private Network, Remote Access Server, Terminal Services, another third-party product, etc.), Harris requires all clients to utilize the Harris ERP Remote Support portal for remote connectivity to servers and workstations. Failure to utilize the Harris ERP Remote Support portal may result in delays in support, less timely issue-resolution and, ultimately, an increase in annual maintenance fees due to the management and utilization of other connection methods.

HARDWARE AND THIRD-PARTY SUPPORT (IF APPLICABLE)

The purpose of this section is to provide our customers with information on our standard coverage and the services which are included as part of your annual hardware and third party software support (if

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applicable). This section serves as a guideline for the support department but is superceded by an existing third party or other agreement.

Standard Hardware and Third Party Software Support Services

- 800 telephone support – first line phone support for troubleshooting (note, more complex issues will be escalated to the actual vendor of the products)
- "On-call," or after-hours support (scheduled assistance for installations, upgrades and other special projects – there may be charges depending on the scope of work)
- Remote connection support
- Technical troubleshooting
- Limited training questions (15 minute guideline)
- Assistance with creation of backup scripts / backup recovery
- Assistance with recovering data resulting from system crashes (charges may apply)
- Recommendations on specific hardware requirements
- Support provided for installed database issues (30 minute guideline)
- ODBC installation and connection to database assistance
- Updating databases to support new versions of installed applications
- Assistance with database installation, configuration and updating

The items listed below are services for third party software that are *out of scope,* and are therefore considered billable – please note that we do not provide hardware support for any printers:

- On-site installation or upgrade of hardware and third party software
- Extended telephone training (beyond 15 minutes)
- Reconfiguration of hardware and fileservers
- Recovering data resulting from client error
- Upgrading of hardware systems
- Preventative maintenance monitoring or other services
- Recommending or assisting with disaster recovery plans
- Re-establishment of ODBC connection if connection was lost due to actions of customer
- ODBC connections to other third party products
- Creation of custom reports
- Report writer training, upgrades and installations (other than at time of initial purchase)

MAINTENANCE CONTRACT PRICING

In order to keep pace with the increasing cost of doing business within our industry (including, but not limited to: increased overhead and production development costs, staff salaries, etc.), Harris, as a standard practice, reviews the software maintenance contracts of each client every year. In light of the aforementioned, Harris reserves the right to raise annual maintenance charges in accordance with industry standards and/or increased costs that are incurred. Such costs may vary within any given year. Customer acknowledges these outlined variances and reserves the right to discuss any disagreements with members of the Harris management team.

APPLICATION VERSIONS / RELEASE INSTALLATIONS

Harris releases version updates to applications periodically throughout each calendar year. While Harris will make every reasonable effort to facilitate updates being installed to client environments, it is

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ultimately the responsibility of the client to ensure the installed applications are up-to-date when the applications are hosted within customer's server environment. For customers with applications that are hosted in Harris' Cloud data center, Harris will be responsible for updating customer's test environment upon each version release – customer will be responsible for testing and then requesting that the live application environment is updated once testing is completed. As a standard, Harris will only provide ongoing support on the most current, and two preceding versions, of the installed applications. Clients running versions of the applications prior to the current and two preceding version numbers may be required to update their application(s) prior to receiving support assistance.

PAYMENT TERMS

Maintenance amounts will be billed and due no later than thirty (30) days after the renewal date of the current term. Lapses in annual maintenance will be monitored and will lead to denial of support, upgrade privileges and termination of licenses, provided, however, that Harris provides the customer with written notice of any such lapse and customer shall have the right to cure any such lapse within thirty (30) days of such notice.

INVOICE DISPUTES / CHANGES TO RENEWAL INVOICE LINE ITEMS

It is, at times, necessary to make changes to the line items included on annual renewal invoices. In the event that changes need to be made to invoice line items for an upcoming renewal or, should there be a dispute regarding the line items included (annual cost, total licenses/modules included, etc.), inquiries on this must be made ahead of the maintenance period start date listed on the invoice. Disputes/changes that are requested after the maintenance period start date will not be effective until the next renewal term.

