

SUPPORT AND MAINTENANCE AGREEMENT

THIS AGREEMENT made as of the 1st day of January, 2022 (“Start Date”).

BETWEEN:

N. HARRIS COMPUTER CORPORATION
 (“Harris”)

- and -

City of Lee’s Summit, a Missouri municipal corporation
 (the “City”)

RECITALS

1. The City and Harris executed a Software License, Implementation and Support and Maintenance Agreement on or about October 28, 2010 (“Original Agreement”), which governed the provision of certain software licensing and implementation services, as well as support and maintenance services by Harris;
2. Harris has completed the implementation services set forth in the Original Agreement;
3. The Parties amended certain parts of the Original Agreement pursuant to an amended agreement entered into on April 28, 2017 (“Amended Agreement”) to allow the City to continue receiving support and maintenance services related to the software through December 31, 2021;
4. The City desires to continue using the software and receiving support and maintenance services, but the Parties desire to replace and supersede the support and maintenance provisions of their Original Agreement, entering into this new Support and Maintenance Agreement.

NOW THEREFORE, in consideration of the mutual covenants set out in this support and maintenance agreement (the “Support and Maintenance Agreement”) and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the parties agree as follows:

1. Unless otherwise defined herein, all defined terms used herein shall have the meaning ascribed to them in the Original Agreement. Specific terms defined for this Agreement include the following:
 - a. “Software” means the software products that are licensed to City through the Original Agreement, as amended, and includes any Update(s) or Upgrade(s) that have been

provided to Organization. Third Party Software is not included in the definition of Software.

- b. "Update" means any published changes, additions or corrections to the Software that primarily include a minor modification or enhancement to the Software related to a bug fix, minor additional functionality or legislative changes. An Update is designated by a change in the right-most digit in the version number (for example, a change from X.1 to X.2).
 - c. "Upgrade" is a major overhaul of the Software which is a complete new published version of the Software that modifies, revises or alters the Software and adds features, functionality or enhancements to such Software. An Upgrade is typically designated by a change in the number to the left of the decimal point in the version number (for example, a change from 1.X to 2.X).
2. This Support and Maintenance Agreement is the exclusive statement of the entire support and maintenance agreement between Harris and Organization, and supersedes and replaces all terms in the Original Agreement and Amended Agreement related to support and maintenance.
 3. Harris shall provide software support primarily via telephone and electronic mail, and when necessary, via site visits. The support services will be provided only during the hours of operation as described in Exhibit 2 hereto and which are in effect as of the Start Date (as defined below), as such services may, at Harris's reasonable discretion, be modified or supplemented from time to time. To enable Harris to provide effective support, Harris will work with the client to establish a mutually agreeable remote connection policy.
 4. This Support and Maintenance Agreement becomes effective as of the Start Date.
 5. The initial term of this Support and Maintenance Agreement shall begin on the Start Date and end on December 31st of the same year (the "Initial Term"), unless terminated as otherwise provided herein. After the expiration of the Initial Term, this Support and Maintenance Agreement shall automatically renew for up to four (4) successive, one-year terms (each a "Renewal Term"), subject to availability and appropriation of funds for renewal in each subsequent year. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Contract shall remain in full force and effect.

After the four Renewal Terms, this Support and Maintenance Agreement shall automatically renew on an annual basis, unless terminated by either party upon giving to the other not less than 90 days' notice in writing prior to the end of the initial term or any subsequent anniversary of such date. City shall pay the then prevailing Support and Maintenance Fee in advance for each term of the Support and Maintenance Agreement and where the notice of non-renewal has not been provided in accordance with these terms, the City is obliged to pay the Support and Maintenance Fee for the then applicable term. The termination of this Support and Maintenance Agreement by City shall not affect the License or the Software License Agreement. Harris shall neither refund any Support and

Maintenance Fees nor any Billable Fees if this Support and Maintenance Agreement is terminated. City acknowledges that if this Support and Maintenance Agreement is terminated by the City without cause or due to a reason other than an Event of Default as defined in the Software License Agreement, then it will not be eligible to receive the benefits of this Support and Maintenance Agreement including the right to Releases or to access the source code in escrow.

In consideration for the support services specified herein, City shall pay the "Support and Maintenance Fee" as detailed in Exhibit 1 below. The Year 1 Support and Maintenance Fee will be prorated and billed in advance beginning on the Start Date through December 31st of the same year. Thereafter City will be billed annually approximately sixty (60) days in advance of the due date and the City shall pay such bill on or before January 1st each year this Agreement is in effect.

