

THIS SUPPORT AND MAINTENANCE AGREEMENT ("Agreement") is made as of June 1, 2016 (the "**Effective Date**") between Intelex Technologies Inc., a Canadian corporation having registered offices at 905 King Street West, Suite 600, Toronto, Ontario, Canada, M6K 3G9 ("**Intelex**") and **City of Glendale**, an Arizona municipal corporation ("**Licensee**") (collectively, the Licensee and Intelex are the "**Parties**" and each is a "**Party**").

WITNESSETH

WHEREAS, Intelex has developed and owns certain Software and related documentation; and

WHEREAS, Licensee acquired a license to use such Software ("the Licensed System") and the Parties wish to enter into this Support and Maintenance Agreement whereby Intelex undertakes to provide support and maintenance services related to the Licensed System.

NOW THEREFORE, in consideration of the mutual covenants, promises and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged,

1 Services

Intelex will provide technical support and maintenance services in respect of the Licensed System ("**Support and Maintenance**") in accordance with the terms and conditions of Schedule B incorporated herein by this reference. During the term of this Agreement, the database where Licensee data is held will be backed up using SQL Server 2008 at reasonable intervals to ensure data is fully protected, but not less frequently than once every six months.

2 Fees and Payment

- 2.1 Subject to the fulfilment of Licensee's obligations as provided under this Agreement, Intelex shall invoice Licensee in accordance with the fees outlined in Schedule A hereto. Upon receipt of an invoice from Intelex, Licensee agrees to pay Intelex subject to Payment Terms outlined in Schedule A hereto.
- 2.2 The Licensee and Intelex will abide by all applicable tax legislation applicable to this Agreement and shall be responsible for all taxes and any duties or other similar charges payable on the services provided.

3 Warranties

- 3.1 Each Party to this Agreement hereby warrants and represents that it has full power and authority to enter into and perform its obligations under this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter into this contract.
- 3.2 Intelex warrants that services will be performed by qualified and competent Intelex personnel in a timely, professional and workmanlike manner in accordance with commercial industry standards.
- 3.3 THE WARRANTIES SET OUT IN THIS SECTION ARE IN LIEU OF ALL OTHER WARRANTIES, REPRESENTATIONS OR CONDITIONS, EXPRESSED OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR THOSE ARISING FROM STATUTE OR USAGE OF TRADE.

4 Term and Termination

- 4.1 The term of this Agreement shall be for one (1) year commencing on the Effective Date of the Agreement.
- 4.2 Either Party may terminate this Agreement, upon written notice, if the other Party takes or is required by any person with proper authority to take, any of the following actions:

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- 4.2.1 the filing of a petition for bankruptcy, insolvency or relief of debtors or the institution of any proceedings relating to bankruptcy, insolvency or relief of debtors;
- 4.2.2 committing or threatening to commit any act of bankruptcy; or
- 4.2.3 a winding-up, liquidation or dissolution of the business pursuant to an order of a court of competent jurisdiction.
- 4.3 In the case of material breach by the Licensee of its obligations hereunder, and provided that such breach is not cured within forty five (45) days of written notification by Intelex of such breach, Intelex may:
 - 4.3.1 where such breach relates to payment of fees for any service, cease providing such service and claim payment of the amount payable;
 - 4.3.2 terminate this Agreement.
- 4.4 Either Party's right to terminate this Agreement is without prejudice and shall not affect any other remedies available to the Parties.

5 Limitation of Liability

- 5.1 Neither Party shall be liable for any special, incidental, indirect, or consequential damages whatsoever (including without limitation, damages for business interruption, loss of business information, or any other pecuniary loss) arising out of the use of or inability to use the Licensed System, even if the parties have been advised of the possibility of such damages.

Except for willful misconduct, gross negligence, fraud or bodily injury or death neither Party's aggregate total liability (including any liability for the acts and omissions of its employees, agents or sub-contractors) (in contract, tort or otherwise) to the other Party arising in connection with this Agreement shall exceed the total price paid by Licensee in the twelve months preceding the incident that gave rise to the cause of action.

