Amendment to

Software License Agreement

This Amendment to the Software License Agreement ("Amendment") is effective when executed by both of the following parties (the "Parties") on the date set out below (the "Effective Date):

|  |  |
| --- | --- |
| KOFAX UK LTD ("Kofax") | THE SECRETARY OF STATE FOR WORK AND |
|  | PENSIONS ACTING THROUGH THE DEPARTMENT |
| Basingstoke | FOR WORK AND  |

PENSIONS ("DWP' OR \*END CUSTOMER" OR "CUSTOMER" OR "LICENSEE" OR

"You")

Richmond house. 79 Whitehall, London, SWI A 2NS, United Kingdom

By:

|  |  |
| --- | --- |
| Christian Hefner, VP Corporate Counsel |  |
| Name/Title: | Name/Title |

Date: 25/02/2020

WHEREAS Kofax and Licensee wish to enter into an Amendment and a Software Licence Agreement.

NOW THEREFORE in consideration of the covenants, promises, obligations, and conditions set forth below, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

Kofax consents for the standard end user SLA (set out at Appendix 1) governing terms between Kofax and the Licensee for this transaction to be amended as follows:

1. Kofax grants to Licensee the right to allow third party contractors and/or agents to use the Software and associated documentation solely on behalf of Licensee for Licensee's internal business purposes within the license grant and restrictions as granted under this Schedule and solely if such third parties have first agreed in writing to be bound by the terms and conditions of the end user software license and the amendments in this Schedule to the Software License Agreement and provided that the third parties have Kofax accredited personnel. Licensee shall notify Kofax in writing when a third party is appointed (it being acknowledged that BBW and Xerox have been so appointed). 
2. In section 2•(Term and Termination) of the SLA Sentence 1 is replaced by. gThe License shall remain in effect perpetually unless agreed otherwise in the relevant ordering documents, or unless terminated in accordance with the terms of this Agreement." c, In section 3 (Support Services) of the SLA, the scope of the Support Services is described in the Kofax Support Commitment ("Support Commitment") of which current version can be reviewed at www.kofax.com/support at all times. As these are global support standard deliverables Kofax may make minor revisions to the Support Commitment from time to time without notice to You.

d. The first sentence of section 7 of the SLA (Limited Warranty) is replaced by:

"Subject to the limitations stated herein. Kofax warrants to You, the original end user, that:

i. Kofax has the right to enter into the License and grant DWP a license to use the Software and documentation; ii. for a period of 12 months commencing on delivery of the Software:

* the Software will materially confirm to Kofax•s then current documentation for such Software;
* the Software will be able to process the volumes referenced in the Bill of Materials Table Section 3.1 of Schedule # 0-118821/1 
* the software and media on which the Software is delivered have been tested as free from viruses and malware; and
* the Software will be compatible with any technical specification (e.g. operating environment/platform) as outlined in the Kofax Cross Product Compatibility Matrix, to be viewed at all times at:

http://www.kofax.com/support/notices/Kofax\_Cross\_Product\_CompatibiEityMatrix.pdf;

iii. all Support Services will be provided with reasonable skill, care and diligence and in accordance with accepted industry practice.'

e. The second sentence of section 7 (Limited Warranty), is replaced by:

"If Kofax is In breach of this warranty, End Customer's remedy will be the replacement or repair of the nonconforming Software, hardware key. media and/or documentation and additionally compensation for Your direct losses arising from such non-conformity, or if Kofax fails to replace or repair (within a period of 30 days, or any period extended by mutual consent, from Your eligible warranty claim) then it shall refund the license fee subject to Your return of the Software. This Limited Warranty is void if failure of the Software has resulted from accident, abuse or misapplication. In no circumstances will the liability of Kofax for any breach of this Limited Warranty exceed

100% the license fees You actually paid to Kofax pursuant to this Agreement."

f. The last two sentences of section 7 (Limited Warranty) of the SLA shall be deleted.

