



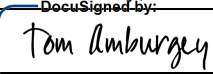
Superion Solutions Maintenance Agreement

This Superion Solutions Maintenance Agreement (the "**Agreement**"), effective as of the latest date shown on the signature block below (the "**Effective Date**"), is entered into between Superion, a Delaware Limited Liability Company with its principal place of business in Lake Mary, FL ("**Superion**") and the Town of Miami Lakes, Florida ("**Customer**"), together with Superion, the "**Parties**", and each, a "**Party**".

WHEREAS, Superion offers ongoing maintenance and support services to software applications it has licensed or granted cloud/remote access to; and

WHEREAS, Customer desires to renew these services and/or access rights for an annual term and Superion desires to grant and provide these services and/or access rights, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, by the signatures of their duly authorized representative below, the Parties intending to be legally bound, agree to all of the following provisions and exhibits of this Agreement:

SUPERION, LLC.	Town of Miami Lakes
1000 Business Center Dr. Lake Mary, FL 32746	6601 Main St. Miami Lakes, FL 33014
By: 	By:
Print Name: Tom Amburgey	Print Name:
Print Title: General Manager	Print Title:
Date Signed: March 29, 2019	Date Signed:

1. Superion Solution: Public Administration

2. Term.

- 2.1. The Term of this Agreement commences as of the Effective Date stated in Exhibit 1 unless terminated earlier pursuant to any of the Agreement's express provisions (the "**Initial Term**").
- 2.2. **Renewal Term.** At the Customer's election, this Agreement may automatically renew for additional successive one (1) year terms unless earlier terminated pursuant to any of the Agreement's provisions (a "**Renewal Term**" and, collectively, with the Initial Term, the "**Term**").
- 2.3. **Non-Renewal.** Customer may elect to end renewal of the contract by issuing a notice of non-renewal, in writing, three (3) months prior to the expiration of the current contract term.

3. Fees.

In consideration of the rights and services granted by Superion to Customer under this Agreement, Customer shall make payments to Superion pursuant to the amounts and payment terms outlined in Exhibit 1 (the "**Cost Summary**").

4. Definitions.

Capitalized terms not otherwise defined in this Agreement have the meanings set forth below:

- 4.1. "**Action**" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory or other, whether at law, in equity, or otherwise.
- 4.2. "**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person.
- 4.3. "**Authorized User**" means Customer's employees, consultants, contractors, and agents who are authorized by Customer to access and use the Superion Solutions under the rights granted to Customer pursuant to this Agreement, and for whom access to the Superion Solutions has been purchased.

- 4.4. **"Baseline"** means the version of a Superior Solution updated to the particular time in question through Superior's warranty services and maintenance, but without any other modification whatsoever.
- 4.5. **"Component System"** means any one of the Superior Solutions Customer has currently licensed, subscribed to, or been granted cloud access to, including all copies of Source Code, Object Code and all related specifications, Documentation, technical information, and all corrections, modifications, additions, development work, improvements and enhancements to and all Intellectual Property Rights for such Component System.
- 4.6. **"Customer Data"** means information, data, and content, in any form or medium, collected, downloaded, or otherwise received, directly or indirectly from Customer, an Authorized User or end-users by or through the Superior Solutions, provided the data is not personally identifiable and not identifiable to Customer.
- 4.7. **"Custom Modification"** means a change that Superior has made at Customer's request to any Component System in accordance with a Superior-generated specification, but without any other changes whatsoever by any Person.
- 4.8. **"Customer Systems"** means the Customer's information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated by Customer or through the use of third-party services.
- 4.9. **"Defect"** means a material deviation between the Baseline Superior Solution and its Documentation, for which Defect Customer has given Superior enough information to enable Superior to replicate the deviation on a computer configuration that is both comparable to the Customer Systems and that is under Superior's control. Further, with regard to each Custom Modification, Defect means a material deviation between the Custom Modification and the Superior-generated specification and documentation for such Custom Modification, and for which Defect Customer has given Superior enough information to enable Superior to replicate the deviation on a computer configuration that is both comparable to the Customer Systems and that is under Superior's control.
- 4.10. **"Documentation"** means any manuals, instructions, or other documents or materials that Superior provides or makes available to Customer in any form or medium and which describe the functionality, components, features, or requirements of the Superior Solutions, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance thereof.
- 4.11. **"Enhancements"** means general release (as opposed to custom) changes to a Baseline Component System or Custom Modification which increase the functionality of the Baseline Component System or Custom Modification in question.
- 4.12. **"Harmful Code"** means any software, hardware, device or other technology, including any virus, worm, malware, or other malicious computer code, the purpose or effect of which is to (a) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede any (i) computer, software, firmware, hardware, system, or network; or (ii) any application or function of any of the foregoing or the security, integrity, confidentiality, or use of any data Processed thereby; or (b) prevent Customer or any Authorized User from accessing or using the Superior Solutions as intended by this Agreement.
- 4.13. **"Intellectual Property Rights"** means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.
- 4.14. **"Maintenance"** means optimization, error correction, modifications, and updates to Superior Systems to correct any known Defects and improve performance. Maintenance will be provided for each Component System, the hours and details of which are described in Exhibit 2 ("**Support Standards**").
- 4.15. **"New Releases"** means new editions of a Baseline Component System or Custom Modification.
- 4.16. **"Person"** means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other entity.
- 4.17. **"Personal Information"** means any information that does or can identify a specific individual or by or from which a specific individual may be identified, contacted, or located. Personal Information includes all "nonpublic personal information" as defined under the Gramm-Leach-Bliley Act, "protected health information" as defined under the Health and Insurance Portability and Accountability Act of 1996, "Personal Data" as defined in the EU General Data Protection Regulation (GDPR 2018), "Personal Information" as defined under the Children's Online Privacy Protection Act of 1998, and all rules and regulations issued under any of the foregoing.

