

BOARD OF PUBLIC WORKS AND SAFETY AGENDA RESERVATION REQUEST

| | | | |
|---|--|----------------------|-------------------|
| Date Submitted: | September 16, 2020 | Meeting Date: | September 21 2020 |
| Contact Information: | | | |
| Requested by: | Chief Kirby Cochran | | |
| On Behalf of Organization or Individual: | | Police Department | |
| Telephone: | 317-346-1101 | | |
| Email address: | kcochran@franklin.in.gov | | |
| Mailing Address: | 2801 N Morton Street, Franklin, IN 46131 | | |
| Describe Request: | | | |
| BodyWorn Cameras | | | |
| List Supporting Documentation Provided: | | | |
| CSA and Agreement attached | | | |
| Who will present the request? | | | |
| Name: | Chief Kirby Cochran | Telephone: | 317-346-1101 |

The Franklin City Council meets on the 1st and 3rd Monday of each month at 6:30 p.m. In the Council Chambers of City Hall located at 70 E. Monroe Street. In order for an individual and/or agency to be considered for new business on the agenda, this reservation form and supporting documents must be received in the Mayor's office no later than 12:00 p.m. on the Wednesday before the meeting.



Franklin Police Department Professional Services Agreement

Franklin IN Police Department
2801 N Morton St
Franklin, IN 46131
United States

Kirby Cochran
Chief
kcochran@franklin.in.gov
3174123185

Reference: 20200624-061305659

Prepared: June 24, 2020

Expires: September 22, 2020

Prepared by: John Watson

Business Manager

jwatson@utility.com

Comments from John Watson

Utility is honored the Franklin Police Department has chosen the Utility BodyWorn solution for its officers. We Look forward to partnering with you to serve the Franklin community. Please accept this professional services agreement and proposal for review and consideration.

*The below items will service 53 Officers with 53 BWC's, 43 Police Vehicles with In-Car Video and 49 Police Vehicles with RocketIoT Communications.

**The value on this quote covers all 5 years of the service agreement and is billed annually

Products & Services

| Item & Description | Quantity | Unit Price | Total |
|---|----------|-------------|-----------------------------|
| Bodyworn w/ Rocket IoT Communications and In-Car Video Bundle BodyWorn Camera and Mount, Holster Sensor, Media Contoller, Rocket IoT In-Car Video System Hardware Bundle, Body Camera Refresh at 37th Month, AVaiL Web SaaS, Warranty, and 24/7 Technical Support. | 43 | \$12,815.00 | \$551,045.00 for 5 years |
| BodyWorn and Rocket IoT Communications BodyWorn Camera and Mount, Holster Sensor, Media Contoller, Rocket IoT for high speed data communication, ODB 2, Body Camera Refresh at 37th Month, and AVaiL Web SaaS and Warranty with 24/7 Technical Support | 6 | \$8,940.00 | \$53,640.00 for 5 years |

| | | | |
|---|----|------------|----------------------------|
| BodyWorn Bundle BodyWorn Camera and Mount, Holster Sensor, Media Controller, Body Camera Refresh at 37th Month, AVaiL Web SaaS and Warranty with 24/7 Technical Support | 4 | \$6,160.00 | \$24,640.00 for 5 years |
| Start/Stop Switch for ICV Application Mechanical switch used to manually start and stop in-car video. | 43 | \$13.00 | \$559.00 |
| Smart Waypoint High Speed Data Access Point | 1 | \$3,500.00 | \$3,500.00 for 5 years |

Subtotals

One-time subtotal \$633,384.00

Other Fees

Rebate for Ruggedized Tablet (\$800 x 43) -\$34,400.00

Total \$598,984.00

Signature

Date

Printed name

Questions? Contact me



John Watson
Business Manager
jwatson@utility.com

Utility, Inc.

250 E. Ponce de Leon Ave, Suite 700

Decatur, GA 30030

US

Customer Services Agreement

INTRODUCTION

This Services Agreement ("Agreement") describes the hardware service ("Products") and software services ("SaaS") that the Franklin Police Department ("Client" or "Customer") will receive from Utility Associates, Inc. ("UA" or "Supplier") (Client and UA, each a "Party" and collectively the "Parties"). The Supplier shall provide the Products and SaaS under this Agreement in accordance with the prices outlined in Attachment A ("Offer Letter") and Attachment B ("Proposal").

Purpose

The Client depends on Products, SaaS, and services (the "Services" or "IT System") that are provided, maintained and supported by the Supplier. Some of these items are of critical importance to the business.

This service agreement sets out what levels of availability and support the Client can expect to receive for specific parts of the IT system.

SCOPE

Parties

This agreement is between:

| The Client: | The Supplier: |
|---|--|
| Franklin Police Department | Utility Associates Inc. |
| 2801 North Morton Street Franklin, Indiana 46131 | 250 E. Ponce De Leon Avenue Suite 700 Decatur, GA 30030 |
| Key Contact: Chief Kirby Cochran kcochran@franklin.in.gov 317-412-3185 | Key Contact: Amanda A. Havice 404-816-0300 ahavice@utility.com |

Dates and Reviews

This Agreement begins upon the date of signature of this document, and will run for 60 months of the Agreement plus any extensions of such Agreement, if applicable.

It may be amended at any point, by mutual agreement. It may also be reviewed if there are any changes to the Client's system.

