

SUPPORT AND MAINTENANCE AGREEMENT

THIS SUPPORT AND MAINTENANCE AGREEMENT made as of the 1st day of July, 2018 (the “Start Date”).

BETWEEN:

COGSDALE CORPORATION
 (“Cogsdale”)

- and -

The City of Ann Arbor
 (“City”)

RECITALS

1. Cogsdale owns the Software which has been licensed to City pursuant to a Software License Agreement;
2. The City wishes to receive support and maintenance services related to the Software;
3. Cogsdale shall provide the support and maintenance services related to the Software;

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. Throughout this Support and Maintenance Agreement, except as otherwise expressly provided, the following words and expressions shall have the following meanings:
 - (a) “**Release**” means an Update and an Upgrade.
 - (b) “**Software**” means the software products licensed to the City in the Software License Agreement.
 - (c) “**Software License Agreement**” means the Software License Agreement previously signed by the Cogsdale and the City for the Software.
 - (d) “**Update**” means a minor modification or enhancement to the Software related to a bug fix, minor additional functionality or legislative changes.
 - (e) “**Upgrade**” means a major overhaul of the Software which is a complete new version of the Software.

2. This Support and Maintenance Agreement is the exclusive statement of the entire support and maintenance agreement between Cogsdale and City.
3. Cogsdale shall provide software support primarily via telephone and electronic mail in addition to site visits only when necessary. 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 such services may, at Cogsdale's sole discretion, be modified or supplemented from time to time. To enable Cogsdale to provide effective support, the City will establish auto remote access procedures compatible with Cogsdale's then current practices which may be revised over time.
4. This Support and Maintenance Agreement becomes effective on the Start Date.
5. In consideration for the support services specified in Section 2, City shall pay the "Support and Maintenance Fee" as detailed in Exhibit 1 below. The Support and Maintenance Fee will be billed annually in advance beginning on the Start Date and thereafter on the anniversary of the Start Date or on an alternative date mutually agreed to by both parties. If the City would like to match the invoicing of the Support and Maintenance Fee to its fiscal year or any other period, it may request, during the initial term of this Support and Maintenance Agreement that Cogsdale issue a prorated invoice for the portion remaining during the initial term. Following the Initial Term (as defined herein) Cogsdale may increase the Support and Maintenance Fee in relation to each renewal term but City shall only be billed once per year.
6. In addition to the Support and Maintenance Fee, City shall reimburse Cogsdale 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 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 \$75.00/hour; a per diem rate of \$70.00 for week days and a \$125.00 for weekends and statutory holidays that includes all meal, food and telecommunications expenses (no receipts will be provided); and a mileage charge consistent with the Internal Revenue Service recommended rate per mile,
 - (c) and all other reasonable direct expenses incurred in the performance of Cogsdale's duties hereunder.

Cogsdale may update its reimbursement policies from time to time, 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 Cogsdale.

7. Cogsdale 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 Cogsdale outside of the scope of those services provided by Cogsdale as described in Exhibit 2 including additional training not covered by the Software Implementation Services Agreement and professional services for the installation and implementation of the Upgrade that will be subject to Cogsdale's then-prevailing policies, terms and Billable Fees related to pricing and hourly rates.

8. 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.
9. All payments hereunder shall be in U.S. dollars and shall be net of any taxes, tariffs or other governmental charges. Cogsdale shall be responsible for paying all taxes, fees, assessments and premiums of any kind payable on its employees and operations. Any tax Cogsdale 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 Cogsdale 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.
10. The initial term of this Support and Maintenance Agreement shall be for three (3) years beginning on the Start Date (the "Initial Term").
11. Thereafter, 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 one hundred and twenty (120) days' notice in writing prior to the end of the initial term or any subsequent renewal term. 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. Cogsdale 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, 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 upon the occurrence of any Event of Default.

Notwithstanding anything to the contrary herein, Cogsdale acknowledges that, if this Agreement extends for several fiscal years, continuation of this Support and Maintenance Agreement is subject to appropriation of funds for this Support and Maintenance Agreement. If funds to enable the City to effect continued payment under this Agreement are not appropriated or otherwise made available, the City shall have the right to terminate this Support and Maintenance Agreement without penalty at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Cogsdale, which in any event shall not be less than thirty (30) days prior

to the end of any term.