- 4.18. **"Professional Services"** means installation, implementation, development work, training or consulting services including custom modification programming, support relating to custom modifications, on-site support services, assistance with data transfers, system restarts and reinstallations provided by Superion.
- 4.19. **"Representatives"** means, with respect to a party, that party's employees, officers, directors, agents, subcontractors, and legal advisors.
- 4.20. **"Superion Personnel"** means all individuals involved in the performance of Support Services and Professional Services as employees, agents, Subcontractors or independent contractors of Superion.
- 4.21. **"Superion Solution(s)"** means the Component Systems, Documentation, Custom Modifications, development work, Superion Systems and any and all information, data, documents, materials, works, devices, methods, processes, hardware, software, technologies, inventions, deliverables, technical or functional descriptions, requirements, plans, and reports, provided or used by Superion or any Subcontractor in connection with Support Services rendered under this Agreement.
- 4.22. **"Superion Systems"** means the information technology infrastructure used by or on behalf of Superion to deliver Superion Solutions, including all computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by Superion or through the use of third-party services.
- 4.23. **"Support Services"** means Maintenance, Enhancements, implementation of New Releases, and general support efforts to respond to incidents reported by Customer in accordance with the detailed Support Standards outlined in Exhibit 2.
- 4.24. **"Third-Party Materials"** means materials and information, in any form or medium, including any software, documents, data, content, specifications, products, related services, equipment, or components of or relating to the Superion Solutions that are not proprietary to Superion.

5. Support Services, Access & Delivery.

- 5.1. Maintenance & Support: Subject to and conditioned on Customer and their Authorized Users' compliance with the terms and conditions of this Agreement, during the Term Superion will provide to Customer Support Services in accordance with the Support Standards outlined in Exhibit 2, to include Maintenance actions, optimization, error correction, modifications, updates, correcting known Defects, improving performance, Enhancements, implementation of New Releases, general support efforts, and responding to incidents reported by Customer in accordance with the detailed Support Standards in Exhibit 2.
- 5.2. Access, Scope of Use & Delivery. Subject to and conditioned on Customer and their Authorized Users' compliance with the terms and conditions of this Agreement, Superion hereby grants Customer a non-exclusive, non-transferable right to access and use the Solutions, solely by Authorized Users. Such use is limited to Customer's internal use.
- 5.3. Delivery. For additional purchases of software and/or hardware from Superion (or Third-Party Offerings through Superion) during the Maintenance Term via Add-On Quote or similar supplemental procurement agreement, Superion shall deliver to Customer the initial copies of the Superion Solution(s) purchased by (a) electronic delivery, by posting it on Superion's network for downloading, or similar suitable electronic file transfer method, or (b) physical shipment, such as on a disc or other suitable media transfer method. Physical shipment is on FOB-Superion's shipping point, and electronic delivery is deemed effective at the time Superion provides Customer with access to download the Superion Solutions. The date of such delivery shall be referred to as the **"Delivery Date."**

6. System Control, Limitations & Exceptions.

- 6.1. System Control. Except as otherwise expressly provided in this Agreement: (i) Superion has and will retain sole control over the operation, provision, maintenance, and management of the Superion Solutions; and (ii) Customer has and will retain sole control over the operation, maintenance, management of, and all access to and use of, the Customer Systems, and sole responsibility for access to and use of the Superion Solutions by any Person by or through the Customer Systems or other means controlled by Customer or any Authorized User, including any reports or results obtained from any use of the Superion Solutions, and conclusions, decisions, or actions based on such use.
- 6.2. Limitations. Customer must provide Superion with such facilities, equipment and support as are reasonably necessary for Superion to perform its obligations under this Agreement, including, if required by Superion, remote access to the Customer Systems. Superion is not responsible or liable for any delay or failure of performance caused in whole or in part by any Customer delay or Customer's failure to perform any obligations under this Agreement.