Services Covered

This Agreement covers only the equipment, software, and services in the table below. This list may be updated at any time, with an amendment from both the Client and Supplier.

| Item Type | Number of Items | Item Priority |
|---|---|---------------|
| BodyWorn Camera (Product) | Qty 53 Supplied by Utility | 1 |
| Rocket IoT Modem, Comms Only (Product) | Qty 6 Supplied by Utility | 1 |
| Rocket IoT In-Car Video (Product) | Qty 43 Supplied by Utility | 1 |
| Media Controller (Product) | Qty 53 Supplied by Utility | 2 |
| Holster Sensor (Product) | Qty 53 supplied by Utility | 2 |
| BodyWorn Ready Uniforms (Product) | \$200 Allotment Towards any Combination of New BodyWorn Ready Uniforms, per Body Camera Purchased with a Multi-Year Service Agreement | 3 |
| Existing Uniform Retrofits (Product) | Qty. of 5, Standard Uniform Retrofits (see table 1.2.1 for definitions) to BodyWorn Ready Status, per Body Camera Purchased with a Multi-Year Service Agreement | 3 |
| AVail Web (SaaS) | Qty Unlimited Licenses Supplied by Utility | 1 |
| Smart WayPoint(s) (Product) | Qty 1 Supplied by Utility | 2 |
| *Includes all services, support, installation, training, and configuration of the above listed product and cost proposal. | | |

Exclusions

This agreement is written in a spirit of partnership. The Supplier will always do everything possible to rectify every issue in a timely manner.

However, there are a few exclusions. This agreement does not apply to:

- Any equipment, software, services, or other parts of the IT system not listed above
- Software, equipment, or services not purchased via and managed by the Supplier

Additionally, this agreement does not apply when:

- An error has been caused by using the Services in a way that is not recommended (defined as intentional neglect, misuse, or destruction of the equipment as referenced in Section 4.1)

- The Client has made unauthorized changes to the configuration or set up of affected Products or Services. Unauthorized changes are defined as changes made by any party other than the Supplier to the software, hardware, or firmware that alter the system's ability to record, upload, or view data.
- The Client has materially prevented the Supplier from performing required maintenance and update tasks.
- The issue has been caused by unsupported equipment, software or other services not managed by the Supplier.

Regardless of the circumstances, the Supplier always aims to be helpful and accommodating and will do its absolute best to assist the Client wherever possible.

RESPONSIBILITIES

Supplier Responsibilities

The Supplier will provide and maintain the IT System used by the Client. This Customer Services Agreement between the Supplier and the Client includes full details of these responsibilities.

Additionally, the Supplier will:

- Ensure that the SaaS will be maintained at 99% uptime/availability or greater 24/7/365
- Ensure relevant components of the IT System are available to the Client including an appropriate level of spares
- Respond to support requests within the timescales listed below
- Take steps to escalate and resolve issues in an appropriate, timely manner
- Maintain good communication with the Client at all times

Client Responsibilities

The Client will use the Supplier-provided system as intended.

The Client is responsible for maintaining power and internet connectivity at all video offload locations on the network. For offload via a Client approved third party or Supplier provided access point, the Client has the option of either (a) organizing an independent internet connection via its local provider with a minimum upload speed of 50 Mbps, or, (b) connecting the access point to its own network having a minimum internet upload speed of 50 Mbps. Upon execution of the Agreement, as part of the deployment process, a network assessment will be conducted of the Client's upload speed for the transmission of data to the CJIS Compliant Cloud. In most cases, the Client should budget for an increase to their upload speed with their local carrier.

Additionally, the Client will:

- Notify the Supplier of issues or problems in a timely manner
- Provide the Supplier with access to the IT System for the purposes of maintenance, updates and fault prevention
- Maintain good communication with the Supplier at all times

GUARANTEED RESPONSE TIMES

When a Client raises a support issue with the Supplier, the Supplier promises to respond in a timely fashion.

Response Times

All systems have health monitoring that assures that issues are typically addressed 24/7/365 by UA personnel before they become an impact to the performance of the Service. For support provided to the customer directly, UA has a tiered response to support that will escalate the level of support depending on the situation. Tier 1 would be on-site support by the Customer staff after they have been trained by UA. Problems beyond Tier 1 scope will be escalated to UA who will provide Tier 2 technical support, which is both phone and email-based support. If determined by UA, escalation to Tier 3 may be required, which is on-site technical support from a UA field engineer. The cost of the response time is included in this Agreement.

While most support calls are handled immediately, Tier 2 issues have guaranteed response times as shown below:

| Item Priority | Fatal | Severe | Medium | Minor |
|---------------|---------|---------|---------|----------|
| 1 | 1 Hour | 1 Hour | 2 Hours | 3 Hours |
| 2 | 2 Hours | 2 Hours | 4 Hours | 6 Hours |
| 3 | 4 Hours | 4 Hours | 8 Hours | 16 Hours |

Severity Levels

The severity levels shown in the tables above are defined as follows:

- **Fatal:** Complete degradation – **all users and critical functions affected.** Item or service completely unavailable.
- **Severe:** Significant degradation – **large number of users or critical functions affected.**
- **Medium:** Limited degradation – **limited number of users or functions affected.** Business processes can continue.
- **Minor:** Small degradation – **few users or one user affected.** Business processes can continue.

RESOLUTION TIMES

The Supplier will always endeavor to resolve problems as swiftly as possible. It recognizes that the Client's systems are key to daily functions and must be functional in the field.