6. The City shall pay Harris the annual Support and Maintenance Fee amount specified in the Fee Proposal within thirty (30) days receipt of an invoice for the upcoming service year. All invoices shall include the Purchase Order number authorizing the transaction, if applicable, and shall be delivered to the City Accounts Payable address indicated on the face of the Purchase Order or email to ap@cityofls.net, unless otherwise specified. Each invoice statement shall include sufficient detail to justify payment. If invoice is subject to a quick payment discount, the discount period will be calculated from the date of receipt of the invoice, whichever is later.

All payments hereunder shall be in U.S. dollars and shall be net of any taxes, tariffs or other governmental charges. Harris shall be responsible for paying all taxes, fees, assessments and premiums of any kind payable on its employees and operations. Any tax Harris may be required to collect or pay upon the sale, use or delivery of the support and maintenance services described in this Support and Maintenance Agreement shall be paid by City and such sums shall be due and payable to Harris upon receipt of an invoice therefore. Any taxes levied in relation to the services required for a Release shall be paid by City. The City shall be responsible for the payment of any applicable duties and sales/consumption taxes.

7. In addition to the Support and Maintenance Fee, City shall reimburse Harris for its direct expenses in providing support services ("Billable Fees") pursuant to this Support and Maintenance Agreement which include as of the Start Date:

- (a) courier services, photocopying, faxing, long distance phone calls and reproduction services,

- (b) all direct travel expenses, provided such travel is pre-approved by the City, including, but not limited to hotel, airfare, car rental, tolls, parking and airline and travel agent fees; each individual's travel time billing rate of \$95.00/hour; a per diem rate of \$60.00 for week days and a \$125.00 for weekends and statutory holidays that includes all meal, food and telecommunications expenses (receipts will be provided); and a documented mileage charge consistent with the Internal Revenue Service recommended rate per mile,

- (c) and all other reasonable expenses incurred in the performance of Harris's duties hereunder.

Harris may update its reimbursement policies from time to time and after providing City sixty (60) days written notice, in which case such updated policies shall apply for purposes of this Support and Maintenance Agreement, provided that such updated reimbursement policies must generally apply to all clients of Harris.

- 8. Harris shall supply all Upgrades to City at no additional charge other than the payment of the Support and Maintenance Fee. Upgrades may require additional services to be performed by Harris outside of the scope of those services provided by Harris as described in Section 8 including additional training not covered by the Original Agreement and professional services for the installation and implementation of the Upgrade that will be subject to the Harris's then-prevailing policies, terms and Billable Fees related to pricing and hourly rates.
- 9. All Updates of the Software and all those services listed in Exhibit 2 which are included as part of City's Software support will be made available to City at no additional charge other than the payment of the Support and Maintenance Fee.
- 10. Title to and ownership of all proprietary rights in the Releases and all related proprietary information supplied by Harris in providing the services pursuant to this Support and Maintenance Agreement shall at all times remain with Harris, and City shall acquire no proprietary rights by virtue of this Support and Maintenance Agreement.
- 11. Harris shall have the right to terminate this Support and Maintenance Agreement immediately if City has not paid an invoice within ninety (90) days of receipt of an invoice for a renewal term or of the start of a renewal term, whichever last occurs.
- 12. The City shall have the right to terminate this Support and Maintenance Agreement if:
 - (a) Gratuities. The City may, by written notice to the Harris, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Harris or any agent or representative of the Harris to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Harris an amount equal to 150% of the gratuity.
 - (b) Support and Maintenance Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in the Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this

Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The Parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which the Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Harris informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Harris hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

- (c) For Cause. If either Party fails to perform any obligation pursuant to this Agreement and such Party fails to cure its nonperformance within thirty (30) calendar days after notice of nonperformance is given by the non-defaulting Party, such Party will be in default. In the event of such default, the non-defaulting Party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting Party's nonperformance is such that it cannot reasonably be cured within thirty (30) calendar days, then the defaulting Party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting Party immediately (1) provides written notice to the non-defaulting Party and (2) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed ninety (90) calendar days. In the event of such termination for cause, payment shall be made by the City to Harris for the undisputed portion of its fee due as of the termination date.