6.3. **Exceptions.** Superior has no obligation to provide Support Services relating to any Defect with the Superior Solutions that, in whole or in part, arise out of or result from any of the following:

- 6.3.1. software, or media on which provided, that is modified or damaged by Customer or third party;
- 6.3.2. any operation or use of, or other activity relating to, the Superior Solutions other than as specified in the Documentation, including any incorporation, or combination, operation or use of the Superior Solutions in or with, any technology (software, hardware, firmware, system, or network) or service not specified for Customer's use in the Documentation;
- 6.3.3. any negligence, abuse, misapplication, or misuse of the Superior Solution other than by Superior personnel, including any Customer use of the Superior Solution other than as specified in the Documentation or expressly authorized in writing by Superior;
- 6.3.4. if applicable for various premise based Superior Solutions, any Customer's failure to promptly install any New Releases that Superior has previously made available to Customer;
- 6.3.5. the operation of, or access to, Customer's or a third party's system, materials or network;
- 6.3.6. any relocation of the Superior Solution other than by Superior personnel;
- 6.3.7. any beta software, software that Superior makes available for testing or demonstration purposes, temporary software modules, or software for which Superior does not receive a fee;
- 6.3.8. any breach of or noncompliance with any provision of this Agreement by Customer or any of its Representatives or any Force Majeure Event (including abnormal physical or electrical stress).

7. **Reservation of Rights.** Except for the specified rights outlined in this Section, nothing in this Agreement grants any right, title, or interest in or to any Intellectual Property Rights in or relating to the Support Services, Superior Solutions, or Third-Party Materials, whether expressly, by implication, estoppel, or otherwise. All right, title, and interest in the Superior Solutions, and the Third-Party Materials are and will remain with Superior and the respective rights holders.

8. **Changes.** Superior reserves the right, in its sole discretion, to make any changes to the Support Services and Superior Solutions that it deems necessary or useful to: (a) maintain or enhance the quality or delivery of Superior's services to its customers, the competitive strength of or market for Superior's services, or the Support Services' cost efficiency or performance; or (b) to comply with applicable law. Without limiting the foregoing, either party may, at any time during the Term, request in writing changes to particular Support Services, Professional Services or their product suite of Superior Solutions. The parties shall evaluate and, if agreed, implement all such requested changes. No requested changes will be effective unless and until memorialized in either a Superior issued Add-On Quote signed by the Customer, or a written change order or amendment to this agreement signed by both parties.

9. **Subcontractors.** Superior may from time to time in its discretion engage third parties to perform Support Services (each, a "Subcontractor").

10. **Security Measures.** The Superior Solution may contain technological measures designed to prevent unauthorized or illegal use of the Superior Solution. Customer acknowledges and agrees that: (a) Superior may use these and other lawful measures to verify compliance with the terms of this Agreement and enforce Superior's rights, including all Intellectual Property Rights, in and to the Superior Solution; (b) Superior may deny any individual access to and/or use of the Superior Solution if Superior, in its reasonable discretion, believes that person's use of the Superior Solution would violate any provision of this Agreement, regardless of whether Customer designated that person as an Authorized User; and (c) Superior may collect, maintain, process, use and disclose technical, diagnostic and related non-identifiable data gathered periodically which may lead to improvements in the performance and security of the Superior Solutions.

11. **Use Restrictions.** Customer shall not, and shall not permit any other Person to, access or use the Superior Solutions except as expressly permitted by this Agreement. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not, except as this Agreement expressly permits:

- 11.1. copy, modify, or create derivative works or improvements of the Superior Solutions, or rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available any Superior Solutions to any Person, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service;
- 11.2. reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Superior Solutions, in whole or in part;

- 11.3. bypass or breach any security device or protection used by Superior Solutions or access or use the Superior Solutions other than by an Authorized User through the use of his or her own then valid access;
- 11.4. input, upload, transmit, or otherwise provide to or through the Superior Systems, any information or materials that are unlawful or injurious, or contain, transmit, or activate any Harmful Code;
- 11.5. damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm in any manner the Superior Systems, or Superior's provision of services to any third party, in whole or in part;
- 11.6. remove, delete, alter, or obscure any trademarks, Specifications, Documentation, warranties, or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from any Documentation or Superior Solutions, including any copy thereof;
- 11.7. access or use the Superior Solutions in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any third party, or that violates any applicable law;
- 11.8. access or use the Superior Solutions for purposes of competitive analysis of the Superior Solutions, the development, provision, or use of a competing software service or product or any other purpose that is to Superior's detriment or commercial disadvantage or otherwise access or use the Superior Solutions beyond the scope of the authorization granted under this Section.

12. Customer Obligations.

- 12.1. Customer Systems and Cooperation. Customer shall at all times during the Term: (a) set up, maintain, and operate in good repair all Customer Systems on or through which the Superior Solutions are accessed or used; (b) provide Superior Personnel with such access to Customer's premises and Customer Systems as is necessary for Superior to perform the Support Services in accordance with the Support Standard; and (c) provide cooperation as Superior may reasonably request to enable Superior to exercise its rights and perform its obligations under and in connection with this Agreement.
- 12.2. Effect of Customer Failure or Delay. Superior is not responsible or liable for any delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under this Agreement.
- 12.3. Corrective Action and Notice. If Customer becomes aware of any actual or threatened activity prohibited by Section 11, Customer shall, and shall cause its Authorized Users to, immediately: (a) take all reasonable and lawful measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Superior Solutions and permanently erasing from their systems and destroying any data to which any of them gained unauthorized access); and (b) notify Superior of any such actual or threatened activity.

