SUBSCRIPTION SERVICES AGREEMENT

This agreement is between Mo'mix Solutions, Inc., a Texas corporation (**Mo'mix**), and the entity or individual agreeing to these terms (**Customer**). It is dated as of the date Mo'mix signs below.

a) **SOFTWARE-AS-A-SERVICE.** This agreement provides Customer access and usage of an Internet based software service, for an unlimited number of Authorized Users (defined below), as specified on an order signed by both parties (**Service**). Mo'mix may make modifications to the Service from time to time, without liability to Customer, and will use commercially reasonable efforts to notify Customer of any material modifications. Mo'mix may terminate the Services at the end of the then-current term.

b) **USE OF SERVICE.**

   a. **Customer Owned Data.** (i) All data uploaded by Customer remains the sole property of Customer, as between Mo'mix and Customer (Customer Data). Customer grants Mo'mix the right to use the Customer Data solely for purposes of performing under this agreement. Customer further grants Mo'mix the right to use Customer Data that has been scrubbed of personally identifiable information for its business uses, including statistical analysis based on aggregated data. During the term, Mo'mix will provide Customer Data to Customer upon request. (ii) The technical processing and transmission of Customer Data and other electronic communications is fundamentally necessary to the use of the Service. Customer consents to Mo'mix's interception and storage of such information; provided, Mo'mix is not liable for any delay, loss, alteration or interception of such communications by unauthorized third parties.

   b. **Authorized Users Access and Usage.** Customer may allow its employees and contractors (each, an **Authorized User**) to access the Services in compliance with the terms of this agreement, which access must be for the sole benefit of Customer. Customer is responsible for the compliance with this agreement by such Authorized Users. Mo'mix may contact any and all Authorized Users of the Services for training, problem resolution and feedback purposes.

   c. **Customer Responsibilities.** Customer (i) must keep its passwords secure and confidential; (ii) is solely responsible for Customer Data and all activity in its account in the Service; (iii) must use commercially reasonable efforts to prevent unauthorized access to its account, and notify Mo'mix promptly of any such unauthorized access; and (iv) may use the Service only in accordance with its documentation and applicable law.

   d. **Mo'mix Support.** Mo'mix must provide customer support for the Service under the terms of Mo'mix' Customer Support Policy (**Support**) which is located at www.momixpc.com/support, and is incorporated into this agreement for all purposes.

   e. **Implementation Services.** If purchased by Customer in an order, Mo'mix will provide implementation services to Customer, in accordance with the Implementation Plan attached to the order. Following an implementation project, Customer's access to the Services will be activated, as evidence by both party's signature of a Service Activation Certificate, which becomes the effective date of the subscription term for the applicable Services ordered.

   f. **30-Day Trial Version.** If Customer has registered for a trial use of the Service, Customer may access the Service for a 30-day time period (unless extended by Mo'mix in writing). The Service is provided AS IS, with no warranty during this time period. All Customer Data will be deleted after the trial period, unless Customer converts its account to a paid Service.

c) **WARRANTY and REMEDY.**

    a. **Warranty.** Mo'mix warrants to Customer that: (i) it will use commercially reasonable efforts to maintain the online availability of the Service (*excluding* scheduled outages, force majeure, and outages that result from any Customer technology issues); (ii) the functionality or features of the Service may change but will not materially decrease during a paid term; and (iii) the Support may change but will not materially degrade during any paid term.

    b. **LIMITED REMEDY.** THE SERVICE MAY BE INTERRUPTED OR CONTAIN AN ERROR. CUSTOMER'S EXCLUSIVE REMEDY AND MO'MIX'S SOLE OBLIGATION FOR ITS FAILURE TO MEET THE WARRANTY IN A ABOVE WILL BE FOR MO'MIX TO USE COMMERCIALLY REASONABLE EFFORTS TO REMEDY THE FAILURE.

    c. **Disclaimer.** MO'MIX DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE AND FITNESS FOR A PARTICULAR PURPOSE. WHILE MO'MIX TAKES REASONABLE PHYSICAL, TECHNICAL AND ADMINISTRATIVE MEASURES TO SECURE THE SERVICE, MO'MIX DOES NOT GUARANTY THAT THE SERVICE CANNOT BE COMPROMISED.