The City shall have the right to declare Harris in default for the following reasons, which set forth examples, but are not the only reasons Harris may be declared in default:

- (i) Upon a breach by Harris of a material term or condition of this Agreement, including unsatisfactory performance of the services;
- (ii) Upon insolvency or the commencement of any proceeding by or against Harris, either voluntarily or involuntarily, under the Bankruptcy Code or relating to the insolvency, receivership, liquidation, or composition of Harris for the benefit of creditors;
- (iii) If Harris refuses or fails to proceed with the services under the Agreement when and as directed by the City and reasonably agreed to by Harris;
- (iv) If Harris or any of its officers or directors is substantially involved in its

activities are indicted or convicted after execution of this Agreement under any state or federal law of any of the following:

- (A) a criminal offense incident to obtaining or attempting to obtain or performing a public or private contract;
 - (B) fraud, embezzlement, theft, bribery, forgery, falsification, or destruction of records, or receiving stolen property;
 - (C) a criminal violation of any state or federal antitrust law;
 - (D) violation of the Racketeer Influence and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of proposals or proposals for a public or private contract;
 - (E) conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any statute described in subparagraph (d) above; or
 - (F) an offense indicating a lack of business integrity that seriously and directly affects responsibility as a City contractor.
- (v) If Harris or any of its officers or directors is substantially involved in its activities are subject to a judgment of civil liability under any state or federal antitrust law for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or
- (vi) If Harris or any of its officers or directors is substantially involved in its activities makes or causes to be made any false, deceptive, or fraudulent material statement, or fail to make a required material statement in any bid, proposal, or application for City or other government work.

13. Addresses for Notice

All notices must be in writing and delivered electronically or by method with proof of delivery. All other communications, requests or alerts may be provided by fax, e-mail or other written means. If personally delivered or sent by facsimile or, if mailed, on the third business day following the date of mailing, and addressed, in the case of the Consultant, to:

N. HARRIS COMPUTER CORPORATION
1 Antares Drive, Suite 400
Ottawa, Ontario K2E 8C4
Attention: CEO
Telephone: 613-226-5511, extension 2149

and in the case of the Organization, to:

CITY OF LEE'S SUMMIT
WATER UTILITIES DEPARTMENT
220 S.E. Green Street
Lee's Summit, Missouri 64063
Attention: Teresa Wright, Applications Administrator
Telephone: 816-969-1251
Fax: 816-969-1299

with a copy to: City Attorney's Office
220 SE Green Street
Lee's Summit, Missouri 64063

Each party may change its particulars respecting notice, by issuing notice to the other party in the manner described in this Section.

14. Non-Waiver. Either party's lack of enforcement of any provision in this Support and Maintenance Agreement in the event of a breach by the other shall not be construed to be a waiver of any such provision and the non-breaching party may elect to enforce any such provision in the event of any repeated or continuing breach by the other.
15. Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the Parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. The parties agree that the terms and conditions contained herein shall prevail notwithstanding any variations on any orders, e-mails or other correspondence submitted by City or Harris. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the Party drafting the Agreement. The Parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.
16. Limitation of Liability.
 - (a) Termination of this Support and Maintenance Agreement shall not affect any right of action of either party arising from anything which was done or not done, as the case may be, prior to the termination taking effect.
 - (b) The City and Harris recognize that circumstances may arise entitling the City to damages for breach or other fault on the part of Harris arising from this Support and Maintenance Agreement. The parties agree that in all such circumstances each party's remedies and each party's liabilities will be limited as set forth below and that these provisions will survive notwithstanding the termination or other discharge of the obligations of the parties under this Support and Maintenance Agreement.
 - (c) EXCEPT FOR CLAIMS ARISING FROM THE GROSS NEGLIGENCE OR

WILLFUL MISCONDUCT OF HARRIS, THE AGGREGATE LIABILITY OF HARRIS TO CITY FOR ALL CLAIMS, SUITS, ACTIONS AND PROCEEDINGS HOWSOEVER ARISING, DIRECTLY OR INDIRECTLY, UNDER OR RELATING TO THIS SUPPORT AND MAINTENANCE AGREEMENT OR ITS SUBJECT MATTER, INCLUDING THOSE BASED ON BREACH OR REESCISSION OF CONTRACT, TORT, BREACH OF TRUST, OR BREACH OF FIDUCIARY DUTY SHALL NOT EXCEED, IN THE AGGREGATE, THE AMOUNT OF FEES ACTUALLY PAID BY THE CITY TO HARRIS UNDER THIS SUPPORT AND MAINTENANCE AGREEMENT DURING THE THEN-CURRENT TERM (AND IN NO EVENT BEING GREATER THAN 12 MONTHS) OF THE SUPPORT AND MAINTENANCE AGREEMENT UP TO AND INCLUDING THE DATE OF TERMINATION.