13. Confidentiality.

- 13.1. Confidential Information. "**Confidential Information**" means information in any form or medium (whether oral, written, electronic, or other) that the Disclosing Party considers confidential or proprietary, including information consisting of or relating to the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, and pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations. Without limiting the foregoing, Confidential Information of Superior includes the Superior Solutions, all software provided with the Superior Solutions, and algorithms, methods, techniques and processes revealed by the Source Code of the Superior Solutions and any software provided with the Superior Solutions. In connection with this Agreement each party (as the "**Disclosing Party**") may disclose or make available Confidential Information to the other party (as the "**Receiving Party**").
- 13.2. Exclusions. Confidential Information does not include information that: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to being disclosed or made available to the Receiving Party in connection with this Agreement; (b) was or becomes generally known by the public other than by the Receiving Party or any of its Representatives' noncompliance with this Agreement; (c) was or is received by the Receiving Party on a non-confidential basis from a third party that was or is independently developed by the Receiving Party without reference or use of any Confidential Information.
- 13.3. Protection of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall:
 - 13.3.1. not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement;

- 13.3.2. not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section; and (iii) are bound by written confidentiality or restricted use obligations at least as protective of the Confidential Information as the terms in this Section;
 - 13.3.3. safeguard the Confidential Information from unauthorized use, access, or disclosure using at least the degree of care it uses to protect its sensitive information and in no event less than a reasonable degree of care;
 - 13.3.4. ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' non-compliance with, the terms of this Section.
- 13.4. Compelled Disclosures. If the either Party or any of its Representatives is compelled by applicable law to disclose any Confidential Information then, to the extent permitted by law, that Party shall: (a) promptly, and prior to such disclosure, notify the other Party in writing of such requirement so that they can seek a protective order or other remedy or waive its rights under Section .3; and (b) provide reasonable assistance to the Disclosing Party in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section, the Receiving Party remains required by law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose.
- 13.5. Trade Secrets. Notwithstanding any other provisions of this Agreement, the Receiving Party's obligations under this Section with respect to any Confidential Information that constitutes a trade secret under any applicable law will continue until such time, if ever, as such Confidential Information ceases to qualify for trade secret protection under one or more such applicable laws other than as a result of any act or omission of the Receiving Party or any of its Representatives.

14. Security.

- 14.1. Superior will implement commercially reasonable administrative, technical and physical safeguards designed to ensure the security and confidentiality of Customer Data, protect against any anticipated threats or hazards to the security or integrity of Customer Data, and protect against unauthorized access or use of Customer Data. Superior will review and test such safeguards on no less than an annual basis.
- 14.2. Customer shall maintain, in connection with the operation or use of the Superior Solutions, adequate technical and procedural access controls and system security requirements and devices, necessary for data privacy, confidentiality, integrity, authorization, authentication and non-repudiation and virus detection and eradication.
- 14.3. To the extent that Authorized Users are permitted to have access to the Superior Solutions, Customer shall maintain agreements with such Authorized Users that adequately protect the confidentiality and Intellectual Property Rights of Superior in the Superior Solutions and Documentation, and disclaim any liability or responsibility of Superior with respect to such Authorized Users.

15. Personal Data. If Superior processes or otherwise has access to any personal data or personal information on Customer's behalf when performing Superior's obligations under this Agreement, then:

- 15.1. Customer shall be the data controller (where "**data controller**" means an entity which alone or jointly with others determines purposes for which and the manner in which any personal data are, or are to be, processed) and Superior shall be a data processor (where "**data processor**" means an entity which processes the data only on behalf of the data controller and not for any purposes of its own);
- 15.2. Customer shall ensure that it has obtained all necessary consents and it is entitled to transfer the relevant personal data or personal information to Superior so that Superior may lawfully use, process and transfer the personal data and personal information in accordance with this Agreement on Customer's behalf, which may include Superior processing and transferring the relevant personal data or personal information outside the country where Customer and the Authorized Users are located in order for Superior to provide the Superior Solutions and perform its other obligations under this Agreement; and
- 15.3. Superior shall process personal data and information only in accordance with lawful and reasonable instructions given by Customer and as set out in and in accordance with the terms of this Agreement; and

- 15.4. each party shall take appropriate technical and organizational measures against unauthorized or unlawful processing of the personal data and personal information or its accidental loss, destruction or damage so that, having regard to the state of technological development and the cost of implementing any measures, the measures taken ensure a level of security appropriate to the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction or damage in relation to the personal data and personal information and the nature of the personal data and personal information being protected. If necessary, the parties will cooperate to document these measures taken.

16. Representations and Warranties.

- 16.1. Support Services Representation and Warranty. Superior represents, warrants, and covenants to Customer that during the Term, Superior will perform the Support Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with both generally recognized industry standards for similar services, and the specific guidance for support found in Exhibit 2, and will devote adequate resources to meet its obligations under this Agreement. If Customer reasonably believes that any Support Services failed to meet this warranty, they will follow their preferred escalation path outlined in the Support Standards below, including receipt of service credit.