1. Section 9, 2nd paragraph of the SLA is replaced by: "Kofax will have no liability for any claim of infringement to the extent arising as a result of. a) Your use of the Software in combination with any items not supplied by Kofax; b) any modification of the Software at Your request if not done by Kofax; c) use of other than the latest revision of the Software if use of the latest revision would avoid the infringement; or d) use outside the scope of the granted licenses."
2. The following text shall be added to the end of the 1st paragraph of section 10 of the SLA, "it being agreed that End Customers costs of employing the service providers, BBW and Xerox, are and shall be direct losses for the purposes of any damages so arising"
3. Section 10, 2nd paragraph of the SLA is replaced by, 'Except as set forth in Section 9, Kofax's liability to You will in no event, whether in cðntract, tort (including negligence) or otherwise, exceed 150% the fees You actually paid to

Kofax pursuant to this Agreement."

1. Section 12 (Assignment) of the SLA is amended as follows: 'You may not assign this Agreement or any of the rights granted hereunder without the prior written approval of Kofax, except of any assignments of this Agreement to any other governmental bodies performing functions previousy performed by You. Any approval by Kofax is not to be unreasonably withheld."
2. l. The following section in clause 15 (Resolution of Disputes) of the SLA:

the dispute is not resolved as a result of these efforts, the matter will be submitted to final and binding arbitration under the rules of the American Arbitration Association. We agree to cooperate in selecting an arbitrator and in scheduling the arbitration proceedings. Arbitration proceedings will be conducted by one arbitrator in the English language, applying the substantive state and federal laws of and for Californiat excluding its laws pertaining to "conflict of law'. We specifically agree that that body of law known as the United Nations Convention on the International Sale of Goods shall not apply to this Agreement, The site of any proceedings shall be Orange County, California." is to be replaced by the following: "If the dispute is not resolved as a result of these efforts, the matter will be submitted to final and binding arbitration under the rules of the International Chamber of Commerce (ICC). We agree to cooperate in selecting an arbitrator and in scheduling the arbitration proceedings. Arbitration proceedings will be conducted by one arbitrator in the English language. The governing law of this Agreement shall be the substantive law of England and Wäles. We specifically agree that that body of law known as the United Nations Convention on the International Sale of

Goods shall not apply to this Agreement The site of any proceedings shall be London, England

Appendix 1 — Software License Agreement

1. License.

Kofax, Inc. ("Kofax") grants to You a limited, nonexclusive license right (the "License") to install and use the downloaded Kofax Software Product(s) (the "Software"). The License allows You to use the Software in object code form only for the purposes (internal use, evaluation, testing, demonstration, disaster recovery), duration and extent for which You have paid the appropriate license fees, as evidenced by one or more valid and mutually agreed upon purchase order documents between You and Kofax or an authorized Kofax reseller identifying the product(s) licensed (the 'Software") and any applicable limitations on use (such as volume limitations or concurrent client module use limitations). Where Your License is limited on an annual volume basis, Your authorised volume usage limit shall pertain to the 12•month period commencing from the date the Software is delivered to You. Page count licenses will expire and deactivate one year from purchase notwithstanding any existing unused image volume. Any features or functionality to be included in any future or subsequent releases of the Software are at the sole discretion of Kofax and nothing in this

Agreement should be interpreted or construed to include any right on Your part to receive any specific features or functionality in the future.

1. Term & Termination. The License shall remain in effect perpetually unless agreed otherwise in the relevant ordering documents, or unless terminated in accordance with the terms of this Agreement. You may terminate this Agreement and the License at any time by certifying destruction of all copies of the Software and associated documentation. This Agreement will further terminate upon Your failure to cure any material breach of this Agreement within 30 days of written notice from Kofax regarding such breach. In the event of termination, regardless of cause, the License will immediately terminate, and you will promptly destroy all copies of the Software. Sections 6, 7, and 10-17 of this Agreement, and the obligations embodied therein. will survive any termination of this Agreement.
2. Support Services.

