



SECOND AMENDMENT TO THE LICENSE AND MAINTENANCE AGREEMENT

This Second Amendment to the Software License and Maintenance Agreement ("Second Amendment") is made effective October 1, 2010 (the "Effective Date"), by and between **Accero, Inc.** ("Accero"), active and incorporated in the State of Delaware and registered to do business in the State of Florida and **Broward County, a political subdivision of the state of Florida** ("Customer"). Hereafter, Accero and Customer are referred to collectively as the "Parties" and individually as a "Party." This Second Amendment amends the Software License and Maintenance Agreements dated October 21, 1997, and October 15, 2004, including all related exhibits, schedules, addenda, and amendment(s) to date (collectively, the "Agreement") as they relate to maintenance for the Cyborg System software described herein. All capitalized terms not expressly defined within this Second Amendment shall retain the meaning ascribed to such terms in the Agreement.

1. Maintenance Offered. Accero offers to provide the following maintenance and support services for the Software, operating platforms and Headcount described in the attached Exhibit A, for the Maintenance Commitment Term listed in Section 2 below:

- 1.1. **Error Corrections:** Bug fixes, modifications, additions, or routines intended to correct the practical adverse effect of a material nonconformance of the Software to conform to its functional specifications expressly described in Accero's standard user instructions, release notes, materials, and on-line help files for the Software;
- 1.2. **Help Desk:** Telephone and online assistance and workarounds for resolving known problems;
- 1.3. **Updates:** Regulatory and tax updates, quarterly and year-end payroll processors, and modifications or enhancements to the Software which Accero makes generally available to its customers as part of maintenance and for which Accero does not charge a separate license fee.

Maintenance is provided for currently-supported Software releases and operating platforms, including upgrades. Accero will give Customer at least eighteen (18) months' prior written notice of any discontinuation of maintenance for a Software release or an operating platform. In the event of such notice of discontinuance, Customer may choose to terminate the entire Agreement by written notice to Accero from Customer's Contract Administrator or Purchasing Director without any financial obligation and without paying any termination fee stated in Section 3.

2. Maintenance Commitment Term. Customer agrees to purchase maintenance services for the Software and Headcount described in Exhibit A, for the fees specified below during the Maintenance Commitment Term. Customer may, at Customer's Purchasing Director's sole option and discretion, purchase additional annual maintenance services through Year 5 for the fees specified below. Accero will invoice Customer for the applicable maintenance fee at least thirty (30) calendar days prior to the commencement of each annual maintenance period. The maintenance fee for each annual maintenance period is due on or before the commencement of the annual maintenance period.

Maintenance Commitment Term: October 1, 2010 – October 31, 2013

Year 1: 10/1/2010 - 10/31/2011 (13 months)	\$ 136,031.07
Year 2: 11/1/2011 - 10/31/2012 (12 months)	\$ 129,334.16
Year 3: 11/1/2012 - 10/31/2013 (12 months)	\$ 133,214.18
Year 4: 11/1/2013 - 10/31/2014 (12 months) (Optional)	\$ 137,210.61

Year 5: 11/1/2014 - 10/31/2015 (12 months) (Optional)	\$ 141,326.93
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3. **Early Termination.** Customer, through its Contract Administrator, may terminate for convenience maintenance for the Software during the Maintenance Commitment Term with sixty (60) calendar days' prior written notice to Accero, provided that Customer shall be obligated to immediately pay to Accero the termination fee defined below.

If Customer terminates for convenience:

before the start of: Year 1	The termination fee will be: \$199,289.71
before the start of: Year 2	The termination fee will be: \$131,274.17
before the start of: Year 3	The termination fee will be: \$ 66,607.09
before the start of: (Optional) Year 4	The termination fee will be: \$0.00
before the start of: (Optional) Year 5	The termination fee will be: \$0.00

Accero shall have the right to retain (without refund to Customer) all maintenance fees previously paid by Customer to Accero pursuant to this Agreement.

4. **Funding.** Accero recognizes that funding for Customer requirements, including the funding for funds to pay for the maintenance described herein, is done on a budget year basis, October 1 through September 30 subject to Chapter 129, Florida Statutes (as amended from time to time). Accero further recognizes that Customer's Board of County Commissioners is the authority which establishes, allocates, or otherwise provides for Customer's budget year funding, subject to Chapter 129, Florida Statutes, as amended, from time to time.

In the event of a conflict between the terms and conditions of the Agreement and this Second Amendment, the terms of this Second Amendment will control. All other terms and conditions of the Agreement as amended which are not in conflict with the Second Amendment shall remain in full force and effect.

The provisions in the Second Amendment expire and are of no effect unless signed by Customer no later than **September 30, 2010, subject to Accero's prior execution.**

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SECOND AMENDMENT TO THE SOFTWARE LICENSE AND MAINTENANCE AGREEMENT

Customer: Broward County, a political subdivision **Accero, Inc.**
of the State of Florida

By: _____
Chair

By: Deborah J. Arce
Authorized Signature

Name: _____

Name: Deborah J. Arce

Title: _____

Title: Vice President + CFO

Date: _____, 2010

Date: July 23, 2010.

Attest: _____

Attest: _____

By: _____
County Administrator and Ex-Officio
Clerk of the Board of County Commissioners
of Broward County, Florida

WITNESSES:

Signature

Print Name

Signature JEFFREY J. NEWTON, County Attorney

Print Name

Approved as to form by
Office of the County Attorney
for Broward County, Florida

Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By: Andrea S. Froome (8-6-10)
Andrea S. Froome (Date)
Senior Assistant County Attorney

Attest: _____

By: Amy Grant
Corporate Secretary or Authorized
Signature

Insurance requirements
Approved by Broward County
Risk Management Division:

Amy Grant
Print Name Above

By: [Signature] 8/6/10
Authorized Signature (Date)

(Corporate Seal)

Exhibit A to Second Amendment to the Software License and Maintenance Agreement
Between Accero Inc. ("Accero") and Broward County ("Customer")

Software	Operating Platform	Maintenance Pricing Basis
Licensed Software: HR, Payroll United States, Reporting Administration	UNIX	Up to 7,000 Headcount
Third-Party Software: Cognos Impromptu Admin Cognos Impromptu User	Windows Windows	1 user 72 users

"Headcount" means the average number of active employees during any annual maintenance period. Customer shall furnish Accero an updated Headcount verification within thirty (30) calendar days of Accero's written request, and agrees to pay an additional maintenance fee for any increase over the Headcount listed above. Such additional maintenance fee will be proportional to the increase in Accero's then-current standard maintenance fee from the lower Headcount to the higher Headcount. Actual rates charged to County shall be determined after negotiation on a fully executed agreement.

Quotes for maintenance for additional Licensed Software or Third-Party Software licenses shall be defined by Accero in the Order Form for such additional licenses.