However, UA is unable to provide guaranteed resolution times. This is because the nature and causes of problems can vary.

In all cases, the Supplier will make its best efforts to resolve problems as quickly as possible. It will also provide frequent progress reports to the Client.

SCOPE OF SERVICES

1.1.1 Access to SaaS. UA is the developer and owner of, or has rights to, certain enterprise mobile device tracking and messaging software known as "AVaiL™", "AVaiL Web", and related content to be provided to Customer; such software, its related content and any related documentation provided by UA, and the means used to provide the software to Customer and the services described herein are collectively referred to as the "SaaS". Subject to Customer's payment of the applicable fees and Customer's compliance with the terms of this Agreement, Customer, its affiliates and its and their employees ("Licensed Users") shall have the right to access and use the Services solely for Customer's and its affiliates' internal business purposes. UA will issue to one Licensed User ("Customer Administrator") an individual logon identifier and password ("Administrator Logon") for purposes of administering the Service. Using the Administrator's Logon, the Customer Administrator shall assign each Licensed User a unique logon identifier and password ("User Login") and provide such information to the Licensed Users and UA via the SaaS. Customer shall not provide a User Login to any individual or entity that is not a Licensed User to use the SaaS. Customer shall be responsible to ensure, by agreement or otherwise, that each Licensed User will: (a) be responsible for the security and/or use of his or her User Login; (b) not disclose such logon identifier or password to any person or entity; (c) not permit any other person or entity to use his or her User Login; (d) use the SaaS only in accordance with the terms and conditions of this Agreement. UA shall have the right to deactivate, change and/or delete User Logins of Licensed Users who have violated this Agreement and to deny or revoke access to the SaaS, in whole or in part, if UA reasonably believes Customer and/or its Licensed Users are in material breach of this Agreement. Customer shall be solely responsible for ensuring that the access to the SaaS by a Licensed User who ceases to be an employee of Customer or one of its affiliates is terminated. UA shall have no responsibility for managing, monitoring, and/or overseeing Customer's and its Licensed Users' use of the SaaS. Customer acknowledges that the SaaS may contain devices to monitor Customer's compliance with the terms and restrictions contained herein and Customer's obligations hereunder.

1.1.2 Operating Environment. Customer is solely responsible for acquiring, installing, operating and maintaining the hardware and software environment necessary to access and use the Service remotely via the Internet.

1.1.3 Changes to Service. UA may upgrade, modify, change or enhance ("Change") the Service and convert Customer to a new version thereof at any time in its sole discretion so long as such Change does not materially diminish the scope of the Service, in which event Customer shall have the right to terminate this Agreement upon thirty (30) days written notice to UA. During the term of this Agreement, if UA upgrades the version of the Service Customer is using under this Agreement, Customer will not be charged an upgrade fee. Should UA offer additional optional modules (Product or SaaS) in the future that complement the Service, Customer may elect to access the optional modules for an additional fee; however, Customer has no obligation to do so.

1.1.4 Help Desk. UA shall provide 24/7 Customer support (phone and email) in the form of a Help Desk. Customers reporting issues through email will receive confirmation of the issue within a reasonable time and will receive a callback the same business day if practical. The Help Desk is always subject to availability of our technical staff and clause 1.1.5 below.

1.1.5 Uptime Commitment.

a Availability. The Service will be made available to Customer and its Licensed Users twenty-four hours a day, seven days a week less the period during which the Service are not available due to one or more of the following events (collectively, the "Excusable Downtime"):

- (i) Scheduled network, hardware or service maintenance.
- (ii) The acts or omissions of Customer or Customer's employees, agents, contractors, vendors, or anyone gaining access to the Service by means of a User Login.
- (iii) A failure of the Internet and/or the public switched telephone network.

- (iv) The occurrence of any event that is beyond UA's reasonable control, or
- (v) At Customer's direction, UA restricting Customer's and its Licensed Users access to the Service.

b. Commitment. Customer is responsible for promptly notifying UA in the event of a suspected Service failure. For the purposes of establishing uptime herein, downtime begins upon such notification and ends upon restoration of Service. Subject to Customer satisfying its obligations herein, UA guarantees that the Service will be available to Customer and its Licensed Users at least 99% of the time during each calendar month, excluding Excusable Downtime ("Uptime Commitment"). If UA fails to satisfy the Uptime Commitment during a month, then UA will credit to Customer a pro-rated portion of the Fees in the first month of the next succeeding calendar quarter following the failure. For purposes of this Section, "pro-rated portion of the Fees" means the product obtained by multiplying the applicable Fees during the month of the failure by a fraction, the numerator of which will be the number of hours that the Service did not satisfy the Uptime Commitment, and the denominator of which will be the total number of hours during the month that such failure occurred less Excusable Downtime.