Kofax or an authorized Kofax reseller will provide support services for which You have paid the required annual support fees, subject to the terms and conditions of this Agreement and the Kofax Support Commitment (the "Support Commitment), the current version of which are available at all times at www.Kofax.com/supporU and which is incorporated herein by reference. What is included and excluded from the services, and other requirements, is described in the Support Commitment. Kofax may make minor revisions to the Support Commitment from time to time without notice to You. Support pricing shall be as quoted and agreed upon between the Parties for the initial term, and shall increase for renewal terms by an amount not to exceed 5% of the prior year term fee, provided that increases associated with additional software license purchases, if any, shall be incorporated into the base for the purpose of calculation of each annual increase. The initial one year support services term will begin on the first day of the month following the invoice date of the Software. For as long as Kofax makes support services for the Software generally available to all of its customers, this Agreement witl automatically renew on each anniversary date thereafter for a new one year term, unless You give Kofax 60 days written notice, prior to the end of the current term, of Your intent not to renew. Kofax will invoice You for renewal fees up to 60 days prior to expiration of each term. Kofax may terminate and suspend performance of all support services if You fail to pay any past due Kofax invoice within 10 days of written notice of such failure, in the event of any other material breach by You which remains uncured 30 days after notice thereof or if any of the Software ceases to be subject of a valid Software License Agreement. Kofax will not provide support following expiration of this Agreement. In the event You desire support to be reinstated following expiration, You agree: 1) to pay a reinstatement fee equal to the current annual support fee and any unpaid support fees from the date of expiration to the date of reinstatement; and 2) to pay for at least one additional year of support services from the date of reinstatement. All software maintenance releases, updates, patches, workarounds or other software and/or documentation furnished to You pursuant to this Agreement shall be deemed to be Software, as that term is used herein. Upon receipt and installation of a software maintenance release to a Software program, You may keep (in addition to the current revision archival copy permitted hereunder) one copy of the previous version of that Software for archival purposes only and shall destroy all other copies of the previous version.

1. Professional Services Engagements. All professional services engagements shall be performed under a separate professional services agreement, mutually agreed upon in writing by authorized representatives of each of us. Any fees for Software hereunder shall be due and payable under the terms set forth in Section 5 of this Agreement, and shall not be dependent or contingent in any way upon the performance or completion of any separate professional services engagement.
2. Price-Payment-Delivery. All rights granted in this Agreement are conditional upon payment of the appropriate fees. Invoices are due and payable 30 days from date of invoice. You agree to pay or reimburse all sales, use, VAT or excise taxes, duties or assessments arising oh or measured by amounts payable to Kofax hereunder. You are not responsible for Kofax's income taxes. All tangibles will be delivered FOB Kofax's offices.
3. Copyright. The Software is proprietary commercial software developed at private expense by Kofax and/or its licensors. Kofax reserves all intellectual property rights to the Software and its documentation under U.S. Copyright Law and international copyright treaty provisions as well as trade secret, industrial property, unfair competition or similar laws applicable to the locality where you use it. No product or service provided under this Agreement will be deemed a "work-made-for-hire". In accordance with copyright law You may not, and You may not allow any third party to, 1) decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or discover any source code or underlying ideas of the Software by any means whatsoever; 2) remove any product identification, copyright legend or other notices; 3) rent, lease, lend, or sublicense the Software to third parties; 4) modify, incorporate into or with other software or create a derivative work of any part of the Software except as specified in the user documentation or as permitted under separate license

agreement with Kofax; or 5) attempt to use the Software, or any portion thereof, in excess of its licensed capacity. Except as may be reasonably required to use the Software in accordance with the License, and except as strictly required for back-up and archival purposes, You may not copy the Software or any portion thereof.

1. Limited Warranty. Subject to the limitations stated herein, Kofax warrants to You, the original end user, that, for a period of 90 days from the date of receipt a) the hardware key and the media on which Software is furnished will be free of defects in materials and workmanship, and b) such Software, as delivered, will materially conform to Kofax•s then current documentation for such Software. Your exclusive remedy, and Kofax's entire liability, under this warranty will be, at Kofax's option, the replacement of the non-conforming Software, hardware key, media and/or documentation or a

refund of the license fee You paid, subject to Your return of the Software. This Limited Warranty is void if failure of the Software has resulted from accident, abuse or misapplication. Any replacement Software will be warranted for the remainder of the original warranty period or 30 days, whichever is longer.