6 General

- 6.1 This is the entire agreement between the parties with respect to the subject matter hereof. Any modifications to these terms and conditions shall be in writing, and shall be signed by each party's authorized representative. This Agreement is governed by the laws of the Province of Ontario, Canada, and the courts of that province shall have exclusive jurisdiction over all matters arising hereunder.
- 6.2 This Agreement may be executed either by original signature, or by PDF signature attached to an e-mail, e-signature or by facsimile signature and may be executed by the Parties in one or more counterparts, each of which when so executed and delivered, shall be an original and such counterparts shall together constitute one and the same instrument.
- 6.3 This Agreement may only be amended or modified by a written agreement signed by both parties.
- 6.4 Intelex warrants that it either has been approved as a foreign corporation authorized to transact business in the State Arizona in accordance with in ARIZ. REV. STAT. § 10-1503 or is exempt from such requirement as provided in ARIZ. REV. STAT. § 10-1501.
- 6.5 Cancellation. This Agreement may be cancelled for a conflict of interest pursuant to ARIZ. REV. STAT. § 38-511.
- 6.6 E-verify. If applicable, Contractor agrees to comply with ARIZ. REV. STAT. § 23-214 and agrees to comply with the requirements of ARIZ. REV. STAT § 41-4401.

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6.7 Non-Discrimination Policies. Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with the section.

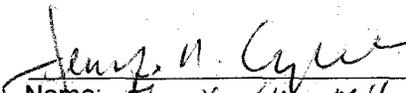
IN WITNESS WHEREOF the parties have caused this Schedule to be executed by their duly authorized representatives as of the date first set out above.

INTELEX TECHNOLOGIES INC.

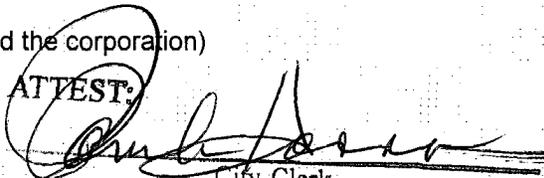
By: 
Name: SANA MAHBOOBANI
Title: MANAGER, LEGAL & CONTRACTS

(I have authority to bind the corporation)

City of Glendale

By: 
Name: Jennifer N. Cypher
Title: Asst. City Manager

(I have authority to bind the corporation)

ATTEST:

City Clerk

Approved as to form


City Attorney

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Schedule B
SOFTWARE SUPPORT AND MAINTENANCE TERMS

Intelex will provide Licensee with Support Services and Maintenance Services, on the following terms

1. Additional Definitions:

- 1.1 "Business Day" means any week day of the year (Monday through Friday) except for the following: New Year Day (January 1), Labour Day, American Thanksgiving, and Christmas Day (December 25).
- 1.2 "Defect" means any error, problem or malfunction of the Licensed Software such that the Licensed Software does not conform to the Documentation.
- 1.3 "Production Environment" means the environment on which the Licensed Software system is live and being used as part of Licensee's normal course of business.
- 1.4 "Response" means an acknowledgment of the Notification, as defined in Section 3.4 of this Schedule, and assignment of a support representative.
- 1.5 "Severity 1 Item" means a Defect in the Licensed Software such that Licensed Software is entirely inoperable as follows: (i) no users are able to log on to the Licensed Software;; (ii) no records can be submitted system-wide.
- 1.6 "Severity 2 Item" means a Defect in the Licensed Software such that Licensee is able to use the Licensed Software but fundamental software functions are entirely inoperable. A fundamental software function is any one of the following: (i) Inability to run reports; (ii) Application (e.g. cannot submit records for a certain application; (iii) Email (All mails are not generating or going out (iv) Event Services; (v) Multiple users are prevented from accessing the Licensed Software.
- 1.7 "Severity 3 Item" means a Defect in the Licensed Software that does not meet the criteria for Severity 1 or Severity 2 Item: (i) individual reports are not running; (ii) application defects: cannot close individual records; cannot advance workflow on individual records; cannot modify certain fields; (iii) individual emails are not generated and/or sent; (iv) individual imports cannot be run; (v) individual event services
- 1.8 "Severity 4 Item" means a support inquiry: (i) specific functionality questions; (ii) Intelex process questions; (iii) defects regarding Intelex-Exchange; (iv) patch requests
- 1.9 "Test Environment" means the environment on which the Licensed Software is being used to test or assess the Software or any Updates, Upgrades or patches.
- 1.10 "Update" means the release of the Software containing improvements and adjustments to the Licensed Software made at Intelex's sole discretion, however not including major structural changes and/or new important features. The change to an Update will be recognized by an increase in value of the secondary version number (e.g. version x.1 to be replaced by version x.2)
- 1.11 "Upgrade" means the release of a version of the Software containing major changes to the structure and functionality of the Licensed Software made at Intelex's sole discretion, where important new features may be added. The new release of the Upgrade will be recognized by an increase in value of the primary version number (e.g. version 3.x to be replaced by version 4.x)