12. Title to and ownership of all proprietary rights in the Releases and all related proprietary information supplied by Cogsdale in providing the services pursuant to this Support and Maintenance Agreement shall at all times remain with Cogsdale, and City shall acquire no proprietary rights by virtue of this Support and Maintenance Agreement.
13. Cogsdale shall have the right to terminate this Support and Maintenance Agreement immediately if City attempts to assign this Support and Maintenance Agreement or any of its rights hereunder, or undergoes a Reorganization, without complying with the License Agreement.
14. In the event City fails to pay all or any portion of an invoice on or before sixty (60) days after the date it becomes due, Cogsdale shall have the option to suspend or terminate this Support and Maintenance Agreement. Suspension or termination shall not relieve the City of its obligation to pay its outstanding invoices, including any applicable late charges. City will be required to pay Cogsdale the entire Support and Maintenance Fees for the period of suspension prior to reinstatement of support and maintenance services.
15. 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 or the non-breaching party may elect to enforce any such provision in the event of any repeated or continuing breach by the other.
16. 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.
17. The particular provisions of this Support and Maintenance Agreement shall be deemed confidential in nature and neither City nor Cogsdale shall divulge any of its provisions as set forth herein to any third party except as may be required by law.
18.
 - (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 Cogsdale recognize that circumstances may arise entitling the City to damages for breach or other fault on the part of Cogsdale arising from this Support and Maintenance Agreement. The parties agree that in all such circumstances the City's remedies and Cogsdale'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) THE AGGREGATE LIABILITY OF COGSDALE 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 RESCISSION OF CONTRACT, TORT, BREACH OF TRUST, OR BREACH OF FIDUCIARY DUTY, AND INCLUDING ANY INDEMNIFICATION OBLIGATIONS, SHALL NOT EXCEED, IN THE AGGREGATE, THE AMOUNT OF FEES ACTUALLY PAID BY THE CITY TO COGSDALE 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, LOSS OF REVENUE, LOSS OF PROFITS, FAILURE TO REALIZE EXPECTED SAVINGS, LOSS OF DATA, LOSS OF BUSINESS OPPORTUNITY EITHER UNDER OR RELATING TO THIS SUPPORT AND MAINTENANCE AGREEMENT OR ITS SUBJECT MATTER, WHETHER BASED ON BREACH OF CONTRACT, 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.
19. 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 extend to such person's affiliates and to its shareholders, directors, officers, employees and affiliates.
20. Where remedies are expressly afforded by this Support and Maintenance Agreement, such remedies are intended by the parties to be the sole and exclusive remedies of the City for liabilities of Cogsdale arising out of or in connection with this Support and Maintenance Agreement, notwithstanding any remedy otherwise available at law or in equity.
21. The City may, at City's option and expense, enter into an escrow arrangement with Cogsdale. Upon the City's request:
- (i) City shall be presented with the standard escrow beneficiary enrollment document for participation in Cogsdale's source code escrow arrangement with an escrow agent (the "**Escrow Arrangement**").
 - (ii) By entering into this Escrow Arrangement, the City shall have all the rights as stipulated in the escrow agreement together with those rights which are more specifically outlined in Schedule "A", Escrow Terms, which shall form part of this Support and Maintenance Agreement in accordance with the terms of Schedule "A".