1. Disclaimer of Additional Warranties. THE EXPRESS WARRANTY ABOVE IS IN LIEU OF ALL OTHER

WARRANTIES, KOFAX DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; OR ANY WARRANT,' ARISING FROM THE COURSE OF DEALING BETWEEN THE PARTIES OR FROM TRADE USAGE.

1. intellectual Property Indemnification. Kofax will defend, at its own expense, any claim, suit or proceeding brought against you to the extent it is based upon a claim that Your use of the Software in the United States, Canada, Australia or the European Union pursuant to this Agreement infringes upon any patent, copyright or trade secret of a third party. You agree that you will promptly notify Kofax in writing of any such claim or action and give Kofax full information and assistance in connection therewith. Kofax will have the sole right to control the defense of, and to settle or compromise, any such claim or action. If You comply with the provisions hereof, Kofax will pay all damages, costs and expenses finathy awarded to third parties against You in such action. If the Software is, or in Kofax's opinion might be, held to infringe as set forth above, Kofax may, at its option, replace or modify the Software so as to avoid infringement, or procure the right for You to continue to use the Software. If neither of such alternatives is, in Kofax's opinion, commercially reasonable, You will return the infringing Software to Kofax, and Kofax's sole liability, in addition to its obligaton to pay awarded damages, costs and expenses as set forth above, shall be to refund the license fees You paid to Kofax hereunder. depreciated on a 3-year, straight-tine basis. Kofax will have no liability for any claim of infringement arising as a result of a) Your use of the Software in combination with any items not supplied by Kofax; b) any modification of the Software at Your request; c) use of other than the latest revision of the Software if use of the latest revision would avoid the infringement; or d) use outside the scope of the granted licenses.

The foregoing states Kofax•s entire liability concerning infringement of intellectual property rights, including but not limited to, patent, copyright and trade secret rights.

1. Limitation of Liability. UNDER NO CIRCUMSTANCES WILL KOFAX BE LIABLE TO YOU FOR ANY LOST PROFITS, LOST OR

DEGRADED DATA, INTERRUPTION OF BUSINESS. PROCUREMENT OF SUBSTITUTE PRODUCTS, OR FOR

INDIRECT. SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, HOWEVER CAUSED AND

REGARDLESS OF THEORY OF LIABILITY, ARISING OUT OF THE USE OF (OR INABILITY TO USE) THE

SOFTWARE OR THE PROVISION OF SERVICES HEREUNDER, EVEN IF KOFAX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Except as set forth in Section 9, Kofaxts liability to you will in no event, whether in contract, tort (including negligence) or otherwise, exceed the fees You actually paid to Kofax pursuant to this Agreement.

1. Equitable Remedies. You agree that a material breach of this Agreement adversely affecting Kofax's proprietary rights in the Software or other confidential materials provided hereunder would cause irreparable injury to Kofax for which monetary damages would not be an adequate remedy and, therefore, that Kofax shall be entitled to equitable relief (e.g. injunction) in addition to any remedies it may have hereunder or at law.
2. Assignment. You may hot assign this Agreement or any of the rights granted hereunder without the prior written approval of Kofax
3. Notices. All notices under this Agreement shall be in writing, shall reference this Agreement, and shall be deemed given:

1) when delivered personally;

2) when sent by confirmed facsimile transmission:

3) five days after having been sent by registered or certified mail, return receipt requested; or

4) one day after deposit with a commercial overnight carrier, with written verification of receipt.