- 16.2. **DISCLAIMER OF WARRANTIES. EXCEPT FOR THE EXPRESS LIMITED WARRANTIES SET FORTH ABOVE, SUPERION MAKES NO WARRANTIES WHATSOEVER, EXPRESSED OR IMPLIED, WITH REGARD TO THE SUPERION SOLUTIONS, SUPPORT SERVICES, AND/OR ANY OTHER MATTER RELATING TO THIS AGREEMENT, AND THAT SUPERION DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHER, INCLUDING ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE, AND SPECIFICALLY DISCLAIMS IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. FURTHER, SUPERION EXPRESSLY DOES NOT WARRANT THAT A SUPERION SOLUTION, ANY CUSTOM MODIFICATION OR ANY IMPROVEMENTS WILL BE USABLE BY CUSTOMER IF THE SUPERION SOLUTION OR CUSTOM MODIFICATION HAS BEEN MODIFIED BY ANYONE OTHER THAN SUPERION PERSONNEL, OR WILL BE ERROR FREE, WILL OPERATE WITHOUT INTERRUPTION OR WILL BE COMPATIBLE WITH ANY HARDWARE OR SOFTWARE TO THE EXTENT EXPRESSLY SET FORTH IN THE DOCUMENTATION. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS-IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY OF THEM IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER. THIS AGREEMENT DOES NOT AMEND, OR MODIFY SUPERION'S WARRANTIES UNDER ANY AGREEMENT OR ANY CONDITIONS, LIMITATIONS, OR RESTRICTIONS THEREOF.**

17. **Notices.** All notices and other communications required or permitted under this Agreement must be in writing and will be deemed given when delivered personally, sent by United States registered or certified mail, return receipt requested; transmitted by facsimile or email confirmed by United States first class mail, or sent by overnight courier. Notices must be sent to a Party at its address shown below, or to such other place as the Party may subsequently designate for its receipt of notices in writing by the other Party.

If to Superior: **Superion**
1000 Business Center Dr.
Lake Mary, FL.
Phone: 407-304-3235 email: info@superion.com
Attention: Senior Counsel / Contracts Department

If to Customer: **Town of Miami Lakes**
6601 Main St.
Miami Lakes, FL 33014
Phone: * _____ email: * _____
Attention: * _____

18. Force Majeure.

- 18.1. No Breach or Default. Neither Party will be liable to the other for any failure or delay in fulfilling or performing any term of this Agreement (except for any payment obligation) when and to the extent such failure or delay is caused by any circumstances beyond such Party's reasonable control (a "**Force Majeure Event**"), including Acts of God, flood, fire, earthquake, explosion, war, terrorism, invasion, national or regional emergency, riot or other civil-unrest, labor disruption, acts and omissions of third parties, governmental and judicial action (including embargoes, export or import restrictions) not the fault

of the Party failing or delaying in performance.

- 18.2. Affected Party Obligations. In the event of any failure or delay caused by a Force Majeure Event, the affected Party shall give prompt written notice to the other Party stating the period of time the occurrence is expected to continue and use commercially reasonable efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

19. Mutual Indemnification.

- 19.1. Superior Indemnification. Superior shall indemnify, defend, and hold harmless Customer and Customer's officers, elected officials, directors, employees, agents, successors, and assigns from and against any and all losses incurred by or resulting from any Action by a third party (other than an Affiliate of Customer) that Customer's use of the Superior Solutions in accordance with this Agreement infringes or misappropriates such third party's US Intellectual Property Rights, US patents, copyrights, or trade secrets. The foregoing obligation does not apply to the extent that the alleged infringement arises from:

- 19.1.1. Third-Party Materials or Customer Data;
- 19.1.2. access to or use of the Superior Solutions in combination with any hardware, system, software, network, or other materials or service not provided by Superior or specified for Customer's use in the Documentation;
- 19.1.3. modification of the Superior Solutions other than: by or on behalf of Superior or with Superior's written approval in accordance with Superior's written specification;
- 19.1.4. failure to timely implement any modifications, upgrades, replacements, or enhancements made available to Customer by or on behalf of Superior; or
- 19.1.5. act, omission, or other matter described in Section 15.2 below, whether or not the same results in any Action against or losses by any Superior Indemnitee.

- 19.2. Customer Indemnification. Customer shall indemnify, defend, and hold harmless Superior and its officers, directors, employees, agents, successors, and assigns from and against any and all losses incurred by Superior resulting from any Action by a third party (other than an Affiliate of Superior) that arise out of or result from, or are alleged to arise out of or result from:

- 19.2.1. Customer Data, including any Processing of Customer Data by or on behalf of Superior in accordance with this Agreement;
- 19.2.2. Gross negligence or more culpable act or omission (including recklessness or willful misconduct) by Customer, any Authorized User, or any third party on behalf of Customer or any Authorized User, in connection with this Agreement.

- 19.3. Procedure. Each party shall promptly notify the other party in writing of any Action for which such party believes it is entitled to be indemnified. The party seeking indemnification shall cooperate with the other party at that party's sole cost and expense. The indemnitor shall promptly assume control of the defense and shall employ counsel of its choice that is reasonably acceptable to the indemnitee to handle and defend the same.

