

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF FIFE AND THE CITY OF ORTING
REGARDING RMS SERVICES**

1. Date and Parties.

This agreement, for reference purposes only, is dated the 9th day of September, 2015, and is entered into between the City of Fife (hereinafter "Fife") and the City of Orting (hereinafter "Orting") under authority of the Interlocal Cooperation Act (Chapter 39.34 RCW) and the laws governing non-charter code cities.

2. Recitals.

2.1 Pursuant to RCW 35A.11.040, and Chapter 39.34 RCW, Fife and Orting have the legal authority to cooperate with each other on a basis of mutual advantage and thereby provide services and facilities in a manner that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities.

2.2 Fife maintains a a Total Enforcement RMS Hosted Solution provided by Tiburon, Inc. that provides comprehensive cloud based records management service for police records ("RMS Services").

2.3 Fife's contract with Tiburon, Inc. allows it to offer the RMS Services to other government entities, including Orting.

2.4 Fife and Orting desire to enter into this interlocal agreement for the purpose of allowing Orting to use the RMS Services.

Now, therefore it is hereby agreed by and between the parties hereto as follows:

3. RMS Services. Fife agrees to provide to Orting with RMS user licenses for the Total Enforcement RMS Hosted Solution for police records, pursuant to the agreement entered into between Fife and Tiburon attached hereto as Exhibit A.

4. Agreement Term. The term of this Agreement shall be four years, commencing on March 1, 2015, provided either party may terminate this Agreement upon ninety (90) days written notice to the other party. In the event of early termination, the annual payment shall be prorated as of the date of termination.

5. Fees. For the RMS Services provided herein, Orting shall pay Fife the sum of \$3500 for the first year (March 1, 2015 through February 28, 2016). Annual compensation for each year thereafter shall increase by 5% of the prior year. Annual payments shall be made on or before April 1 each year.

6. Ownership of Information. All data and other records, including data and records of either city entered into any database, files, and data stores of Fife or Orting or supplied to Tiberon by either city are and shall remain the sole property of the city which entered or provided it.

7. Contract Administration. The parties do not by this Agreement create any separate legal or administrative entity. The City Manager of Fife, or his designee shall be responsible for working with the Mayor of Orting, or his/her designee to administer the terms of this Agreement. The parties do not intend to jointly own any real or personal property as part of this undertaking. The parties will cooperatively work together to further the intent and purpose of this Agreement.

8. Indemnification.

8.1 Orting agrees to indemnify and hold Fife, its elected officials, officers, employees, agents and volunteers harmless from any and all claims, demands, losses, actions and liabilities (including costs and all attorney fees) to or by any and all persons or entities, including, without limitation their respective agents, licensees, or representatives arising from, resulting from, or connected with this Agreement to the extent caused by the negligent acts, errors or omissions of Orting, its elected officials, officers, employees, agents, and volunteers or by Orting's breach of this Agreement.

8.2 Fife agrees to indemnify and hold Orting, its elected officials, officers, employees, agents and volunteers harmless from any and all claims, demands, losses, actions and liabilities (including costs and all attorney fees) to or by any and all persons or entities, including, without limitation their respective agents, licensees, or representatives arising from, resulting from, or connected with this Agreement to the extent caused by the negligent acts, errors or omissions of Fife, its elected officials, officers, employees, agents, and volunteers or by Fife's breach of this Agreement.

8.3 In the event of a claim, loss, or liability based upon the alleged concurrent or joint negligence of the parties, the parties shall bear their respective liability, including cost, in accordance with their respective liability established in accordance with the laws of the State of Washington.

8.4 FOR PURPOSES OF INDEMNIFICATION ONLY, THE PARTIES, BY MUTUAL NEGOTIATION, HEREBY WAIVE, AS RESPECTS THE OTHER PARTY ONLY, ANY IMMUNITY THAT WOULD OTHERWISE BE AVAILABLE AGAINST SUCH CLAIMS UNDER THE INDUSTRIAL INSURANCE PROVISIONS OF TITLE 51 RCW.

8.5 The provisions of this section shall survive the expiration or termination of this Agreement with respect to acts and omissions occurring during the term hereof.

9. Assignment. Neither party may assign this Agreement or any interest, obligation or duty therein without the express written consent of the other party.

10. Venue and Attorneys' Fees. This Agreement shall be governed in all respects by the laws of the State of Washington. The Venue for any dispute related to this Agreement shall be with the Pierce County Superior Court, Tacoma, Washington. In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorneys' fees from the other party.

11. Notice. Any notice or information required or permitted to be given to the parties under this Agreement may be sent to the following addresses unless otherwise specified:

City of Fife
Attn: Subir Mukerjee
City Manager
5411 23rd Street East
Fife, WA 98424

City of Orting
Attn: *Chief Drake*
PO BOX 489
Orting WA 98360

12. Modification. This Agreement constitutes the complete and final agreement of the parties, and replaces and supersedes all oral and/or written proposals and agreements heretofore made by the parties on the subject matter. No provision of this Agreement may be amended or added to except by agreement, in writing, signed by both parties.

13. Signature Authority

13.1 The Fife City Manager was authorized to execute this agreement by Resolution No. *1665* adopted by a majority of the entire City Council on the *26th* day of *May*, 2015, at a regularly scheduled Council meeting. Fife shall record its agreement with Pierce County and/or post it on the Fife City website prior to its entry into force.

13.2 The Orting Mayor was authorized to execute this agreement by Resolution No. *2015-11* adopted by a majority of the entire City Council on the *9th* day of *September*, 2015, at a regularly scheduled Council meeting. Orting shall then recorded its agreement with Pierce County and/or post it on the Orting's website prior to its entry into force.

14. No Third-Party Beneficiaries. This Agreement is executed for the sole and exclusive benefit of the signatory parties. Nothing in this Agreement, whether expressed or implied, is intended to confer any right, remedy or other entitlement upon any person other than the parties hereto, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third party, nor shall any provision herein give any third party any right of action against any party hereto.

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15. Severability. Should any clause, phrase, sentence or paragraph of this Agreement or its application be declared invalid or void by a court of competent jurisdiction, the remaining provisions of this Agreement or its applications of those provisions not so declared shall remain in full force and effect.