1.16 Uniforms. UA's BodyWorn Solution is the only body camera system available to law enforcement that features direct integration of camera hardware into the officer's/deputy's uniform. As part of this multi-year service Agreement, UA will furnish the following allotments and services during initial project launch.

a. Retrofits of existing uniforms. A quantity of five (5) standard uniform garments, per BodyWorn camera purchased, will be modified to BodyWorn ready status, for the purposes of product integration with our camera hardware solution. UA will provide The Client with both uniform retrofit vouchers and packing slip templates. Note, both uniform vouchers and accurately completed packing slips are required for all retrofit requests being sent to UA for processing. Failure to provide accurate uniform information may result in delays of processing The Client's request.

b. Retrofits of Standard garment types. Acceptable garment installation types offered at no-additional charge, as part of the initial project launch, include the following:

- (i) Duty shirts (long or short sleeve)
- (ii) Soft outer carrier vest
- (iii) Standard soft-shell jacket

c. Retrofits of Non-standard garment types. Excluded from the initial project launch retrofitting service, that may still be modified to BodyWorn ready status at an additional charge, include the following: (please see table 1.2.1, for pricing details)

- (i) Polo shirts
- (ii) Commando style sweaters
- (iii) Tactical vest or outer plate carriers
- (iv) Leather jackets

d. Certification of local uniform resellers. Following the recommendation of the Client, a local uniform reseller may be eligible to participate in UA's uniform certification program. This program is designed to maximize the speed in which new recruits and/or existing Officers/Deputies receive BodyWorn standard uniform garment retrofits, post project deployment. Additionally, this program is designed to foster the support of local small business in your respective area.

(i) Resellers may participate in the certification program, for the purposes of retrofitting standard duty shirts and soft outer carrier vests only. All other non-standard garment retrofits should be forwarded to UA, at the expense of The Client.

(ii) As part of the certification offered, UA will supply one (1) grommet installation machine and training of up to 5 reseller personnel, per session. Sessions run for a dedicated 16-hour period, over



the course of two days. The reseller will be responsible for furnishing uniforms for the purposes of training and certification.

(iii) Certification fees. Certification of each local uniform reseller will be charged to The Client, at \$2,500 per session.

e. UA will provide a \$200 allotment towards any combination of new BodyWorn ready, standard uniforms, per body camera purchased.

1.2.1 Uniform Retrofit Pricing Schedule.

a. BodyWorn - **standard** garment retrofit service table (price includes shipping)

| Example Model | Description | Price (ea). |
|-------------------------------|---|-------------|
| Blauer 8670, 8675, 8446 | Duty Shirt, BodyWorn Ready | \$13 |
| Blauer 8780, 8370, 8375, 8470 | Carrier Vest Mount, BodyWorn Ready | \$13 |
| Blauer 343, 343R | Traffic Safety Vest, BodyWorn Ready | \$13 |
| Blauer 8780, 8370, 8375, 8470 | Carrier Vest Zipper Mount, BodyWorn Ready | \$23 |
| Spiewak | Carrier Vest Mount, BodyWorn Ready | \$33 |
| Elbeco SH3500 | Soft Shell Jacket | \$23 |
| All Standard Uniform Types | Grommet Swap Out | \$10 |

b. BodyWorn - **non-standard** garment retrofit service table (price includes shipping). Due to the complicated nature of retrofitting non-standard garments, all prices provided below are considered estimates. Final pricing will be assessed at the time of services rendered, by UA's Uniform Coordinator. For additional questions, comments or concerns please e-mail uniforms@utility.com

| Description | Price (ea). |
|--|-------------|
| Carrier Vest – Horizontal Mounting (Ex. Blauer 8340, 8375) | \$33 |
| Tactical Vest – Velcro Closure | \$43 |
| Tactical Vest – Center Zipper Closure | \$23 |
| Tactical Vest – Horizontal Zipper with Mounting (Ex. Blackhawk Tactical Carrier) | \$43 |
| Polo Shirt | \$43 |
| Polo Carrier – Horizontal Zipper | \$43 |
| Leather Jacket / Coat. | Quote Only |
| Patches | |
| Single | \$5 |
| Pair | \$6 |
| Name Tape – Includes Embroidery and Velcro | \$10 |

USE OF THE SERVICE

21 Scope of Use. Subject to the terms and conditions of this Agreement, including, without limitation, Section 2.2 and 2.3 hereof and Customer's payment of all applicable Fees, UA hereby grants to Customer a limited, a non-exclusive, non-assignable, non-transferable license (the "License"), without the right to sublicense, to access and use the Service, during the Term, over the Internet for Customer's and its affiliates' internal business purposes, on a computer or a computer network operated by Customer, only by Licensed Users and only using the User Logins provided to UA for such Licensed Users for such use.

22 End User License Agreements. The Licensed software may incorporate software under license from a third party. If the third party requires Customer's notification of such use through an End User License Agreement (EULA), UA will provide such notification to the Customer. To use the Service, Customer agrees to be bound by all EULA(s) provided at the time of delivery whether by hardcopy or displayed upon Installation or use of the Service. Customer's use of the Service after such notice(s) shall constitute Customer's acceptance of the EULA(s).

23 Restrictions. Customer and its Licensed Users shall not: (a) copy the Service or any portion thereof other than as required to use the Service remotely as intended by this Agreement; (b) translate, decompile or create or attempt to create, by reverse engineering or otherwise, the source code from the object code of the Service; (c) modify, adapt, translate or create a derivative work from the Service; (d) use the Service to track more than the number of tracked asset units for which Fees have been paid pursuant Article 3 below; (e) sell, lease, loan, license, assign, sublicense, rent, transfer, publish, disclose, divulge, display, make available to third parties on a time-sharing or service bureau basis or otherwise make available for the benefit of third parties all or any part of the Service, including, without limitation, by transmitting or providing the Service, or any portion thereof, over the Internet, or otherwise, to any third party; (f) interfere or attempt to interfere with the operation of the Service in any way; (g) remove, obscure or alter any label, logo, mark, copyright notice, trademark or other proprietary rights notices affixed to or contained within the Service; (h) create any frames or other references at any other web sites pertaining to or using any of the information provided through the Service or links to the Service; or (i) engage in any action that constitutes a material breach of the terms and conditions of this Agreement. All rights not expressly granted hereunder are reserved to UA.