- 19.4. Sole Remedy. THIS SECTION SETS FORTH CUSTOMER'S SOLE REMEDIES AND SUPERIOR'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SERVICES AND SUPERIOR SOLUTIONS OR ANY SUBJECT MATTER OF THIS AGREEMENT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

20. Termination.

This Agreement may be terminated:

- 20.1. For cause by either Party, effective on written notice to the other Party, if the other Party materially breaches this Agreement and: (i) is incapable of cure; or (ii) being capable of cure, remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach.
- 20.2. For lack of payment by written notice to Customer, if Customer's failure to pay amounts due under this Agreement has continued more than ninety (90) days after delivery of written notice of non-payment.

21. Effect of Termination or Expiration.

On the expiration or earlier termination of this Agreement:

- 21.1. all rights, access, and authorizations granted to Customer hereunder will immediately terminate and Customer shall immediately cease all use of and other activities with respect to Superior's Confidential Information relating to the Superior Solutions, and within thirty (30) days deliver to Superior, or at Superior's request destroy and erase Superior's Confidential Information from all systems Customer directly or indirectly controls; and

- 21.2. all access or subscription fees, services rendered but unpaid, and any amounts due by Customer to Superior of any kind are immediately payable and due no later than thirty (30) days after the effective date of the termination or expiration, including anything that accrues within those thirty days.
- 21.3. The provisions set forth in the following sections, and any other right or obligation of the parties in this Agreement that, by its nature (including but not limited to: Use Restrictions, Confidential Information, Warranty Disclaimers, Mutual Indemnifications & Limitations of Liability), should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement.
- 21.4. Return of Customer Data. If Customer requests in writing at least 10 days prior to the effective date of expiration or earlier termination of this Agreement, Superior shall within 60 days following such expiration or termination, deliver to Customer in Superior's standard format the then most recent version of Customer Data maintained by Superior, provided that Customer has at that time paid all Fees then outstanding and any amounts payable after or as a result of such expiration or termination.
- 21.5. Deconversion. In the event of (i) expiration or earlier termination of this Agreement, or (ii) Customer no longer purchasing certain Superior Solutions (including those indicated to be Third-Party Materials), if Customer requests assistance in the transfer of Customer Data to a different vendor's applications ("**Deconversion**"), Superior will provide reasonable assistance. Superior and Customer will negotiate in good faith to establish the relative roles and responsibilities of Superior and Customer in effecting Deconversion, as well as the appropriate date for completion. Superior shall be entitled to receive compensation for any additional consultation, software and documentation required for Deconversion on a time and materials basis at Superior's then standard rates.
- 22. Assignment.** Customer shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement, in each case whether voluntarily, involuntarily, by operation of law, or otherwise, without Superior's prior written consent, which consent Superior may give or withhold in its sole discretion. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation, or reorganization involving Customer (regardless of whether Customer is a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations, or performance under this Agreement for which Superior's prior written consent is required. No delegation or other transfer will relieve Customer of any of its obligations or performance under this Agreement. Any purported assignment, delegation or transfer in violation of this Section is void. This Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors.
- 23. No Waiver.** A Party's failure to enforce its rights with respect to any single or continuing breach of this Agreement will not act as a waiver of the right of that Party to later enforce any such rights or to enforce any other or any subsequent breach.
- 24. Arbitration of Disputes.** Any dispute, controversy or claim arising out of or relating to this Agreement, including the breach, termination, or validity thereof, shall be resolved by final and binding arbitration.
- 24.1. Arbitration Procedure. The claimant shall commence the arbitration by delivering a notice of arbitration to the respondent setting out the nature of the claim(s), the relief requested, and the proposed location. Within thirty (30) days of the receipt of the notice, the respondent shall deliver its answer any counterclaim(s), relief requested, and any proposed change to location. The tribunal shall consist of three (3) arbitrators, appointed as follows: The claimant shall appoint an arbitrator in the request for arbitration and the respondent shall appoint an arbitrator in the answer. The two arbitrators so appointed shall, within thirty (30) days of delivery of the answer, appoint a third arbitrator who shall act as the chair of the tribunal. The tribunal shall decide the procedures in the arbitration after consultation with the parties. The tribunal may make its decisions by a majority. The tribunal shall have the power to grant any provisional or final remedy or relief it deems appropriate, including conservatory measures and an award of attorneys' fees. The parties agree that judgment may be entered upon the award by any court having jurisdiction.
- 25. Jurisdiction and Governing Law.** This Agreement and any dispute or claim arising, directly or indirectly, out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is governed by, and shall be construed and enforced in accordance with, the laws of the State of Florida excluding choice of law. Each party irrevocably (i) agrees that a County or Circuit Court in the Eighteenth Judicial Circuit, in and for Seminole County, Florida, or the United States District for the Middle District of Florida, shall have exclusive jurisdiction to settle any dispute, controversy or claim arising, directly or indirectly, out of or in connection with this Agreement, or the breach, termination or validity thereof (including non-contractual disputes or claims) and that such court shall be the proper venue therefor; (ii) waives the right to trial by jury, (iii) consents to service of process by first class certified mail, return receipt requested, postage prepaid, to the address at

which the party is to receive notice and (iv) agrees that the prevailing party shall be entitled to recover its reasonable attorney's fees, court costs and other legal expenses from the other party.