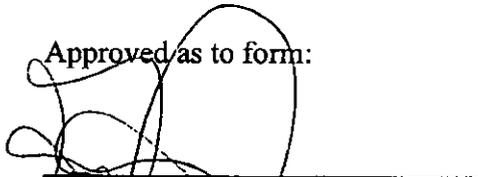
CITY OF FIFE

By: 
Subir Mukerjee
City Manager

CITY OF ORTING

By: 
Joe Pestinger
Mayor

Approved as to form:


Gregory F. Amann
Assistant City Attorney

Approved as to form:


City Attorney



DispatchNow CAD & Total Enforcement RMS Hosted Solution

For

Fife PD, WA ⁽¹⁾

1- This Quote Document is being provided to the Client subject to the terms and conditions set forth in the Master Subscription Terms and Conditions document, which is attached hereto and incorporated herein by this reference



SUMMARY

| DispatchNow Hosted Solution | Monthly Price |
|---|----------------------|
| DispatchNow CAD Software | \$4,380 |
| DispatchNow CAD Interfaces | \$516 |
| DispatchNow Mobile Software | \$2,144 |
| Total Enforcement RMS Software | \$5,628 |
| Tiburon Services | Included |
| Software Maintenance Services | Included |
| <hr/> | |
| <i>One Time Special Discount</i> | <i>-\$5,668</i> |
| TOTAL DISPATCHNOW HOSTED SOLUTION - MONTHLY FIVE YEAR TERM | \$7,000 |
| ONE TIME SET-UP FEES | \$40,000 |
| GRAND TOTAL FIVE YEARS TERM (DATA CIRCUIT NOT INCLUDED) | \$460,000 |

The customer is responsible of purchasing and installing premise equipment (server for communication & state interface, desktop computers/OS, site network infrastructure/UPS), Mobile hardware/OS as well as wireless networking infrastructure

The prices indicated above do not include historical Data Conversion



-The DN hosted solution requires a business grade high speed IP broadband connection, including T1, business DSL or business Cable. Any other options must be approved by Tiburon prior to installation.

A customer can choose to lease a T1 circuit based broadband service through Tiburon or to independently provide the broadband service directly from the local service provider; be it T1, business DSL or business Cable.

As an option, wireless broadband services may be leased as a redundant fall-back to the wire line business broadband service. Tiburon recommends that Customers purchase this broadband option directly from the service providers. Service providers of business DSL or cable services typically include the below service level agreement (SLA) as part of their service offering. If Tiburon is providing the connection, Tiburon will pass through these service levels directly to the customer:

| | |
|-------------------------------------|---|
| Network Availability Commitment: | 99% or above with the exception of schedule maintenance. |
| Network Latency Commitment: | Average round trip transmission of between PSAP and Hosted site of no more than 100 milliseconds. |
| Network Packet Delivery Commitment: | 99.5% or greater. |

-The speed and throughput requirements of the DN Hosted solution vary with the number of responses handled by the agency, which is typically directly correlated to the number of DN CAD workstation clients and WebCAD clients (a typical requirement is 1-2Mbps upstream and 2-4Mbps downstream). The Tiburon quote includes the minimum recommended requirement for your specific configuration.

If the network performance requirements stated above are not met and/or there is an interruption of the connection, the system operation will be impacted in the following manner:

If there is a network disconnection of greater than 30 seconds between the Host site and the PSAP, the DN workstations will fall into site autonomy operating mode.

In this mode of operation;

1. DN CAD workstations at the PSAP continue to operate and share transactions among themselves.
2. DN CAD workstations continue to support state queries (assuming that the connection to the state is not via the same broadband connection).
3. DN CAD workstations do not have access to the latest transactions performed by Mobile clients until the network connection is re-established (but no transactions are lost).
4. DN workstations do not have access to historical transaction queries until the network connection is restored.
5. Mobile clients continue to operate but do not have access to the latest transactions performed by the DN CAD workstations until the network connection is re-established (but no transactions are lost).
6. The DN database is updated with all transactions executed while in site autonomy mode as soon as the network connection is restored (again, no transactions are lost).

If the network experiences abnormal latency (beyond the specified 100 milliseconds), although the CAD application will continue to operate and deliver all features & functionality, the CAD user will experience slow application response to requested transactions (e.g. response or unit status update) until this latency condition is removed.

Tiburon is not responsible for performance degradation resulting from network performance falling outside of the requirements stated above, whether or not the broadband service is provided by Tiburon.

-The customer is responsible to provision a wireless connection for mobile traffic. Tiburon anticipates that the customer will use a broadband public wireless service. Private networks can also be supported. Please contact us for more information.



| Notes | Description | Quantity | Monthly Total |
|-------|-------------|----------|---------------|
|-------|-------------|----------|---------------|

TIBURON HOSTED SOLUTION - DispatchNow

| 2.3.8 DispatchNow CAD Software | | | |
|--------------------------------|--------------------------|---|----------|
| | CAD Workstation Licenses | 4 | \$4,380 |
| | | | Subtotal |
| | | | \$4,380 |

| 1.4 DispatchNow CAD Interfaces | | | |
|--------------------------------|--|---|----------|
| | DispatchNow CAD State Interface | 1 | \$258 |
| | DispatchNow CAD APCO Advisor Interface | 1 | \$258 |
| | | | Subtotal |
| | | | \$516 |

| 1.5 DispatchNow Mobile Software | | | |
|---------------------------------|------------------------|----|----------|
| | Mobile Client Licenses | 67 | \$2,144 |
| | | | Subtotal |
| | | | \$2,144 |

| Total Enforcement RMS Software | | | |
|--------------------------------|-------------------|-----|----------|
| | RMS User Licenses | 120 | \$5,628 |
| | | | Subtotal |
| | | | \$5,628 |

| 6.7 Tiburon Services | | | |
|----------------------|--|----------|----------|
| | Deployment Services - Remote | Included | Included |
| | CAD Remote Admin Training Services - 5 days, max of 4 students | Included | Included |
| | CAD Remote Recommendations Training - 3 days, max of 4 students | Included | Included |
| | CAD Onsite Train The Trainer Training Services - 4 days, max of 8 students | Included | Included |
| | Mobile Remote Admin Training Services - 1 day, max of 4 students | Included | Included |
| | Mobile Remote Train The Trainer Training Services - 1 day, max of 8 students | Included | Included |
| | RMS Training Services - Remote | Included | Included |
| | | Subtotal | \$0 |

| Software Maintenance Services | | | |
|-------------------------------|---------------------------|----------|----------|
| | Help Desk Services | Included | Included |
| | Software Upgrade Services | Included | Included |
| | | Subtotal | \$0 |

| | | | |
|---------------------------------------|--|--|-----------------|
| MONTHLY TOTAL - FIVE YEAR TERM | | | \$12,668 |
|---------------------------------------|--|--|-----------------|

TIBURON

| Notes | Description | Quantity | Monthly/Total |
|-------|-------------|----------|---------------|
|-------|-------------|----------|---------------|

| Notes | Description | Quantity | Total |
|-------|-------------|----------|-------|
|-------|-------------|----------|-------|

| Tiburón Upfront Fees | | | |
|----------------------|-------------------|----------|----------|
| | Hosted setup fees | 1 | \$40,000 |
| | | Subtotal | \$40,000 |

| | |
|------------------------------|-----------------|
| ONE TIME UPFRONT FEES | \$40,000 |
|------------------------------|-----------------|

Additional licenses may be ordered at the same SW pricing indicated above. Please note that additional data circuits bandwidth may be required and will be calculated/priced at the moment of the additional licenses order.