22. Cogsdale shall procure and maintain during the life of this Support and Maintenance Agreement such insurance to meet the requirement set forth in Exhibit 3. Prior to commencement of work under this Support and Maintenance Agreement, Cogsdale shall provide to the City documentation reasonably satisfactory to the City, through City-approved means (currently myCOI), demonstrating it has obtained the policies and endorsements required by Exhibit 3. Cogsdale shall add registration@mycoitracking.com to its safe sender's list so that it will receive necessary communication from myCOI. Any insurance provider of Cogsdale shall be authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V". Insurance policies and certificates issued by non-authorized insurance companies are not acceptable unless approved in writing by the City. Cogsdale shall ensure any subcontractors performing services under this Support and Maintenance Agreement also meet the requirements as set for in Exhibit 3.
23. To the fullest extent permitted by law, and subject to the limitation of liability set forth in Section 18, Cogsdale shall indemnify, defend, and hold the City, its officers, employees and agents harmless from all third party claims, suits, and judgments, including reasonable attorney's fees, resulting from any grossly negligent acts, or willful misconduct, by Cogsdale or its employees and agents occurring in the performance of or breach in this Agreement, except to the extent that any suit, claim, judgment or expense are finally judicially determined to have resulted from the City's negligence or willful misconduct or its failure to comply with any of its material obligations set forth in this Agreement. Cogsdale's indemnification obligations under this Section are contingent upon the following: (i) City has provided prompt notice of the claim, action, or demand to Cogsdale; (ii) City has not made any settlement offers either prior to or after providing notice to Cogsdale of the applicable claim, except with Cogsdale's prior written consent, unless required by applicable law; (iii) City has allowed Cogsdale sole control of the defense of any claim or proceeding and all negotiations for its compromise or settlement; and (iv) City provides reasonable assistance to Cogsdale, at Cogsdale's expense, throughout the action or proceeding. City may, at City's sole cost and expense (which is outside the scope of the indemnity), retain counsel of its own choosing who shall be permitted to attend all settlement conference and hearing or other court appearances (except where the court has specifically made an order against such attendance) related to the proceeding.
24. Cogsdale agrees to comply, and to require its subcontractor(s) to comply, with the non-discrimination provisions of MCL 37.2209. Cogsdale further agrees to comply with the provisions of Section 9:158 of Chapter 112 of the Ann Arbor City Code and to assure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity.
25. If Cogsdale is a "covered employer" as defined in Chapter 23 of the Ann Arbor City Code, Cogsdale agrees to comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code. Cogsdale agrees to pay those employees providing Services to the City under this Agreement a "living wage," as defined in Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3); to post a notice approved by the City of

the applicability of Chapter 23 in every location in which regular or contract employees providing services under this Support and Maintenance Agreement are working; to maintain records of compliance; if requested by the City, to provide documentation to verify compliance; to take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee or person contracted for employment in order to pay the living wage required by Section 1:815; and otherwise to comply with the requirements of Chapter 23.

26. Cogsdale certifies it has no financial interest in the services to be provided under this Support and Maintenance Agreement other than the compensation specified herein (or otherwise agreed to in writing by the Parties). Cogsdale further certifies that it presently has no personal or financial interest, and shall not acquire any such interest, which would conflict in any manner with its performance of the services under this Support and Maintenance Agreement.
27. This Support and Maintenance Agreement shall be governed by the laws of the State in which City is located.
28. Any notice required or permitted to be given to any party to this Agreement shall be given in writing and shall be delivered personally, mailed by prepaid registered post or sent by facsimile to the appropriate address or facsimile number set out below. Any such notice shall be conclusively deemed to have been given and received on the day on which it is delivered or transmitted (or on the next succeeding business day if delivered or received by facsimile after 5:00 p.m. local time on the date of delivery or receipt, or if delivered or received by facsimile on a day other than a business day), 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 Cogsdale, to:

COGSDALE CORPORATION
14 MacAleer Drive, Suite 5
Charlottetown, PE C1E 2A1
Attention: Executive Vice President
Telephone: 902-892-3101

and in the case of the City, to:

City of Ann Arbor
Tom Shewchuk, Director, Information Technology Services Unit
301 E. Huron St.
Ann Arbor, Michigan 48104

29. This Support and Maintenance Agreement may not be assigned by the City without the prior written consent of Cogsdale. This Support and Maintenance Agreement shall be binding upon the successors and assigns of the parties and inure to the benefit of the successors and permitted assigns of the parties.

30. 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.
31. This Support and Maintenance Agreement may be executed 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.