FEES AND PAYMENT TERMS

31 Fees. As a condition to the License granted pursuant to Section 2.1 above, Customer shall pay annual usage fees ("Fees"). ~~Customer shall, in addition to the Fees required hereunder, pay all applicable sales, use, transfer or other taxes and all duties, whether international, national, state or local, however designated, which are levied or imposed by reason of the transaction(s) contemplated hereby, excluding, however, income taxes on income which may be levied against UA ("Taxes"). Customer shall reimburse UA for the amount of any such Taxes. If Customer fails to pay any undisputed Fees within thirty (30) calendar days of the date they are due, the Service shall be suspended until all outstanding Fees have been paid. All Fees shall be non-refundable except as otherwise set forth herein. Customer is a tax-exempt governmental entity and agrees to provide UA evidence of its tax-exempt status. UA shall be solely responsible for all income taxes levied against UA.~~

32 Time-and-Materials Service. If Customer requests and UA agrees to provide services that are outside the scope of the Service, such services shall be provided at UA's then-current hourly service rates or as established within a separate agreement addressing these specific requests.

REPRESENTATIONS AND WARRANTIES

4.1 Expressed Warranty. Products manufactured by UA are warranted to be free from defects in material and workmanship under normal use and service. This warranty is applicable to any of UA's products that Customer returns to UA during the period of the initial term of the agreement. All equipment issued, including BodyWorn™ devices and peripherals, and Rocket IoT™ in-vehicle systems and peripherals, are warranted for the duration of the initial agreement and will be repaired or replaced at UA's cost with an appropriate Request to Merchant (RMA) authorization. UA's obligations, with respect to such applicable warranty returns, are limited to repair, replacement, or refund of the purchase price actually paid for the product, at UA's sole option. UA shall bear round-trip shipment costs of defective Items found to be covered by this warranty. Defective Products or parts thereof may be replaced with either new, factory refurbished, or remanufactured parts. This warranty does not extend to any product sold by UA which has been subjected to malicious intent, neglect, accident, improper installation by a non-authorized 3rd party, or a use for purposes not included or not in accordance with operational maintenance procedures and instructions furnished by UA, or which has been repaired or

altered by UA or persons other than UA or which has been damaged by secondary causes, including but not limited to, improper voltages, adverse environment conditions, improper

handling, or products which have had their serial number or any part thereof altered, defaced, or removed. UA liability does not cover normal wear and tear or deterioration. Uniforms or modified uniforms provided with the service have a 1-year warranty and are limited to defects in material workmanship that render prevent the user from capturing video and/or using the Service. The Expressed Warranty does not include changes to the color or appearance of the uniform that result from normal wear and tear.

42 UA and Customer Responsibilities. Each party (the "Representing Party") represents and warrants to the other that: (a) it has the authority to enter this Agreement and to perform its obligations under this Agreement; (b) the execution and performance of this Agreement does not and will not violate any agreement to which the Representing Party is a party or by which it is otherwise bound; and (c) when executed and delivered, this Agreement will constitute a legal, valid and binding obligation of the Representing Party, enforceable in accordance with its terms. In addition to the foregoing: UA warrants that the software provided as part of the Service will materially conform to the applicable then-current documentation relating to the Service when used in an operating environment that complies with the then-current documentation relating to the Service. If UA alters the documentation in a way that materially diminishes the scope of the Services, Customer shall have the right to terminate this Agreement upon thirty (30) days prior written notice to UA. In the event that the software which is part of the Service fails to perform in accordance with this warranty, Customer shall promptly inform UA of such fact, and, as Customer's sole and exclusive remedy, UA shall either: (i) repair or replace the Service to correct any defects in the software without any additional charge to Customer, or (ii) terminate this Agreement and provide Customer, as Customer's sole and exclusive remedy, with a pro rata refund (for the unexpired portion of the applicable Term) of the Fees paid to UA hereunder. Customer represents and warrants to UA that Customer and its Licensed Users (i) will use the Service only for lawful purposes; (ii) will not interfere with or disrupt the operation of the Service or the servers or networks involved with the operation of the Service; (iii) attempt to gain unauthorized access to the Service, other accounts, computer systems or networks connected to the Service, through any other means; or (iv) interfere with another user's use and enjoyment of the Service.

43 Export Restrictions. Customer represents and warrants that it and all Licensed Users will comply with all applicable laws, rules and regulations in the jurisdiction from which they access the Service, including those laws, rules and regulations which apply to the access, import, use and export of controlled technology or other goods. Customer also agrees that it and all Licensed Users will comply with the applicable laws, rules and regulations of the jurisdictions from which UA operates the Service (currently, the United States of America). In particular, Customer represents, warrants and covenants that it shall not, without obtaining prior written authorization from UA and, if required, of the Bureau of Export Administration of the United States Department of Commerce or other relevant agency of the United States Government, access, use, export or re-export, directly or indirectly, the Service, or any portion thereof or any Confidential Information of UA (including without limitation information regarding the use, access, deployment, or functionality of the Service) from the United States to (a) any country destination to which access, use, export or re-export is restricted by the Export Administration Regulations of the United States Department of Commerce; (b) any country subject to sanctions administered by the Office of Foreign Assets Control, United States Department of the Treasury; or (c) such other countries to which access, use, export or re-export is restricted by any other United States government agency. Customer further agrees that it is solely responsible for compliance with any import laws and regulations of the country of destination of permitted access, use, export or re-export, and any other import requirement related to a permitted access, use, export or re-export.