- (d) IN ADDITION TO THE FOREGOING, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY CLAIMS FOR CONSEQUENTIAL DAMAGES, INCIDENTAL DAMAGES, INDIRECT DAMAGES, SPECIAL DAMAGES, AGGRAVATED DAMAGES, FAILURE TO REALIZE EXPECTED SAVINGS, EITHER UNDER OR RELATING TO THIS SUPPORT AND MAINTENANCE AGREEMENT OR ITS SUBJECT MATTER, WHETHER BASED ON BREACH OF RESCISSION OF CONTRACT, TORT, BREACH OF TRUST, OR BREACH OF FIDUCIARY DUTY EVEN IF SUCH OTHER PARTY HAS BEEN ADVISED OF THE LIKELIHOOD OF THE OCCURRENCE OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.
17. The parties hereby confirm that the waivers and disclaimers of liability, releases from liability, limitations and apportionments of liability, and exclusive remedy provisions expressed throughout this Support and Maintenance Agreement shall apply even in the event of default, or negligence (in whole or in part) of the person released or whose liability is waived, disclaimed, limited, apportioned or fixed by such remedy provision, and shall extend to such person's affiliates and to its shareholders, directors, officers, employees and affiliates.
18. Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Missouri, and a suit pertaining to this Agreement may be brought only in federal courts in eastern Jackson County, Missouri; provided, however, that if subject matter jurisdiction is improper in said federal courts, it shall be had in the state courts of said state and county. The Parties expressly and irrevocably consent to the exclusive jurisdiction and venue of such courts and expressly waive the right to transfer or remove any such action.
19. Assignment. This Support and Maintenance Agreement may not be assigned by either party unless, concurrently with any such assignment, the assigning party assigns its rights under, receiving the prior written and signed consent of the non-assigning party, and complies with the provisions of the Original Agreement.

This Support and Maintenance Agreement shall be binding upon the administrators, successors, and assigns of the parties and enure to the benefit of the administrators,

successors, and permitted assigns of the parties.

20. Non-Waiver. The invalidity or unenforceability of any provision or covenant contained in this Support and Maintenance Agreement shall not affect the validity or enforceability of any other provision or covenant herein contained and any such invalid provision or covenant shall be deemed to be severable.
21. Independent Contractor. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. Harris acknowledges and agrees that all services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Harris, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Harris, its employees or subcontractors. Harris is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Harris do not intend to nor will they combine business operations under this Agreement.
22. E-Signature and Counterparts. This Support and Maintenance Agreement may be executed electronically and/or in counterparts (whether by facsimile signature or in PDF format via e-mail or otherwise), each of which when so executed shall constitute an original and all of which together shall constitute one and the same agreement.
23. Insurance.
 - (a) General.
 - i. Insurer Qualifications. Without limiting any obligations or liabilities of Contractor, Contractor shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Missouri, with an AM Best, Inc. rating of A or above with policies and forms satisfactory to the City. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option.
 - ii. No Representation of Coverage Adequacy. The City reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement, but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.
 - iii. Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name and endorse, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

- iv. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.
- v. Primary Insurance. Contractor's insurance shall be, or be endorsed to indicate, its primary, non-contributory insurance with respect to performance of this Agreement and in the protection of the City as an Additional Insured. Such coverage shall be at least as broad as ISO CG 20 01 04 13.
- vi. Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for six (6) years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the six-year period.
- vii. Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the City, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of Contractor. Contractor shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement.
- viii. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the City. Contractor shall be solely responsible for any such deductible or self-insured retention amount.
- ix. Automatic Escalator. The limits of liability for each policy coverage amount stated above shall be automatically adjusted upward as necessary to remain at all times not less than the maximum amount of liability set forth in Chapter 537.610 RSMo. applicable to political subdivisions pursuant to 537.600; provided that nothing herein or in any such policy shall be deemed to waive the City's sovereign immunity. The statutory waiver of sovereign immunity for 2020 is \$2,905,664 for all claims arising out of a single accident or occurrence.
- x. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Contractor shall either cover all sub-contractors in the Contractor's liability insurance policy or execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the City and Contractor. Contractor shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.
- xi. Notice of Claim. Contractor shall upon receipt of notice of any claim in connection with this Agreement promptly notify the City, providing full details thereof, including an estimate of the amount of loss or liability. Contractor shall also promptly notify the City of any reduction in limits of protection afforded under any policy listed in the certificate(s) of insurance in an amount such that the policy aggregate becomes less than the current statutory waiver of sovereign immunity,

regardless of whether such impairment is a result of this Agreement. A breach of this provision is a material breach of the Agreement.