[Signatures on Following Page]


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


FOR COGSDALE

By Todd Ohman / Vice President, Client Support

Its  Type Name
Date: _____


FOR THE CITY OF ANN ARBOR

By  06/17/2019
CHRISTOPHER TAYLOR, MAYOR
Christopher Taylor, Mayor


By  06/24/2019
JACQUELINE BEAUDRY, CITY CLERK
Jacqueline Beaudry, City Clerk

Approved as to substance

 06/07/2019
TOM CRAWFORD, CHIEF FINANCIAL OFFICER
Tom Crawford, Service Area Administrator

 06/11/2019
HOWARD LAZARUS, CITY ADMINISTRATOR
Howard S. Lazarus, City Administrator

Approved as to form and content

 06/11/2019
STEPHEN POSTEMA, CITY ATTORNEY
Stephen K. Postema, City Attorney

Schedule "A"

Escrow Terms

Where the City has agreed to be a beneficiary of the Escrow Agreement (as defined below) by entering into the Escrow Arrangement, the following sections shall apply to the Support and Maintenance Agreement upon the execution of the Escrow Arrangement.

- (a) Cogsdale and Lincoln-Parry (the "**Escrow Agent**") have entered into an escrow agreement (the "**Escrow Agreement**"). The Source Code is provided by Cogsdale to the Escrow Agent pursuant to the terms of this Agreement. The City has a right to the Source Code pursuant to the provisions of this Schedule and the Escrow Agreement as it has agreed to participate in the Escrow Arrangement and is a beneficiary because the City has completed the Escrow Arrangement document. Cogsdale agrees that if an "Event of Default" occurs, then the City shall have the right to one copy of the most current version of the Source Code for the affected Software and associated Documentation.
- (b) An **Event of Default** is defined as and shall be deemed to have occurred if Cogsdale: (1) ceases to market or make available maintenance or support services for the Software during a period in which the City is entitled to receive or to purchase, or is receiving or purchasing, such maintenance and support and Cogsdale has not promptly cured such failure despite the City's demand that Cogsdale make available or perform such maintenance and support, (2) becomes insolvent, executes an assignment for the benefit of creditors, or becomes subject to bankruptcy or receivership proceedings, and it continues to be subject to bankruptcy proceedings ninety (90) days following either its application into bankruptcy protection or the commencement of such proceedings, or (3) has transferred all or substantially all of its assets or obligations set forth in this Agreement to a third party which has not assumed all of the obligations of Cogsdale set forth in this Agreement.
- (c) Cogsdale will promptly and continuously update and supplement the Source Code as necessary with all corrections, improvements, updates, releases, or other changes developed for the Software and Documentation. Such Source Code shall be in a form suitable for reproduction and use and shall consist of a full source language statement of the program or programs comprising the Software.
- (d) The governing License for the Software includes the right to use Source Code received under this Schedule as necessary to modify, maintain, and update the Software but for no other purposes outside the normal business operations of the City.
- (e) The termination of the Support and Maintenance Agreement shall immediately end the City's rights as a beneficiary under the Escrow Agreement and Escrow Arrangement, as applicable.
- (f) This Schedule "A" shall form part of the Support and Maintenance Agreement only

where an Escrow Arrangement is entered into by the parties. The Escrow Agreement provides that either the Escrow Agent or Cogsdale will annually send notices to the City of the Escrow Agent's continued possession of the Source Code and will also state the activity related to the Source Code provided to the Escrow Agent by Cogsdale for the previous year. The Escrow Agreement cannot be terminated without the consent of each beneficiary (licensee) of the Escrow Agreement.