Notes

Note 1 Hosted Solution pricing includes Help Desk plus Software Updates

Based on this solution, Tiburon is recommending the following minimum HW specs:

Workstations

HP Compaq 8200 Elite series
Windows 7 Professional 32-bit
Intel core i5 @ 3.3Ghz
4GB RAM
500GB 7200rpm HDD
PS/2 mouse
PS/2 keyboard
1 Integrated LAN port
DVD drive
Remotely Anywhere Workstation License
2 LCD 19" Display

Communication Interface & State Interface Server

HP DL360 G7 (63377-001)
1 x Intel® Xeon® E5645 (6 core, 2.40 GHz, 12 MB L3, 800W), 16 GB RAM
(2) 1GbE NC382i Multifunction 4 Ports, HP ILO Advanced
(2) HP 450GB 2.5 SAS
HP 12.7MM SATA DVD Drive
2 x USB modem
1 x port replicator (or actually multi-port serial card)
2 x DB9 male to DB9 female cables
Serial over IP Avocent ESP-4 M serial Hub
VMware ESXI (free license)
Windows 2008 R2 Enterprise edition license.

MDTs

Intel Core 2 Duo SL9300 Processor, 1.6GHz
Minimum 2 GB DDR2-SDRAM
Free Serial Connection port (AVL device connection)
Speed wireless Air Cards (HSDPA, 3G cards)
Windows XP SP3

RMS Workstations (minimum required specifications)

Dell OptiPlex 390 - MT - 1 x Core i5 2400 / 3.1 GHz - RAM 4 GB - HDD 1 x 500 GB - DVD±RW
Windows 7 Professional 64-bit
Microsoft Office Professional 2010 (optional)

The customer is responsible for loading all the required Microsoft OS for on-site servers and clients.
Customer's responsibility is to price, order, stage, install and maintain all PSAP and mobile hardware,
software and network components.



For optimal CAD, Mobile & RMS applications performance, these applications should function in a controlled environment on hardware that meets or exceeds the specifications mentioned in this quotation

The customer shall inform Tiburon of any 3rd party applications not purchased from Tiburon that the customer intends to operate on the same machine as Tiburon's CAD, Mobile & RMS applications. If the product is unfamiliar to Tiburon, the customer will request of its 3rd party vendor to provide technical information on its application. If Tiburon deems that certification testing is required to guarantee co-existence of the 3rd party application with the Tiburon application(s), certification services are outside the scope of this offer and shall be quoted separately.

Note 2 The MSI and XDC servers will be located at customer premises. The remaining DispatchNow servers will be hosted at Tiburon's facility.

Note 3 DispatchNow's Map module is a Map viewing software. Customer must supply and maintain GIS data. GIS Data must be ESRI .shp format that conforms to guidelines provided by Tiburon.

In order to ensure timely delivery of the customer order, GIS data is required to be delivered to Tiburon as soon as possible after the order is placed.

A MAP Configuration Tool is included in the our offering.

Note 4 Customer is responsible for acquiring a server for NCIC (State Interface) at his premises.

Note 5 Mobile Data Terminals (MDT) and MDT mounting equipment are not included. They must be supplied and installed by the customer.
GPS equipment, antennas, adapters, etc. are not included. They must be supplied and installed by the customer.

Note 6 Installation costs cover the installation of 5 Mobile/AVL clients provided that the MDTs can be removed from the vehicles and connected to the PSAP's LAN.

Otherwise, customer is responsible for installing the MDT's according to instructions provided by Tiburon.

This quote assumes that all Mobile Data Computers will be in one central location for ease of installation.

Mobile Installation charges do not cover in-car installation. Computer installation in vehicles is assumed to be performed by the customer's vehicle maintenance organization.

Note 7 Customer is responsible to perform configuration data entry based on training provided by Tiburon based on data entry milestone timelines specified at the project kickoff meeting.

Note 8 The bandwidth requirements for the proposed configuration is the following (does not include any optional items):
Upstream: 1.5Mbps
Downstream: 1.5Mbps

TIBURON

Terms

PRICING All prices are in U.S. Funds.
Taxes, if applicable, are extra.

Upon Customer's acceptance of this Quote Document, Company shall begin preparation of an implementation schedule, to be mutually agreed upon by the parties.

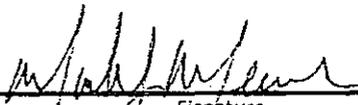
Pricing based on a 60 month commitment.

PAYMENT One time payments payable upon contract signature.
Monthly payment due on the first of each month beginning upon system availability for live use.

VALIDITY 120 days

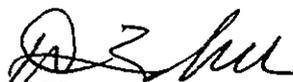
Approval Signature

By signing in the space provided below, I am representing that I am authorized to sign on behalf of Customer:



Signature

3-14-13
Date



Dave Zabell, City Manager

July 17, 2013
Date

TIBURON

Revision History

| Revision Level | Reason for Revision | Date Revised |
|----------------|---------------------|--------------|
|----------------|---------------------|--------------|

| | | |
|---|------------------|-------------------|
| - | Original | December 11, 2012 |
| A | Modified pricing | February 11, 2013 |

MASTER SUBSCRIPTION TERMS AND CONDITIONS

Upon execution of this agreement ("Effective Date"), the following Master Subscription Terms and Conditions ("Terms and Conditions") shall govern the Services to be provided to _____ ("Customer") by Tiburon, Inc., a Virginia corporation, having its principal place of business at 3000 Executive Parkway, Suite 500, San Ramon, California 94583 ("Service Provider"). Unless expressly set forth in the attached Quote Document, no other terms and conditions shall apply to the performance of the Services, including but not limited to any additional terms and conditions on Customer provided purchase order documents.

1. Definitions.

"Affiliate" means any governmental entity Customer performs dispatching services on behalf of.

"Customer" means the governmental entity acquiring Service Providers Services.

"Customer Data" means all electronic data or information submitted by Customer to the Service.

"Initial Term" means five (5) years from the date Services are available to Customer for live production use or six (6) months from the date these Terms and Conditions are executed by the parties, whichever occurs first as determined by Service Provider.