1. Waiver/Severability. Failure by either of us to enforce any provision of this Agreement shall not be deemed a waiver of future enforcement of that or any other provision. Similarly, the provision of any accommodation exceeding the requirements of this Agreement shall not constitute a waiver of any provision hereof, nor shall it be construed to establish a course of dealing contrary to the express terms hereof. If any provision of this Agreement shall be adjudged by a court of competent jurisdiction to be unenforceable, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect.
2. Resolution of Disputes. In the event of any dispute arising out of or relating to this Agreement, we shall attempt in good faith to resolve such dispute through informal means. including timely escalation of the dispute to senior management having full settlement authority. If the dispute is not resolved as a result of these efforts, the matter will be submitted to final and binding arbitration under the rules of the American Arbitration Association. We agree to cooperate in selecting an arbitrator and in scheduling the arbitration proceedings. Arbitration proceedings will be conducted by one arbitrator in the English language, applying the substantive state and federal laws of and for California, excluding its laws pertaining to "conflict of law'. We specifically agree that that body of law known as the United Nations Convention on the International Sale of Goods shall not apply to this Agreement. The site of any proceedings shall be Orange County, California. The provisions of this section and any resulting award may be enforced by any court of competent jurisdiction. The prevailing party in any arbitration shall be entitled to an award of all costs, fees and reasonable expenses, including attorneys' fees, incurred as a result of the arbitration or any action to enforce the arbitration award. Punitive damages may not be awarded in connection with any arbitration proceeding arising out of or relating to this Agreement.
3. Force MaJeure. Neither party to this Agreement shall be liable for non-performance to the extent that such nonperformance is caused by events or conditions beyond that party's control, provided subh party promptly notifies the other thereof and makes reasonable efforts to perform.
4. Complete Agreement. This Agreement, including all attachments, constitutes the entire agreement between the parties with respect to the subject matter hereof. It supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter, and it shall supersede any and all conflicting provisions of any order document(s) between the parties. This Agreement may be modified, amended or waived only by a written instrument signed by duly authorized representatives of both parties.

Software License Schedule # 0-118821/1

KOFAX UK LTD ("Kofax")

7 Elmwood, Chineham Business Park

Basingstoke

Hampshire. RG24 8WG



# THE SECRETARY OF STATE FOR WORK AND

PENSIONS ACTING THROUGH THE DEPARTMENT FOR WORK AND PENSIONS ("DWP" OR "END

CUSTOMER" OR "CUSTOMER' OR "LICENSEE" OR

"You")

Richmond house, 79 Whitehall, London, SWI A 2NS,

 Name/Title: Name/Title'v

WHEREAS Kofax and Licensee•have entered into a Software Licence Agreement and Amendment dated ("Agreement").

WHEREAS Licensee hereby orders from Kofax the Software licenses and Support services identified in this Schedule 0-118821 Il ("Schedule") subject to the terms and conditions of the Agreement except as expressly amended herein. Capitalized terms used in this Schedule not defined herein shail have the same meanings as set forth in the Agreement.

1. Term and Right of Use
	1. This Schedule shall commence on the Effective Date and continue for a period of three years thereafter (the "Term").
	2. Licensee may terminate the software and licenses granted hereunder in whole or in part by gving written notice to Kofax subject always to the condition that alt amounts due during the Term shall be paid in full as-they fall due (i.e. on the dates that the Licensee would have paid such sums if the relevant software and licenses had not been terminated).
	3. Licensee may further extend this agreement for a duration and fee to be mutually agreed between the Parties prior to its expiration.
2. Fees
	1. Licensee will purchase from Kofax for use during the Term, licenses of the software products described in the Bill of Materials Table below (section 3.1) (the "Software" and licenses for the Software offered hereunder the "License") including Support Services for a net price of GBP £xx ("License & Maintenance Fee). For the avoidance of doubt, no further discounts or margins apply. Kofax invoice on an annual basis in advance at a price of £xxx per annum for years 1 & 2 and 3
	2. Licensee agrees to arrange to submit to Kofax an electronic copy of fully executed paperwork and any noncancellable purchase order document, or other order documents required to be produced by Licensee for the full amount of the License & Maintenance Fee, to allow Kofax to complete the processing of the order and delivery of  the licenses for•the Software including standard Support Services as specified. Licensee may also provide annual non-cancellable purchase order documents for the annual fee as specified in 2.1. The initial purchase order documents shall be provided to allow Kofax to complete the processing of the order and delivery of the licenses for the Software including standard Support Services. The purchase order documents for subsequent billing shall be provided before the first and second anniversary following the start of the Term for years 2 and 3 of the Term.
	3. Any fees for Software or Support Services hereunder shall not be dependent or contingent in any way upon the performance or completion of any separate professional services engagement. Terms applicable to any services quoted are covered in a separately applicable professional services agreement
	4. All amounts stated exclude any sales tax, goods and services tax, value added tax, consumption tax, withholding tax, duties, shipping charges or other third-party taxes CTaxes"). In addition to the quoted priceithe Licensee must at the same time the quoted price is paid, pay Kofax an additional amount on the account of Taxes. Any Taxes or fees will be calculated and specified on the invoice.
	5. Any fee hereunder shall be due and payable within 30 days from invoice date in line With the Agreement and shall not be dependent or contingent in any way upon the performance or completion of any separate professional services engagement. Terms applicable to any services quoted are covered in a separate professional service agreement and applicable statement of work,
3. licenses
	1. Bill of Materials table