44 Warranty Disclaimer. CUSTOMER ACKNOWLEDGES THAT, EXCEPT AS PROVIDED HEREIN, THE SERVICE IS PROVIDED HEREUNDER WITH NO WARRANTY WHATSOEVER. CUSTOMER ACKNOWLEDGES THAT ITS USE OF THE SERVICE IS AT ITS OWN RISK. EXCEPT AS EXPRESSLY PROVIDED HEREIN, (a) THE SERVICE IS PROVIDED SOLELY ON AN "AS-IS" BASIS, AND (b) UA MAKES, AND CUSTOMER RECEIVES, NO WARRANTIES, EXPRESS, IMPLIED, OR OTHERWISE. UA EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, MERCHANTABLE QUALITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE,

AND/OR NONINFRINGEMENT AND ALL DUTIES AND OBLIGATIONS IMPLIED IN LAW. UA DOES NOT WARRANT THAT THE SERVICE SHALL BE OPERABLE, SHALL PROPERLY STORE DATA, SHALL OPERATE UNINTERRUPTED OR ERROR FREE, SHALL BE SECURE, SHALL KEEP DATA CONFIDENTIAL, SHALL FUNCTION OR OPERATE IN CONJUNCTION WITH ANY OTHER PRODUCT OR SHALL MEET CUSTOMER'S NEEDS.

CONFIDENTIAL INFORMATION

5.1 Confidential Information. As used herein, the term "Confidential Information means all technical, business and other information relating to the Service, which (i) is possessed or hereafter acquired by UA and disclosed to Customer or Licensed Users, (ii) derives economic value from not being generally known to persons other than UA and its customers, and (iii) is the subject of efforts by UA that are reasonable under the circumstances to maintain its secrecy or confidentiality. Confidential Information shall include, but shall not be limited to, oral or written (including, without limitation, storage in electronic or machine readable media) information with respect to UA's trade secrets, know-how, proprietary processes, operations, employees, contractors, prospects, business plans, product or service concepts, business methods, hardware, software, codes, designs, drawings, products, business models and marketing strategies, in each case relating to the Service. Confidential Information shall not include any information which Customer can demonstrate (a) has become generally available to and known by the public (other than as a result of a disclosure directly or indirectly by Customer, any of its affiliates or any of its or their respective employees, contractors or agents), (b) has been made available to Customer on a non-confidential basis from a source other than UA, provided that such source is not and was not bound by a confidentiality agreement with UA or any other legal obligation of non-disclosure, or (c) has been independently acquired or developed by Customer without violating any of its obligations under this Agreement.

5.2 Non-Disclosure of Confidential Information. Customer shall hold confidential all Confidential Information (as defined in Section 5.1) of UA and shall not disclose or use (except as expressly provided in this Agreement) such Confidential Information without the express written consent of UA. Confidential Information of UA shall be protected by the Customer with the same degree of care as Customer uses for protection of its own confidential information, but no less than reasonable care. Customer may disclose Confidential Information only to those of its employees who have a need to know the Confidential Information for purposes of performing or exercising rights granted under this Agreement and only to the extent necessary to do so. At any time upon the request of UA, the Customer shall promptly, at the option of UA, either return or destroy all (or, if UA so requests, any part) of the Confidential Information previously disclosed and all copies thereof, and the Customer shall certify in writing as to its compliance with the foregoing. Customer agrees to secure and protect the Confidential Information in a manner consistent with the maintenance of UA's rights therein and to take appropriate action by instruction or agreement with its Licensed Users to satisfy its obligations hereunder. Customer shall use its reasonable commercial efforts to assist UA in identifying and preventing any unauthorized access, use, copying or disclosure of the Confidential Information, or any component thereof. Without limitation of the foregoing, Customer shall advise UA immediately in the event Customer learns or has reason to believe that any person has violated or intends to violate these confidentiality obligations or the proprietary rights of UA. In the event Customer is required to disclose any Confidential Information by law or court order, it may do so, provided that UA is provided a reasonable opportunity to prevent such disclosure, and, in the event of a disclosure, that the Customer apply reasonable commercial efforts to ensure that available confidentiality protections are applied to such information. In such event, Customer shall not be liable for such disclosure unless such disclosure was caused by, or resulted from, in whole or in part, a previous disclosure by Customer, any of its affiliates or any of its or their respective employees, contractors or agents, not permitted by this Agreement. UA Confidential Information shall not include information which can be demonstrated by Customer: (i) to have become part of the public domain except by an act or omission or breach of this Agreement on the part of Customer, its employees, or agents; (ii) to have been supplied to Customer after the time of disclosure without restriction by a third party who is under no obligation to UA to maintain such information in confidence; or (iii) required to be disclosed by law or court order, provided that UA is provided a reasonable opportunity to prevent such disclosure, and, in the event

of a disclosure, that Customer apply reasonable commercial efforts to ensure that available confidentiality protections are applied to such information. Notwithstanding the foregoing, UA may publish the fact of the existence of this Agreement and/or the business relationship created hereby and may include reference to it in its marketing collateral.