d) **PAYMENT.** Customer must pay all fees as specified on an order, but if not specified then within 30 days of receipt of an invoice as set forth in Paragraph J. Customer is responsible for the payment of all sales, use, withholding, VAT and other similar taxes. This agreement contemplates one or more orders for the Service, which orders are governed by the terms of this agreement.

e) **MUTUAL CONFIDENTIALITY.**

    a. **Definition of Confidential Information.** Confidential Information means all non-public information disclosed by a party (**Discloser**) to the other party (**Recipient**), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure (**Confidential Information**). Mo'mix's Confidential Information includes without limitation the Service, and Licensed Software and Documentation, (including without limitation the Service user interface design and layout, and pricing information).

    b. **Protection of Confidential Information.** The Recipient must use the same degree of care that it uses to protect the confidentiality of its own confidential information (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Discloser for any purpose outside the scope of this agreement. The Recipient must make commercially reasonable efforts to limit access to Confidential Information of Discloser to those of its employees and contractors who need such access for purposes consistent with this agreement and who have signed confidentiality agreements with Recipient no less restrictive than the confidentiality terms of this agreement.

    c. **Exclusions.** Confidential Information *excludes* information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser, (ii) was known to the Recipient prior to its disclosure by the Discloser without breach of any obligation owed to the Discloser, (iii) is received from a third party without breach of any obligation owed to Discloser, or (iv) was independently developed by the Recipient without use or access to the Confidential Information. The Recipient may disclose Confidential Information to the extent required by law or court order, but will provide Discloser with advance notice to seek a protective order.

f) **MO'MIX PROPERTY.**

a. **Reservation of Rights**. The software, workflow processes, user interface, designs, know-how, Licensed Software and Documentation (defined below), and other technologies provided by Mo'mix as part of the Service are the proprietary property of Mo'mix and its licensors, and all right, title and interest in and to such items, including all associated intellectual property rights, remain only with Mo'mix. Customer may not remove or modify any proprietary marking or restrictive legends in the Service or Licensed Software and Documentation. Mo'mix reserves all rights unless expressly granted in this agreement.

b. **Restrictions**. Customer *may not* (i) sell, resell, rent or lease the Service or use it in a service provider capacity; (ii) use the Service to store or transmit infringing, unsolicited marketing emails, libelous, or otherwise objectionable, unlawful or tortious material, or to store or transmit material in violation of third-party rights; (iii) interfere with or disrupt the integrity or performance of the Service; (iv) attempt to gain unauthorized access to the Service or their related systems or networks; (v) reverse engineer the Service or the Licensed Software and Documentation; or (vi) access the Service or use the Licensed Software and Documentation to build a competitive service or product, or copy any feature, function or graphic for competitive purposes.

c. **Licensed Software and Documentation.** Any and all software provided by Mo'mix as part of the Service, including data extraction software, and the Service documentation, sample data, marketing materials, training material and other material provided through the Service or by Mo'mix (**Licensed Software and Documentation**) are licensed to Customer as follows: Mo'mix grants Customer a non-exclusive license during the Term, to use and copy such Licensed Software and Documentation, solely in connection with the Service.

g) **TERM AND TERMINATION.**

a. **Term**. This agreement continues until all orders have terminated (**Term**), and Customer reserves the right to not renew future annual subscription(s)

b. **Mutual Termination for Material Breach.** If either party is in material breach of this agreement, the other party may terminate this agreement at the end of a written 30-day notice/cure period, if the breach has not been cured. For material breach not resolved within agreed upon period Mo'mix will reimburse Customer annual pro rata share of services rendered and goods actually received.

c. **Termination for Convenience.** This agreement may be terminated at any time at the option of either party, without future or prospective liability for performance upon giving ninety (90) days written notice thereof. In the event of termination by Mo'mix, Customer will only be liable for its pro rata share of services rendered and goods actually received.

d. **Return of Customer Data.** Within 30-days after termination, upon request Mo'mix will make the Service available for Customer to run standard reports and copy Customer Data. After such period, Mo'mix has no obligation to maintain Customer Data and may destroy it.

e. **Return or Destroy Mo'mix Property Upon Termination**. *Upon termination of this agreement for any reason,* Customer must pay Mo'mix for any unpaid amounts, and destroy or return all property of Mo'mix. Upon Mo'mix's request, Customer will confirm in writing its compliance with this destruction or return requirement.