- xii. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Contractor will provide the City with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Contractor's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. The City may reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement.

If any of the policies required by this Agreement expire during the life of this Agreement, Contractor shall exercise best efforts to forward renewal certificates and declaration page(s) to the City thirty (30) days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing number and title of this Agreement. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without a reference to this Agreement, as applicable, will be subject to rejection and may be returned or discarded.

- (b) Certificates of insurance and declaration page(s) shall specifically include the following provisions:

- (1) The City, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:
 - i. Commercial General Liability – Under Insurance Services Office, Inc., (“ISO”) Form CG 20 10 03 97 and CG 20 37 07 04, or their equivalents.
 - ii. Auto Liability – Under ISO Form CA 20 48 or equivalent.
 - iii. Excess Liability – Follow Form to underlying insurance.
- (2) Contractor's insurance shall be primary, non-contributory insurance with respect to performance of the Agreement.
- (3) All policies, except for Professional Liability, including Workers' Compensation, waive rights of recovery (subrogation) against City, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by Contractor under this Agreement.

- (c) All Certificates of Insurance shall name the City of Lee's Summit as the certificate holder and send the certificate and any endorsements to:

City of Lee's Summit
Attn: Procurement and Contract Services
220 S.E. Green Street
Lee's Summit, MO 64063 -2358

- (d) Endorsements. Contractor shall provide the City with the necessary endorsements to ensure City is provided the insurance coverage set forth in this Subsection.

- (e) Required Insurance Coverage.

- i. Commercial General Liability. Contractor shall maintain "occurrence" form Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, bodily injury, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 01 93 or equivalent thereof, including but not limited to, separation of insured's clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, officials and employees shall be endorsed as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement forms CG 20 10 03 97 and CG 20 37 07 04, or their equivalents, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or City shown in the Schedule, but only with respect to liability arising out of "the City's work" for that insured by or for you." The policy shall contain an endorsement waiving rights of recovery (subrogation) against the City, its agents, representatives, officials, officers and employees. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.
- ii. Vehicle Liability. Contractor shall maintain Business Automobile Liability insurance with an unimpaired limit of \$1,000,000 each occurrence on Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor's work or services under this Agreement. Coverage will be at least as broad as ISO coverage code "1" "any auto" policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees shall be endorsed as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. The policy shall contain an endorsement waiving rights of recovery (subrogation) against the City, its agents, representatives, officials, officers and employees. If any Excess insurance is

utilized to fulfill the requirements of this subsection, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

- iii. Workers’ Compensation Insurance. Contractor shall maintain Workers’ Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor’s employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance with an unimpaired limit of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit. The policy shall contain an endorsement waiving rights of recovery (subrogation) against the City, its agents, representatives, officials, officers and employees.
- iv. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Contractor engages in any professional services or work in any way related to performing the work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an liability insurance limit of \$3,000,000 each claim and \$3,000,000 annual aggregate.
- v. Cyber Liability Insurance. If this Agreement is the subject of any services or work involving the City’s information technology structure, or if Contractor engages in any services or work in any way related to performing work involving the City’s information technology structure under this Agreement, Contractor shall maintain Cyber Liability insurance with limits not less than \$3,000,000 per occurrence or claim, \$3,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

The Policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and equipment and/or information “property” of the City in the care, custody, or control of Contractor.

- (f) Cancellation and Expiration Notice. Harris shall endeavor to provide thirty (30) days written notice before its insurance provisions expire, are canceled, or are materially changed.

- 24. Conflict of Interest. No salaried officer or employee of the City and no member of the City Council shall have a financial interest, direct or indirect, in this Agreement, and any violation of this provision renders the Agreement void. The parties shall comply with all federal conflict of interest statutes and regulations, and all applicable provisions of §§

105.450, et. seq. RSMo. Harris covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Services to be performed under this Agreement. Harris further covenants that in the performance of this Agreement no person having such interest shall be employed.