"Malicious Code" means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

"Quote Document" means the document provided to Customer by Service Provider which details the pricing for the services to be provided hereunder and is attached hereto as Exhibit A.

"Service" shall mean the services to be provided pursuant to the Quote Document.

"User Guide" means the User manuals and guides provided upon delivery of the Services, as may be updated from time to time.

"Users" means individuals who are authorized by Customer to use the Service, for whom subscriptions to the Service have been purchased. Users may include but are not limited to employees, consultants, contractors and agents of Customer or its Affiliates.

2. Service.

2.1 Provision of Service. During the term of the subscription and any renewal subscription period, Service Provider shall make the Service available to Customer and its Users pursuant to these Terms and Conditions and shall provide maintenance and support services in accordance with the Maintenance and Support Guidelines, which are attached hereto as Exhibit B.

2.2 Additional Users. User subscriptions are for a specified number of concurrent Customer Users and/or workstations, as provided in the Quote Document, and cannot be shared or used by others outside of Customer. Customer and/or Customer Affiliates may purchase additional User subscriptions at Service Provider's then current rates subject to these Terms and Conditions. Such additional User subscriptions shall be coterminous with the Customer's Initial Term or Renewal Term, as defined below in Section 11.2, as applicable.

2.3 Customer Affiliates. Customer and/or Customer Affiliates may purchase additional User subscriptions subject to these Terms and Conditions.

3. Use of the Service.

3.1 Service Provider Responsibilities. Service Provider shall: (i) in addition to its confidentiality obligations hereunder, not use, modify or disclose to anyone other than Users the Customer Data; (ii) maintain the security and integrity of the Service and the Customer Data; (iii) provide support to Customer in accordance with the Maintenance and Support Guidelines attached hereto as Exhibit A and incorporated herein by this reference, at no additional charge; and (iv) use commercially reasonable efforts to make the Service available 24 hours a day, 7 days a week, except for: (a) planned downtime (of which Service Provider shall give Customer at least 8 hours notice; or (b) any unavailability caused by circumstances beyond Service Provider's reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Service Provider employees, contractors or agents), computer, telecommunications, Internet service provider or hosting facility failures or delays involving hardware, software or power systems not within Service Provider's possession or reasonable control.

MASTER SUBSCRIPTION TERMS AND CONDITIONS

3.2 **Customer Responsibilities.** Customer is responsible for all activities that occur in User accounts and for Users' compliance with these Terms and Conditions. Customer shall: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data; (ii) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Service, and notify Service Provider promptly of any such unauthorized access or use; (iii) comply with all applicable local, state, and federal laws in using the Service, and (iv) perform all Customer responsibilities as set forth in these Terms and Conditions.

3.3 **Use Guidelines.** Customer shall use the Service solely for its internal business purposes as contemplated by these Terms and Conditions and shall not intentionally: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Service available to any third party, other than to Users or as otherwise contemplated by these Terms and Conditions; (ii) send or store Malicious Code; (iii) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (iv) attempt to gain unauthorized access to the Service or its related systems or networks.

4. Fees & Payment.

4.1 **User Fees and Payment.** The total fee for the services to be provided hereunder is \$ _____, with \$ _____ due at the time these Terms and Conditions are fully signed by the parties. The remaining \$ _____ will be payable in Sixty (60) monthly installments of \$ _____ beginning upon Service Provider's determination the Services are available for live production use or six (6) month's from the date these Terms and Conditions are executed by the parties, whichever occurs first. The monthly fees shall be due Net-30 from the first of each month, with the first and last month pro-rated accordingly. A late penalty of three percent (3%) per month shall be added to each invoice that is past due. Such fees specifically exclude all taxes. Except as otherwise provided, all fees are quoted and payable in United States dollars. Except as otherwise specified herein, fees are based on services purchased and not actual usage, and the number of subscriptions purchased cannot be decreased during the relevant subscription term. The Customer hereby represents and warrants that it has duly appropriated or otherwise set aside funds in an amount at least equal to the Contract Price to satisfy its payment obligations hereunder.

4.2 **Suspension of Service.** If Customer's account is past-due (except with respect to charges then under reasonable and good faith dispute), in addition to any of its other rights or remedies, Service Provider reserves the right to suspend the Service provided to Customer, until such amounts are paid in full at which time Service will be restored.

5. Proprietary Rights.

5.1 **Reservation of Rights.** Subject to the limited rights expressly granted hereunder, Service Provider reserves all rights, title and interest in and to the Service, including all related intellectual property rights. No rights are granted to Customer hereunder other than as expressly set forth herein.

5.2 **Customer Data.** As between Service Provider and Customer, Customer exclusively owns all rights, title and interest in and to all Customer Data. Customer Data is deemed Confidential Information under these Terms and Conditions. Service Provider shall not access Customer's User accounts, including Customer Data, except to respond to service or technical problems or at Customer's request.

5.3 **Restrictions.** Customer shall not (i) modify, copy or create derivative works based on the Service; (ii) frame or mirror any content forming part of the Service, other than on Customer's own intranets or otherwise for its own internal business purposes; (iii) reverse engineer the Service; or (iv) access the Service in order to (A) build a competitive product or service, or (B) copy any ideas, features, functions or graphics of the Service.

6. Confidentiality.

6.1 **Definition of Confidential Information.** As used herein, "Confidential Information" means all confidential and proprietary information of a party ("Disclosing Party") disclosed to the other party ("Receiving Party"), 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, including the Customer Data, the Service, business and marketing plans, technology and technical information, product designs, and business processes. Confidential Information (except for Customer Data) shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (iii) was independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party; or (iv) is received from a third party without breach of any obligation owed to the Disclosing Party.

MASTER SUBSCRIPTION TERMS AND CONDITIONS

6.2 **Confidentiality Survival.** The obligations hereunder with respect to each item of Customer Confidential Information and Service Provider Confidential Information shall survive the termination of these Terms and Conditions.

6.3 **Confidentiality.** The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of these Terms and Conditions, except disclosure of Confidential Information shall not be precluded if (i) such disclosure is in response to a valid order of a court or other governmental body of the United States or any political subdivision thereof; provided, however, that the recipient of such Confidential Information shall first have given notice to the other party and shall have made a reasonable effort to obtain a protective order requiring that the information to be disclosed be used only for the purposes for which the order was issued; (ii) such disclosure is necessary to establish rights or enforce obligations under these Terms and Conditions, but only to the extent that any such disclosure is necessary for such purpose and the Disclosing Party was provided prior written notice and the opportunity to obtain an injunction against such disclosure; or (iii) the recipient of such Confidential Information received the prior written consent to such disclosure from the disclosing party, but only to the extent permitted in such consent.