f. **Suspension of Service for Violations of Law.** Mo'mix may temporarily suspend the Service or remove the applicable Customer Data, or both, if it in good faith believes that, as part of using the Service, Customer has violated a law. Mo'mix will attempt to contact Customer in advance.

h) LIABILITY LIMIT.

    a. **EXCLUSION OF INDIRECT DAMAGES.** MO'MIX IS NOT LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, COSTS OF DELAY; LOSS OF DATA, RECORDS OR INFORMATION; LOST PROFITS AND ANY FAILURE OF DELIVERY OF THE SERVICE).

    b. **TOTAL LIMIT ON LIABILITY.** MO'MIX'S LIABILITY FOR ALL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT OR OTHERWISE) DOES NOT EXCEED THE AMOUNT PAID BY CUSTOMER WITHIN THE 12 MONTH PERIOD PRIOR TO THE EVENT THAT GAVE RISE TO THE LIABILITY.

i) INDEMNITY.

    a. **Defense of Third Party Claims.** Mo'mix will defend or settle any third party claim against Customer to the extent that such claim alleges that the Mo'mix technology used to provide the Service violates a copyright, patent, trademark or other intellectual property right, if Customer: (i) promptly notifies Mo'mix of the claim in writing; (ii) cooperates with Mo'mix in the defense; and (iii) allows Mo'mix to solely control the defense or settlement of the claim.

        Costs. Mo'mix will pay infringement claim defense costs incurred as part of its obligations above, and Mo'mix negotiated settlement amounts, and court awarded damages.

        Process. If such a claim appears likely, then Mo'mix may modify the Service, procure the necessary rights, or replace it with the functional equivalent. If Mo'mix determines that none of these are reasonable available, then Mo'mix may terminate the Service and refund any prepaid and unused fees.

        Exclusions. Mo'mix has no obligation for any claim arising from: (i) Mo'mix's compliance with Customer's designs, specification, instructions, or technical information; (ii) a combination of the Service with other technology where the infringement would not occur but for the combination; (iii) use of Customer Data; or (iv) technology not provided by Mo'mix.

        This section contains Customer's exclusive remedies and Mo'mix's sole liability for intellectual property infringement claims.

    b. **By Customer.** If a third-party claims against Mo'mix that any part of the Customer Data infringes or violates that party's patent, copyright or other right, Customer will defend, to the extent authorized under Texas law, Mo'mix against that claim at Customer's expense and pay all costs, damages, and attorney's fees, that a court finally awards or that are included in a settlement approved by Customer, provided that Mo'mix: promptly notifies Customer in writing of the claim; and allows Customer to control, and cooperates with Customer in, the defense and any related settlement.

j) OTHER TERMS.

    a. **Governing Law and Forum.** This agreement is governed by the laws of the State of Texas, without regard to conflict of law principles. Any dispute arising out of or related to this agreement may only be brought in the state and federal courts for Travis County, Texas. Both parties consent to the personal jurisdiction of such courts and waive any claim that it is an inconvenient forum. Nothing in this agreement prevents either party from seeking injunctive relief in a court of competent jurisdiction. The prevailing party in any litigation is entitled to recover its attorneys' fees and costs from the other party.

b. **Entire Agreement and Changes.** This agreement and the order constitute the entire agreement between the parties, and supersede all prior or contemporaneous negotiations, agreements and representations, whether oral or written, related to this subject matter. No modification of this agreement is effective unless both parties sign it, and no waiver is effective unless the party waiving the right signs a waiver in writing.

c. **No Assignment.** Neither party may assign or transfer this agreement or an order to a third party, except that this agreement with all orders may be assigned, without the consent of the other party, as part of a merger, or sale of substantially all the assets, of a party.

d. **Independent Contractors**. The parties are independent contractors with respect to each other.

e. **Enforceability and Force Majeure**. If any term of this agreement is invalid or unenforceable, the other terms remain in effect. Neither party is liable for force majeure events.

f. **Money Damages Insufficient**. Any breach by a party of this agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach.

g. **No Additional Terms.** Mo'mix rejects additional or conflicting terms of any Customer form-purchasing document.

h. **Order of Precedence**. If there is an inconsistency between this agreement and an order, the order prevails.