|  |  |  |
| --- | --- | --- |
| Product description | Part number | Quantity |
| Term on Prem - Kofax Capture | KC#TERM | 1 |
| Kofax Capture Bundle Station License | EE#P220-001U | 125 |
| Kofax Capture Bundle 100K image Volume Per Year | EE#P220-100K | 2200 |
| KT Unlimited Field Extraction Base License - 10K Annual Volume | KT-WOLOI-OI OK | 7333 |
| Kofax Monitor Console Server | EE#MOOO-OOOI | 1 |
| Kofax Monitor for Transformation Volume | AE#MOOO-OOOI | 1 |
| Kofax Monitor Imaging Volume 20M/yr | EE#M024-020M | 11 |
| Kofax Monitor VRS Elite Console-up to 30 VRS Etite stations | VP#MOOO-OOOI | 1 |
| License - Disaster Recovery, Test or Dev | EE#CBACKUP-SWAD | 4 |
| Term on Prem - Kofax Process Intelligence (Analytics) | KPI#TERM | 1 |
| Kofax Process Intelligence | AS-2000-1000 |  |
| Kofax Process Intelligence additional concurrent user | AS.2000-001C |  |
| KPI - Test, Dev, or Disaster Recovery License | AS-TEST02-SWAD |  |
| Term on Prem - Kofax CCM | CCM#TERM | 1 |
| Kofax CCM - Base Package | CC-BASE-OOOI |  |
| Kofax CCM - Test/Dev System | CC.TEST02-SWAD | 1 |
| Kofax CCM Disaster Recovery System | CC-DISR02-SWAD | 1 |
| Term on Prem - Kofax TotalAgility | KTA#TERM |  |
| TotalAgifity Base Configuration | TA-BASE02-0001 |  |
| TotalAgihty Additional Concurrent Full User | TA-CUSROI-OOIF | 50 |
| TotatAgility Limited Users | TA-CUSROI-OOIL |  |
| Tota'Agility Transformation Volume - 10K Pages Per Year | TA-WOL03-010K | 2 |
| Tota'Agility included Test/Dev System | TA-TESTOI-SWIN | 2 |
| TotalAgility Additional Test/Dev System | TA-TESTOI-SWAD | 1 |
| Kofax RPA - 1 Additional Production Robot(s) - Term 1 year | KP-RPA-PROI -TERM | 3 |
| Kofax Mobile Capture SDK Runtime 1 OK Pages Per Year | KM-4001-10K | 3 |
| Kofax Mobile ID Device & Server Extraction 10K Per Year | KM-9002-010k | 3 |

1. Relationship Contacts

a. For Kofax

i. Account Executive Contact:

Leaf A, Level 1

Tower 42. 25 Old Broad Street

London

EC2N 1 HQ United Kingdom

Agreement Contact:

Corporate Counsel

Kofax Deutschland AG

Wilhelmstrasse 34

71034 Boeblingen

Germany

iii. Order Fulfillment I Account Receivable Contact:

Sr. Manager AR, Order Fulfillment and Licensing

Kofax Schweiz AG

Grundstrasse 14

6343 Rotkreuz

Switzedand

b. For Licensee

i. Agreement Contact

Commercial Category Manager

Department of Work and Pensions

The Shell 2nd Floor Peel Park

 Brunet Way 

Blackpool

FY4 5ES

Order Acknowledgement Contact

Commercial Category Manager

Department of Work and Pensions

The Shell 2nd Floor Peel Park

Brunel Way

Blackpool

FY4 5ES

ii. Accounts Payable Contact

c. Notice

Either party may change or replace relationship contacts at any time upon 30 days' written notice to the other party.