2. Supported Versions of the Software: Intelex will provide Software Support and Maintenance for the most current Upgrade and the immediately previous Upgrade of the Licensed Software released by Intelex to its customers and for the environments as described in the Platform Support Policy found on Intelex Exchange, and as may be amended from time to time.

3. Support Services:

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- 3.1 **Support Hours:** Intelex shall provide Support Services every Business Day from the hours of 7:30 am EST to 8:00 pm EST.
- 3.2 "Support Services" shall include:
- (a) Online support to System Administrator users relating to technical issues, errors or problems with the Licensed Software.
 - (b) Access to online resources via Intelex Exchange, or its future successor:
- 3.3 **Items not covered by Support Services:** Intelex is not obligated to provide Support Services for errors or problems caused by the following:
- (a) Third-party components not provided by Intelex, including Licensee's infrastructure and network;
 - (b) Use of the Software other than in a recommended environment described in the Platform Support Policy
 - (c) Continued use of a version of the Software for which Support Services is not provided in accordance with Section 1 above.

Support Services do not include training or walkthroughs of the Licensed Software, change requests, end user requests or troubleshooting with end users.

- 3.4 **Notification:** If Licensee suspects that a Defect exists in the Licensed Software, Licensee will notify Intelex (the "Notification") (i) through the online ticketing tool on Intelex Exchange; and (ii) for Severity 1 Items that Licensee detects after Support Hours, Licensee may also call (416) 847 8985. The Notification shall describe the nature of the suspected Defect and provide details of the circumstances of its occurrence sufficient, at Intelex's discretion, for Intelex to be able to reproduce the suspected Defect.
- 3.5 **Service Levels:** Intelex offers the following service levels for its Support Services:

Defect	Response Time
Severity 1 Item	1 hour from time of Notification
Severity 2 Item	1 Business Day from time of Notification
Severity 3 Item	3 Business Days from time of Notification
Severity 4 Item	5 Business Days from time of Notification

4. Maintenance Services:

- 4.1 "Maintenance Services" shall include:
- (a) Notification of and access to Intelex release patches and Documentation released by Intelex; and
 - (b) Notification of and access to Updates and Upgrades of the Licensed Software.
- 4.2 **Maintenance Services do not include new applications and modules released by Intelex that include significantly different features and functionality, which are packaged and licensed as separate applications and modules.**
- 4.3 If Licensee agrees to obtain an Update or Upgrade, Intelex will provide such Update or Upgrade to Licensee with installation instructions. Licensee shall be solely responsible for installation of the Update or Upgrade on Licensee servers. If Licensee subscribes to hosting services under a separate addendum to this Agreement, Intelex will install the Update or Upgrade for Licensee.

5. Licensee Obligations:

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- 5.1 Licensee agrees to provide Intelex with all information and materials requested by Intelex, including reasonable access to the Licensed Software to enable replicating, diagnosing and correcting a Defect reported by Licensee. Licensee acknowledges that Intelex's ability to provide satisfactory Support Services is dependent on Intelex having the information necessary to replicate the reported problem with the Licensed Software.
- 5.2 It is Licensee's sole responsibility to ensure that Updates, Upgrades and any patches provided by Intelex to fix any Defects are satisfactorily tested in the Test Environment prior to having such Update, Upgrade or patch installed in the Production Environment.