53 Non-Disclosure of Customer Confidential Information. Notwithstanding any provision of this Agreement to the contrary, UA shall hold confidential all information disclosed to UA (a) concerning the business affairs or proprietary and trade secret information of Customer, (b) any information that derives economic value from not being generally known to persons other than Customer and its employees, and (c) any information that is the subject of efforts by Customer that are reasonable under the circumstances to maintain its secrecy or confidentiality, whether disclosed to UA by Customer in oral, graphic, written, electronic or machine readable form ("Customer Confidential Information") and shall not disclose or use such Customer Confidential Information without the express written consent of Customer. Customer Confidential Information shall be protected by UA with the same degree of care as UA uses for its own confidential information, but no less than reasonable care. UA may disclose Customer Confidential Information only to those of its employees who have a need to know the Customer Confidential Information for purposes of performing or exercising rights granted under this Agreement and only to the extent necessary to do so. At any time upon the request of Customer, UA shall promptly, at the option of Customer, either return or destroy all (or, if Customer so requests, any part) of the Customer Confidential Information previously disclosed and all copies thereof, and UA shall certify in writing as to its compliance with the foregoing. UA agrees to secure and protect the Customer Confidential Information in a manner consistent with the maintenance of Customer's rights therein and to take appropriate action by instruction or agreement with its employees to satisfy its obligations hereunder. UA shall use reasonable commercial efforts to assist Customer in identifying and preventing any unauthorized access, use, copying or disclosure of the Customer Confidential Information, or any component thereof. Without limitation of the foregoing, UA shall advise Customer immediately in the event UA learns or has reason to believe that any person has violated or intends to violate these confidentiality obligations or the proprietary rights of Customer, and UA will, at UA's expense, cooperate with Customer in seeking injunctive or other equitable relief in the name of UA or Customer against any such person. Customer Confidential Information shall not include information which can be demonstrated by UA: (i) to have become part of the public domain except by an act or omission or breach of this Agreement on the part of UA, its employees, or agents; (ii) to have been supplied to UA after the time of disclosure without restriction by a third party who is under no obligation to Customer to maintain such information in confidence; or (iii) required to be disclosed by law or court order, provided that Customer is provided a reasonable opportunity to prevent such disclosure, and, in the event of a disclosure, that UA apply reasonable commercial efforts to ensure that available confidentiality protections are applied to such information.

54 Passwords. Any and all logon identifiers and passwords provided hereunder are deemed Confidential Information of UA. Customer and Licensed Users are responsible for maintaining the confidentiality of such logon identifiers and passwords. Customer agrees to (a) notify UA of any unauthorized use of such logon identifiers or passwords or any other breach of security pertaining to the Service when it became known to the customer, and (b) ensure that Licensed Users exit from their accounts at the end of each session. UA cannot and will not be liable for any loss or damage arising from Customer's or any Licensed User's failure to comply with this Section 5.4.

55 Term. Regarding Confidential Information that constitutes trade secrets, the obligations in this Section shall continue for so long as such information constitutes a trade secret under applicable law. Regarding all other Confidential Information, the obligations in this Section shall continue for the term of this Agreement and for a period of five years thereafter.

INDEMNIFICATION AND LIABILITY

6.1 UA shall indemnify, defend and hold the Customer and its officials, agents and employees harmless from and against any and all claims, damages, losses, injuries and expenses (including reasonable attorneys' fees), relating to or arising out of: (i) any act or omission of UA, its officers, employees, subcontractors, or agents in connection with the performance of the Services; (ii) any breach of a covenant, representation or warranty made by UA under this Contract; and (iii) use by UA of any intellectual property in connection with the Services (whether such intellectual property is owned by UA or a third party) or the incorporation by UA of intellectual property into the Services.

6.2 EXCEPT FOR BREACHES OF SECTIONS 2 OR 5, IN NO EVENT WILL: (I) EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY LOSS OF PROFITS, LOSS OF USE, LOSS OF REVENUE, LOSS OF GOODWILL, ANY INTERRUPTION OF BUSINESS OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OR IS OTHERWISE AWARE OF THE POSSIBILITY OF SUCH DAMAGES; AND (II) EITHER PARTY'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL ANNUAL AMOUNT PAID BY CUSTOMER TO UA UNDER THIS AGREEMENT. MULTIPLE CLAIMS WILL NOT EXPAND THIS LIMITATION. THIS SECTION WILL BE GIVEN FULL EFFECT EVEN IF ANY REMEDY SPECIFIED IN THIS AGREEMENT IS DEEMED TO HAVE FAILED IN ITS ESSENTIAL PURPOSE.

PROPRIETARY RIGHTS

7.1 Proprietary Rights. No right (except for the License right granted in Article 2), title or interest in any intellectual property or other proprietary rights are granted or transferred to Customer hereunder. UA and its third-party licensors and service providers retain all right, title and interest, including, without limitation, all patent, copyright, trade secret and all other intellectual property and proprietary rights, inherent in and appurtenant to the Service and all derivative works connected therewith.