26. Severability. If any provision of this Agreement is illegal or unenforceable, it will be deemed stricken from the Agreement and the remaining provisions of the Agreement will remain in full force and effect.

27. LIMITATIONS OF LIABILITY.

LIMITED LIABILITY OF SUPERION. SUPERION'S LIABILITY IN CONNECTION WITH THE SERVICES, IMPROVEMENTS OR ANY OTHER MATTER RELATING TO THIS AGREEMENT WILL NOT EXCEED FEES THAT CUSTOMER ACTUALLY PAID TO SUPERION IN THE PREVIOUS TWELVE MONTHS PRECEDING THE ACTIONS LEADING TO WHEN SUCH LIABILITY AROSE. IN ANY EVENT, SUPERION SHALL NOT BE LIABLE FOR ANY LOSSES RESULTING FROM THE CRIMINAL ACTS OF THIRD PARTIES.

EXCLUSION OF DAMAGES. REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE, IN NO EVENT WILL SUPERION, SUPERION PERSONNEL, SUBCONTRACTORS OR SUPPLIERS BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR ANY (I) LOSS OF DATA, BUSINESS, REVENUE, PROFIT, GOODWILL, OR REPUTATION, (II) BUSINESS INTERRUPTION, INCREASED COSTS, OR DIMINUTION IN VALUE, OR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE; AND WHETHER OR NOT SUPERION, SUPERION PERSONNEL, SUBCONTRACTORS OR SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE.

BASIS OF THE BARGAIN. CUSTOMER ACKNOWLEDGES THAT SUPERION HAS SET ITS FEES AND ENTERED INTO THIS AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY AND THE DISCLAIMERS OF WARRANTIES AND DAMAGES SET FORTH IN THIS AGREEMENT, AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.

28. Third-Party Materials. Customer is hereby advised that Superior provides front-line support services for third parties, but these third parties assumes all responsibility for and liability in connection with the Third-Party Materials. Superior is not authorized to make any representations or warranties that are binding upon the third party or to engage in any other acts that are binding upon the third party, excepting specifically that Superior is authorized to represent the fees for the Third-Party Materials as the same is provided for in the Agreement and to accept payment of such amounts from Customer on behalf of the third party for as long as such third party authorizes Superior to do so. As a condition precedent to installing/accessing any Third-Party Materials, Customer may be required to execute a click-through, shrink-wrap EULA or similar agreement provided by the Third-Party Materials provider.

29. Entire Agreement; Amendment and Modification. This Agreement contains the entire understanding of the parties with respect to Maintenance, Support, Access, Service Levels and its subject matter, and supersedes and extinguishes all prior oral and written communications between the parties about these services and this subject matter. Nothing contained herein is intended to supersede or nullify any terms and conditions, rights, grants or licensed products purchased previously between the parties in prior Agreements. No modification of this Agreement will be effective unless in writing, signed by each Party, and expressly states that it amends this Agreement. Notwithstanding anything to the contrary herein, official Add-On Quotes on Superior letterhead issued by authorized Superior representatives and signed by Customer shall constitute supplemental order form amendments to this Agreement by allowing additional products or services to be added when needed.

30. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer on any other person any legal or equitable right, benefit, or remedy of any nature under or by reason of this Agreement.

31. Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

32. Cooperative Purchases. This Contract may be used by other government agencies. Superior has agreed to offer similar services to other agencies under the same terms and conditions as stated herein except that the compensation may be negotiated between Superior and other agencies based on the specific revenue expectations, agency reimbursed costs, and other agency requirements. The Customer will in no way whatsoever incur any liability in relation to specifications, delivery, payment, or any other aspect of purchases by such agencies.

33. Incorporated Exhibits to this Agreement:

- 33.1. Exhibit 1 – Project Cost Summary
- 33.2. Exhibit 2 - Maintenance & Support Standards
- 33.3. Exhibit 3 – Travel Expense Guidelines



EXHIBIT 1

Project Cost Summary

Application	Qty	Annual Term 5/1/2019-4/30/2020
Mobility Suite - iTRAKiT	1	\$ 3,341.84
AEC TRAK	1	\$ -
CodeTRAK	1	\$ -
Citizen Portal - eTRAKiT	1	\$ -
LandTrak	1	\$ -
LicenseTRAK	1	\$ -
TRAKiT GIS STD	1	\$ -
PermitTRAK	1	\$ -
ProjectTRAK	1	\$ -
TRAKiT eMarkup Server	1	\$ 9,468.52
TRAKiT(15 USERS)	1	\$ 23,865.16
Total		\$ 36,675.51 *

*NOTE: A 5% increase was applied to your maintenance support for 2019.

Application	Prorated 7 months 10/1/20 - 4/30/21
TRAKiT End User License (5 users)	1 \$ 1,166.67
TRAKiT-Finance Web API	1 \$ 1,166.67
Total	\$ 2,333.34

PAYMENT TERMS:

- a. Customer is responsible for paying all taxes relating to this Agreement. Applicable tax amounts (if any) are not included in the fees set forth in this Agreement. If Customer is exempt from the payment of any such taxes, Customer must provide Superior valid proof of exemption; otherwise, Superior will invoice Customer and Customer will pay to Superior all such tax amounts.
- b. If Customer fails to make any payment when due, then Superior may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly, or, if lower, the highest rate permitted under applicable law; and If such failure continues for 90 days following written notice thereof, Superior may suspend performance or access until past due amounts have been paid.