Exhibit 1
Annual Support and Maintenance Fee

Period	Product Description with dates	Total
Jul 1, 2018 - June 30, 2019	ANNA100 CSM (07/01/2018 - 06/30/2019)	\$ 74,427.88
	ANNA101 Customer Web 3 (QUO-5019) (07/1/2018 - 06/30/2019)	\$ 4,242.04
	ANNA102 eOne - Smartlist Builder, Extender Standard (07/01/2018 - 06/30/2019)	\$ 837.16
	ANNA103 Microsoft Dynamics GP Software (07/01/2018 - 06/30/2019)	\$ 17,514.90
Year 1		\$ 97,021.98
Jul 1, 2019 - June 30, 2020	ANNA100 CSM (07/01/2020 - 06/30/2021)	\$ 81,078.41
	ANNA101 Customer Web 3 (QUO-5019) (07/01/2020 - 06/30/2021)	\$ 4,621.18
	ANNA102 eOne - Smartlist Builder, Extender Standard (07/01/2020 - 06/30/2021)	\$ 1,459.17
	ANNA103 Microsoft Dynamics GP Software (07/01/2020 - 06/30/2021)	\$ 19,080.32
Year 2		\$ 106,239.07
Jul 1, 2020 - June 30, 2021	ANNA100 CSM (07/01/2021 - 06/30/2022)	\$ 89,222.22
	ANNA101 Customer Web 3 (QUO-5019) (07/01/2021 - 06/30/2022)	\$ 5,085.86
	ANNA102 eOne - Smartlist Builder, Extender Standard (07/01/2021 - 06/30/2022)	\$ 1,605.80
	ANNA103 Microsoft Dynamics GP Software (07/01/2021 - 06/30/2022)	\$ 20,997.60
Year 3		\$ 116,911.49

Escrow (Optional): \$1500

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.

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

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
- Cost effective upgrade solutions

Scheduled assistance for installations, upgrades & other special projects (there may be charges depending on the scope of work)

Technical troubleshooting & issue resolution

E-mail support call logging and notification

Free eSupport access 24 x 7 with the following on-line benefits:

- Log & close calls
- View & update calls
- Update contact information
- Access published documentation
- Access available downloads
- Access Support knowledge base
- Participate in Discussion Forums
- Report on metrics

Standard software releases and updates

- Defect corrections (as warranted)
- Planned enhancements
- State and/or Federal mandated changes (charges may exist depending on scope)
- Payroll regulated changes
- Participation in beta program
- Release notes

Limited duration training questions (15 minute guideline)

Customer Care Program

- Technical support bulletins
- Communication on new products and services
- On-site visits (as required)

Design review for potential enhancements or custom modifications

Outstanding Calls Report with conference call (as required)

Ability to attend the annual customer conference (attendance fees apply after City's first attendance, which may be up to four people)

HelpDesk Hours

Our standard hours of support are from 7:00 a.m. EST to 8:00 p.m. EST, Monday to Friday, excluding designated statutory holidays. Support is available from 8:00 p.m. EST through to 8:00 a.m. EST and is billable on an hourly basis. Support hours may vary by specific product line. Weekend 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 – Target initial contact: 2 hours

Priority 2: 1 - 8 hours – Target initial contact: 2 hours

Priority 3: 1 - 24 hours – Target initial contact: 2 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 & 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:

Quarterly Performance Review

Cogsdale will conduct quarterly performance review meetings with Waterloo Water Works at the time of quarterly billing during the first one and a half years immediately after go-live. The purpose of the quarterly performance review will be to list open issues and their status in support of Water Works' release of quarterly payment.

Priority 1 – High – resolution within 48 hours from the submittal of a case

System Down (Software Application, Hardware, Operating System, Database)

Inability to process payroll checks

Inability to process accounts payable checks

Inability to process bills

Program errors without workarounds impacting critical processes of the Meter to Cash cycle:

Reading, Billing, Payment, Credit/Collections

Incorrect calculation errors impacting a large number of records

Aborted postings or error messages preventing data integration and update

Performance issues of severe nature related to Cogsdale Software impacting critical processes

Hand-held interface issues related to Cogsdale Software preventing billing

Web-based customer self-service not functioning (for reasons related to the Software)

Priority 2 - Medium – resolution within 6 months from submittal of the case

- System errors that have workarounds
- Calculation errors impacting a small number of records
- Reports calculation issues
- Printer related issues (related to interfaces with our software and not the printer itself)
- Security issues
- Workstation connectivity issues (Workstation specific and for reasons related to the Software)
- Program errors without workarounds (not related to critical operations of the Meter to Cash cycle: Reading, Billing, Payment, Credit/Collections)
- Issues with a large number of accounts that require manual workarounds

Priority 3 - Low

- Report formatting issues
- Training questions, how to, or implementing new processes
- Aesthetic issues
- Issues with a majority of accounts that have programmatic 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, our support analysts cannot provide assistance unless a support call is logged. Our current process for logging calls includes the following: eSupport (via support portal), email and phone.