6.4 **Protection.** Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and Confidential Information of like kind (but in no event using less than reasonable care).

6.5 **Remedies.** If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of confidentiality protections hereunder, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies are inadequate.

7. Warranties & Disclaimers.

7.1 **Warranties.** Each party represents and warrants that it has the legal power to enter into these Terms and Conditions. Service Provider represents and warrants that (i) it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof; (ii) the Service shall perform materially in accordance with the User Guide; (iii) it owns or otherwise has sufficient rights in the Service to grant to Customer the rights to use the Service granted herein; and (iv) the Service does not infringe any intellectual property rights of any third party.

7.2 **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, SERVICE PROVIDER MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

8. **Indemnification.** Service Provider agrees to protect, defend, indemnify, and save the Customer, its agents, officials, employees, or any firm, company, organization, or individual to whom the Customer may be contracted, harmless from and against any and all claims, demands, actions, and causes of action of which Service Provider is given prompt notification and over which Service Provider is given control to resolve (the "Indemnified Matters"), which may arise on account of illness, disease, loss of property, services, wages, death or personal injuries resulting from Service Provider's willful misconduct or negligence in the performance of the Services hereunder; provided, however, that in no event shall Service Provider be liable for the accuracy or completeness of Customer Data, and under no circumstances shall Service Provider be liable for special, incidental or consequential damages. Service Provider agrees to further indemnify the Customer for all reasonable expenses and attorney's fees incurred by the Customer in connection with the Indemnified Matters.

9. **Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE AMOUNTS ACTUALLY PAID BY CUSTOMER HEREUNDER DURING THE TWELVE MONTHS PRECEDING THE INCIDENT GIVING RISE TO LIABILITY. IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

MASTER SUBSCRIPTION TERMS AND CONDITIONS

10. Insurance. Service Provider shall procure and maintain in effect during the term of these Terms and Conditions the following insurance coverages, naming Customer as an additional insured, with an insurance company or companies authorized to do business in the State of California and approved by the Customer with a Best rating of no less than A:VII:

10.1 Workers' Compensation and Employers Liability insurance in accordance with the laws of the State of California with liability limits of Five Hundred Thousand Dollars (\$500,000.00) per accident.

10.2 Comprehensive General Liability and Broad Form Comprehensive General Liability or Commercial General Liability including bodily injury, personal injury, and property damage in the amount of a combined single limit of One Million Dollars (\$1,000,000), each occurrence, and Two Million Dollars (\$2,000,000) in aggregate limit.

10.3 Comprehensive Auto Liability including bodily injury, personal injury and property damage in the amount of a combined single limit of One Million Dollars (\$1,000,000.00). Coverage must include all automobiles utilized by Service Provider in connection with its performance of the services hereunder.

10.4 Service Provider shall endeavor to provide thirty (30) days prior written notice to the Customer in the event of any material change in or cancellation of the policy.

10.5 Service Provider shall give prompt written notice to the Customer of all known losses, damages, or injuries to any person or to property of the Customer or third persons that may be in any way related to the services being provided hereunder or for which a claim might be made against the Customer. Service Provider shall promptly report to the Customer all such claims that Service Provider has noticed, whether related to matters insured or uninsured. No settlement or payment for any claim for loss, injury or damage or other matter as to which the Customer may be charged with an obligation to make any payment or reimbursement shall be made by Service Provider without the prior written approval of the Customer.

11. Term & Termination.

11.1 **Term of Terms and Conditions.** These Terms and Conditions are in effect from the Effective Date through the Initial Term and/or any Renewal Term, as defined below, unless otherwise terminated.

11.2 **Term of User Subscriptions.** User subscriptions shall commence upon the Services being made available to Customer for live production use or six (6) months from the date these Terms and Conditions are executed by the parties, whichever occurs first as determined by Service Provider, and continue through the Initial Term, unless terminated earlier in accordance with these Terms and Conditions. Upon completion of the Initial Term or any subsequent Renewal Term, the User subscriptions shall automatically renew for additional one (1) year periods ("Renewal Term") at the list price in effect at the time of renewal unless either party gives the other notice of non-renewal at least sixty (60) days prior to the end of the relevant subscription term.

11.3 **Termination.** Either party may terminate these Terms and Conditions for convenience at any time for any reason upon at least sixty (60) days advanced written notice to the other party. If Customer terminates these Terms and Conditions at any time prior to the start of the Initial Term, as determined by Service Provider, Customer shall pay six (6) months of the monthly installment payments set forth in Section 4.1 hereof. If Customer terminates these Terms and Conditions at any time during the first three (3) years of the Initial Term, Customer shall pay one hundred percent (100%) of the remaining fees owed for the Initial Term plus implementation fees if not already paid. If Customer terminates these Terms and Conditions for convenience during the fourth (4th) year of the Initial Term, Customer shall pay fifty percent (50%) of the remaining fees owed for the Initial Term. If Customer terminates these Terms and Conditions for convenience during the fifth (5th) year of the Initial Term, then Customer shall pay twenty-five percent (25%) of the remaining fees owed for the initial term. (Note: There will be no 4th or 5th year of the Initial Term for Customers who purchase a 3 year Initial Term). Customer shall be responsible for one hundred percent (100%) of the remaining fees owed for the Renewal Term. If Service Provider terminates for convenience, Customer shall be under no further obligation to pay for continued subscription fees after the effective date of termination as specified in Service Provider's notice to Customer. The termination fees set forth above are not intended as a penalty, but rather a charge to compensate Service Provider for Customer's failure to satisfy the commitment set forth in these Terms and Conditions on which Customer's pricing is based upon.

11.4 **Return of Customer Data.** Within ninety (90) days after termination of the Services being provided hereunder, Service Provider will provide Customer with a copy of all Customer Data in its native file format as determined by Service Provider. After a copy of the Customer Data has been provided to the Customer, Service Provider shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, delete all Customer Data in its systems or otherwise in its possession or under its control.

MASTER SUBSCRIPTION TERMS AND CONDITIONS

11.5 **Surviving Provisions.** The following provisions shall survive any termination or expiration of these Terms and Conditions: Sections 4, 5, 6, 7, 9, 11, and 12.

12. **General Provisions.**

12.1 **Relationship of the Parties.** Customer and Service Provider are independent contractors under these Terms and Conditions, and nothing herein shall be construed to create a partnership, joint venture, or agency relationship between the parties hereto. Neither party shall have any authority to enter into agreements of any kind on behalf of the other and shall have no power or authority to bind or obligate the other in any manner to any third party. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Each party hereto represents that it is acting on its own behalf and is not acting as an agent for or on behalf of any third party.