i. **Survival of Terms and no CISG**. Any terms that by their nature survive termination of this agreement for a party to assert its rights and receive the protections of this agreement, will survive. The UN Convention on Contracts for the International Sale of Goods does not apply.

j. **Payment for goods and services:** shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date The County receives the goods under the contract; (2) the date the performance of the service under the contract is completed; or (3) the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by The County in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of The County's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

k. **Right to Audit:** Service Provider agrees that The County or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of Service Provider which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Service Provider agrees that The County shall have access during normal working hours to all necessary Service Provider facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The County shall give Service Provider reasonable advance notice of intended audits.

Williamson County, Texas

Judge Bill Gravell Jr.

By: Judge Bill Gravell Jr. (Nov 4, 2020 09:31 CST)

Name: Judge Bill Gravell Jr.

Title: County Judge

Date: Nov 4, 2020

Mo'mix Solutions, Inc.
BuyBoard Contract: 579-19

By: _____

Name: Erin Latham_____

Title: President_____

Date: 10/22/20 _____

mo'mix
solutions

MO'MIX PERFORMANCE CENTER SERVICES ORDER FORM

Customer Name: WILLIAMSON COUNTY

Customer Address: Main Street Georgetown, TX 78626

Date: October 1, 2020 Term 12 months

Mo'mix Certified Buyboard Contract: Technology Equip, Supplies, Software, Telecommunications Products, Asset Disposal/Recovery Contract # 579-19

Product and Services	Annual Subscription 2020-2021	One-time Implementation
Business Intelligence Products	$51,700	-0-
Performance Center Financial Intelligence		
Performance Center Procurement Intelligence		
Performance Center Project Intelligence		
Performance Center Asset Intelligence		
MyGovCenter Annual Subscription	$26,500	
Total Due	**$78,200**	

Renewals: Subscriptions renew annually.

Terms: This order is governed by the terms of the Subscription Services Agreement between the parties, which terms are incorporated into this order for all purposes. If there is a conflict between the terms of this order and the agreement, this order governs. This order and the agreement are the entire agreement between the parties, and they supersede and replace all prior and contemporaneous negotiations, agreements, representations and discussions regarding this subject matter. Only a signed writing of the parties may amend this order.

Updates: Updates and enhancements will be provided under the subscription service at no additional charge.

Williamson County, TX	Mo'mix Solutions, Inc.
By: _Judge Bill Gravell Jr._ Judge Bill Gravell Jr. (Nov 4, 2020 09:31 CST)	By:
Name: Judge Bill Gravell Jr.	Name: Erin Latham_____
Title: County Judge	Title: President_____
Date: Nov 4, 2020	Date: 10/22/2020_____

Agenda item #29, 11.03.2020, Performance Center Maintenance and Support, Momix

Final Audit Report   2020-11-04

Created:	2020-11-03
By:	Kerstin Hancock (khancock@wilco.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAgZpvJwGjrjN_1NgnQkaY1HBlm7PoB3VT

"Agenda item #29, 11.03.2020, Performance Center Maintenance and Support, Momix" History

Document created by Kerstin Hancock (khancock@wilco.org)
2020-11-03 - 4:47:09 PM GMT- IP address: 66.76.4.65

Document emailed to aschiele@wilco.org for delegation
2020-11-03 - 4:48:43 PM GMT

Email viewed by aschiele@wilco.org
2020-11-03 - 5:06:15 PM GMT- IP address: 104.47.65.254

Document signing delegated to Judge Bill Gravell Jr. (bgravell@wilco.org) by aschiele@wilco.org
2020-11-03 - 5:06:27 PM GMT- IP address: 66.76.4.65

Document emailed to Judge Bill Gravell Jr. (bgravell@wilco.org) for signature
2020-11-03 - 5:06:27 PM GMT

Email viewed by Judge Bill Gravell Jr. (bgravell@wilco.org)
2020-11-03 - 5:41:40 PM GMT- IP address: 172.56.7.184

Document e-signed by Judge Bill Gravell Jr. (bgravell@wilco.org)
Signature Date: 2020-11-04 - 3:31:50 PM GMT - Time Source: server- IP address: 66.76.4.65

Agreement completed.
2020-11-04 - 3:31:50 PM GMT