25. Force Majeure. The Parties shall be excused from performance during the time and to the extent that they are prevented from obtaining, delivering, or performing for reasons beyond the Parties' reasonable control, including without limitation, by act of God, public health emergency, natural disaster fire, strike, loss or shortage of transportation facilities, lock-out, commandeering of materials, products, plants or facilities by the government, and any other events or circumstances beyond the reasonable control of the party, when satisfactory evidence is presented to the City, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the Party not performing.
26. Confidentiality of Records. The Harris shall establish and maintain commercially reasonable procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Harris's duties under this Agreement. Persons requesting such information should be referred to the City. Harris also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Harris as needed for the performance of duties under this Agreement. Harris shall ensure its subcontractors are aware of and comply with this provision
27. Information Technology
 - (a) *Limited Access*. If necessary for the fulfillment of the Contract, the City may provide the Harris with non-exclusive, limited access to the City's information technology infrastructure. Harris understands and agrees to abide by all the City policies, standards, regulations and restrictions regarding access and usage of the City's information technology infrastructure. Harris shall enforce all such policies, standards, regulations and restrictions with all the Harris's employees, agents or any tier of subcontractor granted access in the performance of this Contract, and shall be granted and authorize only such access as may be necessary for the purpose of fulfilling the requirements of the Contract.
 - (b) *Data Confidentiality*: All data, regardless of form, including originals, images and reproductions, prepared by, obtained by or transmitted to the Harris in connection with this Contract is confidential, proprietary information owned by the City. Except as specifically provided in this Contract, the Harris shall not shall not, without the prior, written consent of the City Manager or authorized designee, (A) disclose data generated in the performance of the Services to any third party or (B) use City data and information other than as reasonably required to accomplish the goals of this Agreement or as expressly authorized by the City.

- (c) *Data Security.* Personal identifying information, financial account information, or restricted City information, whether electronic format or hard copy, must be reasonably secured and protected at all times to avoid unauthorized access. At a minimum, the Harris must encrypt and/or password-protect electronic files. This includes data saved to laptop computers, computerized devices or removable storage devices. When personal identifying information, financial account information, or restricted City information, regardless of its format, is no longer necessary or this Contract is terminated (whichever occurs first), the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed or reconstructed. Before the information discussed in this subsection is destroyed, the Harris shall send a copy of such information to the City in a format specified by the City.
 - (d) *Compromised Security.* In the event that data collected or obtained by the Harris in connection with this Contract is believed to have been compromised, Harris shall notify the City Manager, or authorized designee, as soon as is reasonably possible upon discovery.
 - (e) *Disengagement.* In the event the Contract is terminated by either party, Harris agrees to confer back to the City all of its data, in usable and normalized format, within 30 calendar days of notice of termination. Harris shall be entitled to its reasonable fees for any professional services required to prepare said data.
 - (f) The obligations of Harris under this Section shall survive the termination of this Contract.
28. Work Authorization/E-verify. Pursuant § 285.530, RSMo., if Agreement exceeds five thousand dollars (\$5,000.00), Harris warrants and affirms to the City that (i) Harris is enrolled and participates in a federal work authorization program with respect to the employees working in connection with the contracted services and (ii) Harris does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Harris shall swear to and sign an affidavit declaring such affirmation, and provide the City with supporting documentation of its enrollment and participation in a federal work authorization program with respect to the employees working in connection with this Agreement. The required documentation must be from the federal work authorization program provider (e.g. the electronic signature page from the E-Verify program's Memorandum of Understanding); a letter from Harris reciting compliance is not sufficient.
29. Non-Exclusive Agreement. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods and services from another source when necessary.
30. Prevailing Wages. Pursuant to RSMo. § 290.230.5, if this Agreement exceeds seventy-five thousand dollars (\$75,000.00) and involves construction of public works, Harris shall compensate all its workers the prevailing hourly rate of wages for work of a similar character in Lee's Summit. If there is a dispute whether this Agreement is subject to

prevailing wages as required by RSMo. § 290.210, et. seq., the City's determination shall control.