12.2 **Notices.** All notices, requests, demands, or other communications required or permitted to be given hereunder must be in writing and shall be deemed to have been duly given when (a) delivered in person; (b) sent by facsimile transmission indicating receipt at the facsimile number where sent; (c) one (1) business day after being deposited with a reputable overnight air courier service; or (d) three (3) business days after being deposited with the United States Postal Service, for delivery by certified or registered mail, postage pre-paid and return receipt requested. All notices and other communications regarding default or termination of these Terms and Conditions shall be delivered by hand or sent by certified mail, postage pre-paid and return receipt requested. All notices shall be provided to the following addresses:

If to Service Provider:

Tiburon, Inc.
Attention: VP of Contracts
3000 Executive Parkway, Suite 500
San Ramon, California 94583
Phone: 925-621-2700
Fax: 925-621-2799

If to Customer:

Dave Zabell, City Manager
City of Fife
5411 23rd St East
Fife, WA 98424
Phone 253-922-2489

12.3 **Waiver.** In order to be effective, any waiver of any right, benefit or power hereunder must be in writing and signed by an authorized representative of the party against whom enforcement of such waiver would be sought, it being intended that the conduct or failure to act of either party shall imply no waiver. Neither party shall by mere lapse of time without giving notice or taking other action hereunder be deemed to have waived any breach by the other party of any of the provisions of these Terms and Conditions. No waiver of any right, benefit or power hereunder on a specific occasion shall be applicable to any facts or circumstances other than the facts and circumstances specifically addressed by such waiver or to any future events, even if such future events involve facts and circumstances substantially similar to those specifically addressed by such waiver. No waiver of any right, benefit or power hereunder shall constitute, or be deemed to constitute, a waiver of any other right, benefit or power hereunder. Unless otherwise specifically set forth herein, neither party shall be required to give notice to the other party, or to any other third party, to enforce strict adherence to all terms of these Terms and Conditions.

12.4 **Amendments.** No amendment or other modification of these Terms and Conditions shall be valid unless pursuant to a written instrument referencing these Terms and Conditions signed by duly authorized representatives of each of the parties hereto.

MASTER SUBSCRIPTION TERMS AND CONDITIONS

12.5 Severability. If any provision of these Terms and Conditions is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of these Terms and Conditions shall remain in effect.

12.6 Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, Service Provider may assign these Terms and Conditions in its entirety, without consent of the other party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Subject to the foregoing, these Terms and Conditions shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

12.7 Third Party Beneficiaries. This Terms and Conditions is entered into for the sole benefit of the Customer and Service Provider and, where permitted above, their permitted successors, executors, representatives, administrators and assigns. Nothing in these Terms and Conditions shall be construed as giving any benefits, rights, remedies or claims to any other person, firm, corporation or other entity, including, without limitation, the general public or any member thereof, or to authorize anyone not a party to these Terms and Conditions to maintain a suit for personal injuries, property damage, or any other relief in law or equity in connection with these Terms and Conditions.

12.8 Anti-Discrimination. Service Provider agrees that in performing its tasks under these Terms and Conditions, it shall not discriminate against any worker, employee, or applicant, or any member of the public, because of age, race, sex, creed, color, religion, or national origin, nor otherwise commit an unfair employment practice in violation of any state or federal law.

12.9 Governing Law. This Terms and Conditions shall be governed exclusively by the internal laws of the State in which Customer resides, without regard to its conflicts of laws rules.

12.10 Venue; Waiver of Jury Trial. The state and federal courts located in the County and State of where the Customer resides shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to these Terms and Conditions. Each party hereby consents to the exclusive jurisdiction of such courts. Each party also hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to these Terms and Conditions.

12.11 Entire Terms and Conditions. These Terms and Conditions, including all exhibits and addenda hereto, constitutes the entire agreement between the parties, and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of these Terms and Conditions shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. To the extent of any conflict or inconsistency between the provisions in the body of these Terms and Conditions and any exhibit hereto, the terms of such exhibit shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or in any other Customer order documentation shall be incorporated into or form any part of these Terms and Conditions, and all such terms or conditions shall be null and void.

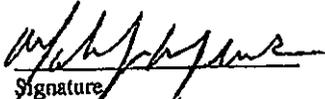
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MASTER SUBSCRIPTION TERMS AND CONDITIONS

13. Signatures

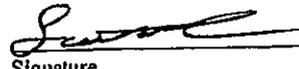
By signing in the designated space below, the parties hereby represent that the person signing has the authority to enter into these Terms and Conditions and thereby agree to be bound by such:

Customer


Signature
Name: MARK MEARS
Title: Assistant Chief of Police
Date: 3-14-13

For City of FIRE
FIRE POLICE Dept.

Tiburon, Inc.


Signature
Name: Scott Carroll
Title: Contracts Manager
Date:

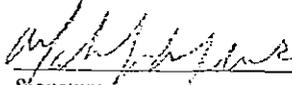
MASTER SUBSCRIPTION TERMS AND CONDITIONS

13. Signatures

By signing in the designated space below, the parties hereby represent that the person signing has the authority to enter into these Terms and Conditions and thereby agree to be bound by such:

Customer

Tiburon, Inc.



Signature
Name: MARK MEARS
Title: Assistant Chief of Police
Date: 3-14-13

Signature
Name:
Title:
Date:

For City of FIRE
Fire Police Dept.



Dave Zabell, City Manager

July 17, 2013
Date

Exhibit A
to
MASTER SUBSCRIPTION TERMS AND CONDITIONS

Quote Document

The Quote Document shall follow this cover page.

Exhibit B
to
MASTER SUBSCRIPTION TERMS AND CONDITIONS
Maintenance and Support Guidelines

The Maintenance and Support Guidelines shall follow this cover page.

Hosting Maintenance and Support Guidelines

| | |
|---|---|
| Technical Support Services..... | 2 |
| Help Desk Service..... | 2 |
| Help Desk Call Taking Process..... | 2 |
| Escalation Procedure..... | 2 |
| Table A: Ticket Priorities and the Service Level Agreement (SLA)..... | 4 |
| Software Updates Program..... | 5 |
| Product Specialist and Training Services..... | 5 |
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| Exclusions to Technical Support Services..... | 7 |

Technical Support Services

Service Provider's Technical Support Services department consists of technical specialists dedicated to providing the highest level of technical support services to its Customers.

Technical Support Services include the Help Desk Service, Software Updates Program, Product Specialist Services and Training Services.

The Help Desk Service and Software Updates Program are provided on a per-product basis and available on an annual or multi-year basis as detailed in the Customer Quotation.

Help Desk Service

The Help Desk service includes technical support on products purchased from Service Provider including Service Provider licensed products and 3rd party products.