TERM AND TERMINATION

8.1 Term; Termination. The term of this Agreement (the "Term") shall commence on the Effective Date and shall continue for an initial term of sixty (60) months. Thereafter, unless terminated earlier or renewed as set forth herein, shall automatically renew for additional forty-eight (48) month terms (the "Renewal Term") unless either party provides written notice of termination ninety (90) days prior to the expiration of the initial Term or then current Renewal Term. Either party may immediately terminate this Agreement in the event that:

- (a) the other party breaches any material obligation, warranty, representation or covenant under this Agreement and does not remedy such failure within thirty (30) days after its receipt of written notice of such breach,
- (b) the other party becomes insolvent or is unable to pay its debts as due, enters into or files (or has filed or commenced against it) a petition, arrangement, action or other proceeding seeking relief or protection under the bankruptcy laws of the United States or similar laws of any other jurisdiction or transfers all of its assets to another person or entity, or
- (c) Customer has not used the Service for a consecutive six (6) month period. In the event the Agreement is terminated under this provision, Customer is responsible for all Fees due through the next annual anniversary date of the Effective Date of the Agreement. If UA terminates the Agreement under this provision, Customer is entitled to thirty (30) more days of limited use of the Service for the sole purpose of permitting Customer to retrieve Customer Data. If timely payment of undisputed Fees is not received by its due date, UA reserves the right to either suspend or terminate Customer's or Licensed User's access to the Service. Upon termination or expiration of this Agreement for any reason, the

License and the Service shall terminate, Customer will be obligated to pay any and all Fees due hereunder up through the annual anniversary of the Effective Date of this Agreement or expiration and UA shall have no further obligations to Customer. Sections 2.2, 2.3, and 4.3 and Articles 5, 6, 7, 8, and 9 hereof shall survive the expiration or termination of this Agreement for any reason.

(d) This agreement is subject to IC § 5-22-17-5 that provides should customer's fiscal body determine that funds are not appropriated or otherwise available to support continuation of performance of this agreement, then customer may terminate this agreement with thirty (30) days advance notice.

MISCELLANEOUS

9.1 Notices. Any written notice required or permitted to be delivered pursuant to this Agreement will be in writing and will be deemed delivered: (a) upon delivery if delivered in person; (b) three (3) business days after deposit in the United States mail, registered or certified mail, return receipt requested, postage prepaid; (c) upon transmission if sent via telecopier/facsimile, with a confirmation copy sent via overnight mail; (d) one (1) business day after deposit with a national overnight courier;

9.2 Governing Law and Venue. This Agreement, and all the rights and duties of the parties arising from or relating in any way to the subject matter of this Agreement shall be governed by, construed and enforced in accordance with the laws of the State of ~~Georgia~~ Indiana. Any suit or proceeding relating to this Agreement shall be brought in the courts, state and federal, located in ~~Dekalb County, Georgia~~ the State of Indiana.

9.3 UCITA Disclaimer. THE PARTIES AGREE THAT THE UNIFORM COMPUTER TRANSACTIONS ACT OR ANY VERSION THEREOF, ADOPTED BY ANY STATE, IN ANY FORM ("UCITA"), SHALL NOT APPLY TO THIS AGREEMENT. TO THE EXTENT THAT UCITA IS APPLICABLE, THE PARTIES AGREE TO OPT OUT OF THE APPLICABILITY OF UCITA PURSUANT TO THE OPT-OUT PROVISION(S) CONTAINED THEREIN.

9.4 Assignment. Customer will not assign, sublicense or otherwise transfer this Agreement, in whole or in part, nor delegate or subcontract any of its rights or obligations hereunder, without UA's prior written consent, except in the event of an assignment to an affiliate

9.5 Force Majeure. Neither party shall have any liability to the other or to third parties for any failure or delay in performing any obligation under this Agreement due to circumstances beyond its reasonable control including, without limitation, acts of God or nature, actions of the government, fires, floods, strikes, civil disturbances or terrorism, or power, communications, satellite or network failures; provided, however, this Section 9.5 shall not apply to Customer's obligation to pay any of the Fees in accordance with Article 3 hereof.

9.6 Modifications. All amendments or modifications of this Agreement shall be in writing signed by an authorized representative of each party hereto. The parties expressly disclaim the right to claim the enforceability or effectiveness of: (a) any amendments to this Agreement that are not executed by an authorized representative of UA and Customer; (b) any oral modifications to this Agreement; and (c) any other amendments based on course of dealing, waiver, reliance, estoppel or similar legal theory. The parties expressly disclaim the right to enforce any rule of law that is contrary to the terms of this Section.

9.7 Waiver. The failure of either party to enforce, or the delay by either party in enforcing, any of its rights under this Agreement will not be deemed to be a waiver or modification by such party of any of its rights under this Agreement.

9.8 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, in whole or in part, such holding shall not affect the validity or enforceability of the other provisions of this Agreement.

9.9 Headings. The headings used herein are for reference and convenience only and shall not enter



into the interpretation hereof.

9.10 Entire Agreement. This Agreement (including the Schedules and ~~any addenda~~ the proposal date 06/24/2020 attached hereto) contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes

all previous communications, representations, understandings and agreements, either oral or written, between the parties with respect to said subject matter.

IN WITNESS WHEREOF, UA and Customer have executed this Agreement as of the date set forth below. All signed copies of this Agreement shall be deemed originals.

Signed on behalf of The Client:

Signed: _____

Name: _____

Title: _____

Date: _____

Signed on behalf of The Supplier:

Signed: Mark G. Wood

Name: Mark G. Wood

Title: National Sales Director

Date: June 30, 2020