31. Cooperative Purchasing. Harris, by submitting a proposal to the RFP, acknowledges that other specific eligible political subdivisions and nonprofit institutions ("Eligible Procurement Unit(s)") are permitted to utilize procurement agreements developed by the City, at their discretion and with the agreement of the awarded Harris. Harris may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the materials and/or services at the prices and under the terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the Parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Harris. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The City assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The City shall not be responsible for any disputes arising out of transactions made by others.
32. Signatory Authority. Each person signing this Agreement represents that such person has the requisite authority to execute this Agreement on behalf of the entity the person represents and that all necessary formalities have been met.
33. E-Signature and Counterparts. The Parties agree that this Contract may be signed in two or more counterparts and/or signed electronically, and all such counterparts together shall constitute one and the same contract; such signatures shall bind the signing party in the same manner as if a handwritten signature had been delivered.
34. Anti-Discrimination Against Israel Act. If this Contract has a total potential value of \$100,000 or more and Harris has 10 or more employees, the following applies. Pursuant to Section 34.600, RSMo and to the fullest extent permitted by law, Harris certifies that Harris is not engaged in a boycott of Israel as of the Effective Date of this Agreement, and agrees for the duration of this Agreement to not engage in a boycott of Israel as defined in Section 34.600, RSMo.
35. Provisions Required by Law. Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either Party, the Agreement will promptly be physically amended to make such insertion or correction.

IN WITNESS WHEREOF, the Parties have executed this Support and Maintenance Agreement to be effective as of the date first written above.

N. HARRIS COMPUTER CORPORATION

DocuSigned by:
Per: Hari Subramaniam 26-01-2022
572D7FFA8C0D4C2...
Name: Hari Subramaniam
Title: Executive Vice President

CITY OF LEE'S SUMMIT

Per: _____
Name: Stephen A. Arbo
Title: City Manager

Attest:

Trisha Fowler Arcuri, City Clerk

Approved as to Form:

Daniel R. White,
Chief Counsel of Management and Operations

Exhibit 1
Annual Support and Maintenance Fee

Invoice Period	Product	Amount
January 1 – December 31, 2022	CIS Infinity	\$47,286.36
January 1 – December 31, 2023	CIS Infinity	\$48,232.09
January 1 – December 31, 2024	CIS Infinity	\$49,196.73
January 1 – December 31, 2025	CIS Infinity	\$50,180.66
January 1 – December 31, 2026	CIS Infinity	\$51,184.28

Exhibit 2

Standard Support and Maintenance Services – Standard Guidelines

The purpose of this Exhibit 2 is to provide our customers with information on our standard coverage, the services which are included as part of your annual software support, a listing of call priorities, an outline of our escalation procedures and other important details.

Harris reserves the right to make modifications to this document as required; provided, however, Harris shall not reduce the scope of support provided hereunder without the prior consent of the Organization.

The services listed below are services that are included as part of your software support.

- 800 Toll Free Telephone support
- Software for Life
 - Guaranteed Support on your existing applications for life
 - Scheduled assistance for installations, upgrades and other special projects (there may be charges depending on the scope of work)
- Technical troubleshooting and issue resolution
- E-mail support call logging and notification
- eSupport access 24 x 7 with the following on-line benefits:
 - Log and close calls
 - View and update calls
 - Update contact information
 - Access published documentation
 - Access available downloads
 - Access Support knowledge base
 - Participate in Discussion Forums
- Standard software releases and updates
 - Defect corrections (as warranted)
 - Planned enhancements
 - State and/or Federal mandated changes (charges may exist depending on scope)
 - Participation in beta program
 - Release notes
- Customer Care Program
 - Quarterly News Letter with support tips
 - Technical support bulletins
 - Communication on new products and services
 - On-site visits (as required)
- Design review for potential enhancements or custom modifications
- Ability to attend the annual customer conference (attendance fees apply)

Help Desk Hours

Our standard hours of support are from 8:00 a.m. EST to 8:00 p.m. EST, Monday to Friday, excluding designated statutory holidays. After hours telephone support is available from 8:00 p.m. EST through to 8:00 a.m. EST. Weekend and holiday assistance is available and must be scheduled in advance and in most cases is billable.