The Help Desk provides 24 x 7 technical support to Customers for all Service Provider products. The Help Desk is staffed by technical specialists, backed by 24 x 7 engineering support to handle high priority issues.

High priority issues that cannot be addressed expediently by the technical specialists alone are assigned to the 24 x 7 engineering support staff. If the issue cannot be addressed within the defined service level agreement (SLA) in Table A, an escalation process is automatically triggered involving senior management in order to take immediate action calling upon product experts as needed. This level of specialized technical support ensures timely, accurate and effective support for Service Provider's Customers.

For urgent and high priority tickets (see Table A), Customers are requested to contact the Help Desk by phone in order to obtain immediate technical support using the following toll-free number; 1 (877) 441-4648.

For routine and lower priority tickets (see Table A), Customers are encouraged to send an email to DispatchNowSupport@liburoninc.com which includes caller contact information, site identification, affected product and a short problem description. An email reply will acknowledge that Service Provider has received the Customer's email. A Help Desk representative will contact the Customer with a ticket # and status within the timeframes defined in the SLA (see below for details).

Help Desk Call Taking Process

When a Help Desk call is received, it is answered by a Help Desk representative. The representative takes the caller's general information such as caller contact information, site identification, affected product and a short problem description. Based on the priority definitions detailed in Table A, the caller advises the Help Desk representative on the priority of the issue. The caller is given a ticket reference number and is passed onto a Help Desk technical specialist for problem investigation and resolution. If there are no Help Desk technical specialists available to immediately take the call, the caller is called back within the agreed upon SLA.

The Help Desk technical specialist will work over the phone and through remote high speed facilities (e.g. Cisco VPN, Sonic Wall, Remotely Anywhere, Remote Desktop) to troubleshoot and resolve the issue. The ticket is only 'closed' by Service Provider upon positive confirmation from the Customer.

Escalation Procedure

When the call-back SLA specified in Table A is not met, the Help Desk is instructed to escalate the ticket to the people identified below and advise the Customer that this escalation is in progress. Should the Customer not receive a call from the Help Desk within the call-back SLA, the Customer is free to contact the following escalation contacts directly (in the order indicated):



| | |
|--------------------------------|----------------|
| Help Desk Team Leader | (514) 916-0199 |
| Sr. Manager Technical services | (514) 804-9334 |
| Sr. Manager, SW Development | (514) 916-3995 |
| VP Products | (514) 916-0423 |

Internal escalation is automatically triggered in the timeframes defined in the last two columns of Table A in order to ensure that high priority tickets are resolved as quickly as possible.

Note:

The call-back time is defined as the interval of time from the moment Service Provider Help Desk received a call for service to the moment a Service Provider technical specialist contacts the site.

Table A: Ticket Priorities and the Service Level Agreement (SLA)

The following table defines our standard ticket priorities and their respective response service level agreement (SLA):

| Ticket Priorities and the Service Level Agreement (SLA) | | | | | |
|---|--|-------------------|---|----------------|----------------------------|
| (1) URGENT | <u>Severe Operational Impact:</u> The system is not operational or the Customer's operation is severely impaired. | 15 MINUTES | Technical specialists are mobilized immediately and work 24 x 7 to provide a workaround. If applicable, a permanent solution is worked on as a high priority until delivered. | IMMEDIATE | 1 HOUR |
| (2) HIGH PRIORITY | <u>Major Operational Impact:</u> The loss of functionality that impairs the Customer's normal operation but essential services are still supported. | 1 HOUR | Technical specialists are mobilized immediately and work 24 x 7 to provide a workaround. If applicable, a permanent solution is worked on to be delivered in the next available release. | 4 HOURS | START OF NEXT BUSINESS DAY |
| (3) ROUTINE | <u>Limited Operational Impact:</u> The loss of a non-essential functionality or a failure that is limited to a subset of users. | 8 HOURS | Technical specialists are mobilized during office hours. If applicable, a permanent solution is scheduled to be delivered in a future product release. | NOT APPLICABLE | NOT APPLICABLE |
| (4) LOW | <u>No Operational Impact:</u> The loss of a non-essential functionality or a failure that has no operational impact. | NEXT BUSINESS DAY | Technical specialists are mobilized during office hours. If applicable, a permanent solution is scheduled to be delivered in a future product release or a commercially reasonable effort is made to provide a workaround solution. | NOT APPLICABLE | NOT APPLICABLE |
| (5) INQUIRY | <u>Request for Information</u> General questions and technical inquiries on the expected behavior and capabilities of the product and/or enhancement recommendations. | 2 BUSINESS DAYS | Technical specialists respond during office hours. | NOT APPLICABLE | NOT APPLICABLE |

Software Updates Program

If the Customer has purchased the Software Updates Program, the Customer will be entitled to receive new General Availability (GA) releases of the Service Provider licensed software products purchased by the Customer.

The Software Updates Program provided hereunder does not include any of the following:

- (a) Installation, configuration and training services. Upon reasonable notice from the Customer, Service Provider will provide a Quote Document to the Customer on a time and materials basis at Service Provider's then current rates for such services;
- (b) Modifications or customization of the Software other than corrections of Defects made or provided under these Maintenance and Support Guidelines;
- (c) Consultation for new programs or equipment;
- (d) Correction of problems, and assistance regarding problems, caused by operator errors, including but not limited to the entry of incorrect data and the maintenance of inadequate backup copies and improper procedures; and/or
- (e) Correction of errors attributable to software other than the licensed Software.

Upgrade of the Customer's Hardware, Operating System, and/or third party software may be required from time to time to support New Releases, Maintenance Releases or Upgrades of the Software. The Customer shall be solely responsible for the cost of such upgrades unless expressly stated otherwise.

Product Specialist and Training Services

Customer may contact the Help Desk to request the services of Product Specialists and Trainers. The Help Desk will direct the call to the appropriate technical services representative to provide details on the services offered and their associated rates and to schedule resource availability.

Customer Responsibilities

- (a) **Technical Service Tickets** The Customer shall provide all information requested by Service Provider necessary to complete its Technical Support Services form for each request for technical services, Enhancements, and Out of Scope Services.
- (b) **Remote Access** The Customer will facilitate high speed 512Kbps or greater remote VPN access for Service Provider to access the servers and workstations at the Customer Site. Remote access will require the use of interactive applications including but not limited to PC Anywhere, Remote Desktop, VNC, telnet, *secure shell* (ssh), and application-level TCP/IP socket connectivity as determined necessary by Service Provider. Service Provider personnel will require local administrative control of all servers and workstations involved in Service Provider implementation. In addition,

Service Provider requires the ability to dynamically upload/download files to the server(s) without third-party intervention. Service Provider technicians may need remote access to the System to analyze the System configuration, aid in problem analysis or to modify the System configuration for a problem work-around. Remote access may also be used for transmission of Software updates to the Customer. Remote access must be available twenty-four (24) hours a day, seven (7) days a week.