Your call must contain at a minimum: your City 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 support system or one of our support analysts will provide you with a call id to track your issue and your call will be logged into our support tracking database.

Your call will be stored in a queue and the first available support representative will be assigned to deal with your issue.

As the support representative assigned to your call 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 call will be tracked against your all in our support database. At any time, if available to you, you may log onto our website to see the status of your call.

Once your call has been resolved, you will receive an automated notification by email that your call has been closed. This email will contain the entire event history of the call from the time the call was created and leading up to the resolution of the call. You also have the option of viewing both your open and closed calls, if available to you, via our website.

If your issue needs to be escalated to a development resource or programmer for resolution, your issue will be logged into our development tracking database and you will be provided with a separate id number to track the progress of the issue. At this time, your support call will be closed and replaced by the development id number. The development id number will remain open until your issue has been completely resolved. Issues escalated to development will be scheduled for resolution and may not be resolved immediately depending on the nature and complexity of the issue.

Contact the support department at your convenience for a status update on your development issues, or log onto our website 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 support supervisor or group lead
- Level 3:** Contact the Director of Support
- Level 4:** Contact the EVP of Cogsdale

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 Eve	Early Closure
New Year's Day	Closed
Labor Day	Closed
Christmas Eve	Early Closure
Christmas Day	Closed

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 & changes to hand-held interface or creation of new interface
- Setup of new services or changes to services (PAP, ACH, etc)
- File imports/exports - Interfaces to other applications
- Refreshes, backups, restores, setting up test areas
- Setup of new printers, printer setup changes
- 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 & optimization
- Extended Hardware & Operating System support
- Upgrades & support of third party software
- Installations / re-installations (workstations, servers)

Test Databases & 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. The creation of Test Databases and Environments is a billable service, quotations and incremental maintenance rates will be provided on request.

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 City's responsibility to ensure the connection is valid at your location so that we can connect to your site and resolve any issues. Our supported methods of connection are: Direct internet, Virtual Private Network (VPN), Remote Access Server (RAS), Direct Connection (modem) and Terminal Services (a backup connection may be required for file transfers).

Exhibit C Insurance Requirements

From the Start Date of this Support and Maintenance Agreement, and continuing without interruption during the term of this Support and Maintenance Agreement, Cogsdale shall have, at a minimum, the following insurance, including all endorsements necessary for Cogsdale to have or provide the required coverage.

A. Cogsdale shall have insurance that meets the following minimum requirements:

1. Professional Liability Insurance or Errors and Omissions Insurance protecting Cogsdale and its employees in an amount not less than \$1,000,000.

2. Worker's Compensation Insurance in accordance with all applicable state and federal statutes. Further, Employers Liability Coverage shall be obtained in the following minimum amounts:

- Bodily Injury by Accident - \$500,000 each accident
- Bodily Injury by Disease - \$500,000 each employee
- Bodily Injury by Disease - \$500,000 each policy limit

3. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 04 13 or current equivalent. The City of Ann Arbor shall be an additional insured. Further, the following minimum limits of liability are required:

- \$1,000,000 Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined

4. Motor Vehicle Liability Insurance equivalent to, as a minimum, Insurance Services Office form CA 00 01 10 13 or current equivalent. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles. Further, the limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.

5. Umbrella/Excess Liability Insurance shall be provided to apply in excess of the Commercial General Liability, Employers Liability and the Motor Vehicle coverage enumerated above, for each occurrence and for aggregate in the amount of \$1,000,000.

B. Insurance required under A.3 and A.4 above shall be considered primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance.

C. Documentation must explicitly state the following: (a) the policy number(s); name of insurance company; name(s), email address(es), and address(es) of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions, which may be approved by the City in its sole discretion; (c) that the policy conforms to the requirements specified. Cogsdale

shall furnish the City with satisfactory certificates of insurance and endorsements prior to commencement of any work. Upon request, Cogsdale shall provide within 30 days, a copy of the policy(ies) and all required endorsements to the City.