Response Times

Response times will vary and are dependent on the priority of the call. We do our best to ensure that we deal with incoming calls in the order that they are received, however calls will be escalated based on the urgency of the issue reported. Our response time guidelines are as follows:

Priority 1: 1 - 4 hours

Priority 2: 1 - 8 hours

Priority 3: 1 - 24 hours

Call Priorities

In an effort to assign our resources to incoming calls as effectively as possible, we have identified three types of call priorities, 1, 2 and 3. A Priority 1 call is deemed by our support staff to be an Urgent or High Priority call, Priority 2 is classified as a Medium Priority and Priority 3 is deemed to be a Low Priority. The criteria used to establish guidelines for these calls are as follows:

Priority 1 – High

- Security issues
- System Down (Software Application, Hardware, Operating System, Database)
- Inability to process bills
- Program errors without workarounds
- Aborted postings or error messages preventing data integration and update
- Performance issues of severe nature impacting critical processes

Priority 2 - Medium

- System errors that have workarounds
- Reports calculation issues
- Printer related issues (related to interfaces with our software and not the printer itself)
- Hand-held issues not preventing billing
- Performance issues not impacting critical processes
- Usability issues
- Workstation connectivity issues (Workstation specific)

Priority 3 - Low

- Report formatting issues
- Training questions, how to, or implementing new processes
- Aesthetic issues
- Issues with workarounds
- Recommendations for enhancements on system changes
- Questions on documentation

Call Process

All issues or questions reported to support are tracked via a support call or ticket; our support analysts cannot provide assistance unless a support call or ticket is logged. Our current process for logging calls and tickets includes the following: eSupport (via website), email, phone and fax.

- Your ticket must contain at a minimum: your organization name, contact person, software product and version, module and/or menu selection, nature of issue, detailed description of your question or issue and any other information you believe pertinent.
- Our ticketing system or one of our support analysts will provide you with a ticket ID to track your issue.
- Your ticket will be assigned to the first available support representative.
- As the support representative assigned to your ticket investigates your issue, you will be contacted and advised as to where the issue stands and the course of action that will be taken for resolution. If we require additional information, you will be contacted by the assigned support representative to supply the information required.
- All correspondence and actions associated with your ticket will be tracked in our support ticketing system. At any time, if available to you, you may log onto our ticketing system to see the status of your call.
- Once your issue has been resolved, you will receive an automated notification by email that your ticket has been closed. This email will contain the entire event history of the issue from the time the ticket was created and leading up to the resolution of the issue. You also have the option of viewing both your open and closed tickets, if available to you, via our support ticketing system.
- Contact the support department at your convenience for a status update on your development issues, or log onto our ticketing system (if available to you) to view your issues on-line.

Escalation Process

Our escalation process is defined below. This process has been put in place to ensure that issues are being dealt with appropriately. If at any time you are not completely satisfied with the resolution of your issue, you are encouraged to escalate with the support department as follows:

- Level 1:** Contact the support representative working on your issue
- Level 2:** Contact the Team Lead
- Level 3:** Contact the Manager of Support
- Level 4:** Contact the Vice President of Support Services
- Level 5:** Contact the Executive Vice President

Holiday Schedule

Below is a listing of statutory holidays. Please note that support services will be closed on designated days as outlined below.

New Year's Day	Closed
President's Day	Closed
Memorial Day	Closed
Independence Day	Closed
Labor Day	Closed
Thanksgiving	Closed
Christmas Eve	Early Closure
Christmas Day	Closed
New Year's Eve	Early Closure

Billable Support Services

The services listed below are services that are out of scope of your support and maintenance agreement and are therefore considered billable services.

- Extended telephone training
- Forms redesign or creation (includes Bill Prints, Notice Prints and Letters)
- Setup and changes to interfaces or creation of new interface
- Setup of new services or changes to services (PAP, ACH, etc.)
- File imports/exports
- Custom modifications (reports, bills, forms, reversal of customizations)
- Setting up additional companies / agencies / tokens / general ledgers
- Data conversions / global modification to setup table data
- Database maintenance, repairs and optimization
- Installations / re-installations (workstations, servers)

Test Databases and Environments

We support customers in the maintenance of independent test environments for testing purposes. This allows customers the opportunity to test fixes, modifications, new business processes and/or scenarios without risking any potentially unwanted changes to the live environment.

Connection Methods

To ensure we can effectively support our clients, we require that a communication link is established and maintained between our two sites. It is the Organization's responsibility to ensure the connection is valid at your location so that we can connect to your site and resolve any issues. Our preferred method of connection is through Remote Desktop which can be accomplished using a VPN account and the MS Windows Remote Desktop client or a variety of remote connection tools (logmein.com, TeamViewer, join.me, VNC, etc). Harris will work with the client to establish a mutually agreeable remote connection policy.