Service Provider's request to halt any System functionality shall require the Customer's appropriate management approval. Service Provider shall not perform any service-affecting activity without informing the Customer's appropriate management in advance and receiving proper authorization.

Service Provider recognizes the need for security of remote access facilities. Service Provider shall work within the Customer's security guidelines whenever possible. If the Customer's remote access facility is dysfunctional, Service Provider shall not be held liable for response times.

Service Provider shall not be responsible for any costs relating to the procurement, installation, maintenance and use of such equipment and all associated telephone use charges. Service Provider shall use the data connection solely in connection with the provision of its services hereunder. The Customer may be required to run tests deemed necessary by Service Provider following each remote access as requested by Service Provider.

(c) Access The Customer shall provide Service Provider's personnel or its local service provider with full access to their site at all required times.

(d) Maintenance and Back-Ups The Customer shall ensure that maintenance and back-up activities relating to the Service Provider proprietary software and the System, including without limitation backing up databases and journal logs, purging out of date records and running reports and performing diagnostics, are timely carried out.

(e) Data Input The Customer shall enter, update and maintain the input data as required for satisfactory operation of the Service Provider proprietary software, and be responsible for the accuracy of all Customer-provided data.

(f) Third-Party Product Support Unless otherwise agreed, the Customer shall obtain, pay for and maintain in effect during the term of this Agreement the technical support contracts for certain third party products as specified by Service Provider, and shall ensure that, in addition to authorizing the Customer to request support services there under, each such support contract also expressly authorizes Service Provider to request support services there under on the Customer's behalf.

(g) System Security The Customer shall ensure that the security of the System conforms in all respects to the federal, state, and/or local mandated law enforcement telecommunications requirements.

(h) System Change, Alteration, or Modification The Customer shall ensure that, with respect to the Service Provider proprietary software, such software is installed only on the authorized server and workstations and only at the authorized site. The Customer shall ensure that each authorized site conforms in all respects to the site specifications as required by Service Provider. The Customer shall ensure that no change, alteration or modification is made to the System configuration without the express prior written consent of Service Provider; provided, however, that said consent is not intended to constitute in

any manner Service Provider's approval, certification, endorsement, or warranty of the System configuration or System performance.

(i) **Database Administration Change Authorization** Customer shall maintain a system to ensure that only authorized personnel have the ability to perform database administration activities and that a list of all such authorized personnel (and any updates thereto) be promptly delivered to the Service Provider's Technical Support Services department. Database administration shall be in compliance with Service Provider provided guidelines. Service Provider cannot assist Customer personnel other than those on the most current authorization list.

(j) **Authorized Customer Representative** The Customer shall designate, in a written notice a single individual to act as the Customer's authorized representative for purposes of these Maintenance and Support Guidelines. Such individual (a) must be authorized to act on the Customer's behalf with respect to all matters relating to these Maintenance and Support Guidelines; (b) shall ensure the Customer's compliance with its responsibilities under these Maintenance and Support Guidelines; and (c) shall coordinate appropriate schedules in connection with Service Provider's services under these Maintenance and Support Guidelines. The Customer may change the individual designated hereunder by providing Service Provider advance written notice designating the new individual authorized to act as the Customer Representative.

(k) **Technical Support Coordinators** The Customer shall designate, in a written notice one or more individuals to act as the Customer's technical support coordinator (a "Technical Support Coordinator"). The Customer shall ensure that each Technical Support Coordinator designated hereunder shall have received the appropriate Service Provider proprietary software and System training and shall otherwise be familiar with the Service Provider proprietary software and the System. The Customer shall ensure that, at all times, a Technical Support Coordinator is available (a) to screen operational assistance calls and handle operational problems, where appropriate; (b) to provide access to the System as required; and (c) to provide on-site technical assistance as required by Service Provider to aid Service Provider in performing its services hereunder. The Customer may change any individual designated hereunder by providing Service Provider with advance written notice designating the new individual authorized to act as a Technical Support Coordinator.

(l) **Training** The Customer shall ensure that all Technical Support Coordinators and other personnel have received appropriate training on the Service Provider proprietary software and the System, and otherwise maintain sufficient personnel with sufficient training and experience to perform its obligations under these Maintenance and Support Guidelines.

(m) **Error Reproduction** Upon detection of any error in any of the Service Provider proprietary software applications, the Customer shall provide Service Provider a listing of command input, resulting output and any other data, including databases and back-up systems, that Service Provider may reasonably request in order to reproduce operating conditions similar to those present when the error occurred.

Exclusions to Technical Support Services

The following services are outside the scope of the Technical Support Services provided by Service Provider and may result in additional charges, on a time and material basis:

- (a) Repair of damage or the increase in service time due to any cause external to the System which adversely affects its operability or serviceability, including but not be limited to, fire, flood, water, wind, lightning, and transportation of the System from one location to another;
- (b) Repair of damage or the increase in service time caused by failure to continually provide a suitable installation environment, including, but not limited to, the failure to provide adequate electrical power, air conditioning or humidity control, or the Customer's improper use, management or supervision of the System including, without limitation, the use of supplies and accessories. Proper use and environmental requirements are determined by the Product documentation;
- (c) Repair of problems caused by the use of the System for purposes other than for which it is designed;
- (d) Repair of problems caused by changes to the Hardware and/or the network made without obtaining Service Provider's prior approval;
- (e) Repair or replacement of any item of the System which has been repaired by others, abused or improperly handled, improperly stored, altered or used with third party material, software or equipment, which material, software or equipment may be defective, of poor quality or incompatible with the System, and Service Provider shall not be obligated to repair or replace any component of the System which has not been installed by Service Provider or a Service Provider authorized technician;
- (f) Removal, relocation and/or reinstallation of the System or any component thereof;
- (g) Diagnosis time directly related to unauthorized components and/or misuse of the System, whether intentional or not;
- (h) Any design consultation such as, but not limited to, reconfiguration analysis, consultation with the Customer for modifications and upgrades which are not directly related to a problem correction;
- (i) Provision of any operational supplies, including by not limited to, printer paper, printer ribbons, toner, printer cartridges, photographic paper, magnetic tape and any supplies beyond those delivered with the System;
- (j) Repair of problems caused by computer / network security breaches and/or virus attacks;
- (k) Repair or replacement of any Hardware not purchased from Service Provider and explicitly covered by a Service Provider warranty or maintenance program.