CANCELLATION OF SERVICES

In the event a cancellation of maintenance and support services occurs, Harris requires a written notice from the Customer, to be received a minimum of 60 days prior to the start of the next renewal period. In the event written notice is not provided in the specified timeframe, an invoice to account for the difference in maintenance will be generated, including a handling/processing fee of 10% of the remaining maintenance fees due.

PRORATED INVOICES FOR ANNUAL MAINTENANCE FEES

As a standard, Harris issues maintenance and support renewals on an annual basis, covering a 12-month period. We understand that certain circumstances may require a proration of maintenance fees and, in

2302 Martin # 475
Irvine, CA 92612
P: 877-362-6246

these instances, Harris policy is that prorated invoices for maintenance fees are issued in no less than 6-month increments, with the exception to the enforcement of the 60-day Cancellation of Services notice.

In the event a maintenance invoice is prorated, by the Customer's request, a handling/processing fee will be applied to the overall total of the prorated invoice. The total of the handling/processing fee is dependent upon the length of the prorated term, outlined in the table below:

Prorated Term Length	Handling/Processing Fee Applied
6 Months	**10%** of prorated maintenance total
Greater than 6 Months	**8%** of prorated maintenance total

REFUNDS

Harris, as a standard practice, does not issue refunds for full or unused portions of any paid maintenance fees. Circumstances, such as an error in billing, or billing disputes, are handled on a case-by-case basis, at the sole discretion of the Harris management team.

LIMITATION OF LIABILITY

Termination of this Agreement shall not affect any right of action of either party arising from anything which was done or not done, as the case may be, prior to the termination taking effect.

The Organization and Harris recognize that circumstances may arise entitling the Organization to damages for breach or other fault on the part of Harris arising from this Agreement. The parties agree that in all such circumstances the Organization's remedies and Harris's liabilities will be limited as set forth below and that these provisions will survive notwithstanding the termination or other discharge of the obligations of the parties under this Agreement.

BOTH PARTIES AGREE THAT THE AGGREGATE LIABILITY OF HARRIS TO ORGANIZATION FOR ALL CLAIMS, SUITS, ACTIONS AND PROCEEDINGS HOWSOEVER ARISING, DIRECTLY OR INDIRECTLY, UNDER OR RELATING TO THIS AGREEMENT OR ITS SUBJECT MATTER, INCLUDING THOSE BASED ON BREACH OR RESCISSION OF CONTRACT, TORT, BREACH OF TRUST, OR BREACH OF FIDUCIARY DUTY SHALL NOT EXCEED, IN THE AGGREGATETHE THE ANNUAL FEES PAID BY THE ORGANIZATION TO HARRIS UNDER THIS AGREEMENT FOR THE YEAR OF THE GIVEN TERM IN WHICH THE CLAIM, SUIT, OR ACTION ARISES.

IN ADDITION TO THE FOREGOING, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY CLAIMS FOR CONSEQUENTIAL DAMAGES, INCIDENTAL DAMAGES, INDIRECT DAMAGES, SPECIAL DAMAGES, AGGRAVATED DAMAGES, LOSS OF REVENUE, LOSS OF PROFITS, FAILURE TO REALIZE EXPECTED SAVINGS, LOSS OF DATA, LOSS OF BUSINESS OPPORTUNITY EITHER UNDER OR RELATING TO THIS AGREEMENT OR ITS SUBJECT MATTER, WHETHER BASED ON BREACH OR RESCISSION OF CONTRACT,

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TORT, BREACH OF TRUST, OR BREACH OF FIDUCIARY DUTY EVEN IF SUCH OTHER PARTY HAS BEEN ADVISED OF THE LIKELIHOOD OF THE OCCURRENCE OF SUCH DAMAGES.