EXHIBIT 2

PART I - Support Standards for Premise Based Solutions

I. Support Hours: Hours During Which Superior's Telephone Support Will be Available to Customer in Connection with the Provision of Maintenance: Unless otherwise noted in the Order as to Support Type, support hours are Monday through Friday, 8:00 A.M. to 5:00 P.M. Customer's Local Time within the continental United States, excluding holidays ("5x9").

II. Targeted Response Times.

"Notification" means a communication to Superior's help desk by means of: (i) Superior's web helpline; (ii) the placement of a telephone call; or (iii) the sending of an e-mail, in each case, in accordance with Superior's then-current policies and procedures for submitting such communications.

III. Support Terms.

Beginning on the Execution Date and continuing for twelve (12) months thereafter ("**Initial Support Term**"), Superior shall provide the ongoing Support Services described herein for the corresponding Fees outlined in Exhibit 1. Upon expiration of the Initial Support Term, ongoing Support Services shall automatically renew, with customer paying for additional annual support periods, each a ("**Renewal Support Term**"). This renewal will continue until termination of this Agreement provided that, Superior shall not give notice of termination if it would be effective prior to a period equal to two times the Agreement's Initial Support Term.

With respect to Superior's support obligations, Superior will use diligent, commercially reasonable efforts to respond to Notifications from Customer relating to the Solution identified in the Order in accordance with the following guidelines with the time period to be measured beginning with the first applicable Superior "Telephone Support" hour occurring after Superior's receipt of the Notification:

Priority	Description	Response Goal	Resolution Goal
Urgent 1	A support issue shall be considered Urgent when it produces a Total System Failure; meaning Superior's Solution is not performing a process that has caused a complete work stoppage.	Within 60 minutes of the issue being reported and a resolution planned within 24 hours.	Although resolution times vary depending on the exact issue and customer environment, Superior has a stated goal to resolve an urgent issue within 24 hours or provide a resolution plan with urgent issues within 24 hours of being reported. A resolution plan will detail the steps necessary to understand and possibly resolve the issue.
Critical 2	A support issue shall be considered Critical when a critical failure in operations occurs; meaning Superior's Solution is not performing a critical process and prevents the continuation of basic operations. Critical problems do not have a workaround. This classification does not apply to intermittent problems.	Within two hours of the issue being reported and a resolution planned within five (5) days.	
Non-Critical 3	A support issue shall be considered Non-Critical when a non-critical failure in operations occurs; meaning Superior's Solution is not performing non-critical processes, but the system is still usable for its intended purpose or there is a workaround.	Within four hours of the issue being reported.	
Minor 4	A support issue will be considered Minor when the issue causes minor disruptions in the way tasks are performed, but does not affect workflow or operations. This may include cosmetic issues, general questions, and how to use certain features of the system.	Within 24 hours of the issue being reported.	

Response timing is measured from the moment a Case number is created. As used herein a "Case number" is created when a) Superior's support representative has been directly contacted by Customer either by phone, in person, or through Superior's online support portal, and b) when Superior's support representative assigns a case number and conveys that case number to the Customer. Customer must provide remote access to its facility using a Superior approved remote access client so that Superior can perform the support obligations and/or services under this Agreement; and will provide appropriate security access and accounts for Superior staff and each session participant



EXHIBIT 3

Travel Expense Guidelines

If Travel is required at any time in order to facilitate Support Services, Superior will adhere to the following guidelines when incurring travel expenses:

All arrangements for travel are to be made through the Superior Corporate Travel Agent unless other arrangements have been made with the Customer and are documented in writing.

AIR TRAVEL – Superior will use the least expensive class of service available with a minimum of seven (7) day, maximum of thirty (30) day, advance purchase. Upon request, Superior shall provide the travel itinerary as the receipt for reimbursement of the airfare and any fees. Fees not listed on the itinerary will require a receipt for reimbursement.

Trips fewer than 250 miles round are considered local. Unless a flight has been otherwise approved by the Customer, Customer will reimburse the current IRS approved mileage rate for all local trips.

LODGING –Superior will use the most reasonable accommodations possible, dependent on the city. All food items, movies, and phone/internet charges are not reimbursable.

RENTAL CAR – Compact or Intermediate cars will be required unless there are three or more Superior employees sharing the car in which case the use of a full size car is authorized. Gas is reimbursable however, pre-paid gas purchases will not be authorized and all rental cars are to be returned with a full tank of gas. Upon request, receipts for car rental and gas purchases will be submitted to Customer. Superior shall decline all rental car insurance offered by the car rental agency as staff members will be covered under the Superior auto insurance policy. Fines for traffic violations are not reimbursable expenses.

OTHER TRANSPORTATION – Superior staff members are expected to use the most economical means for traveling to and from the airport (Airport bus, hotel shuttle service). Airport taxi or mileage for the employee's personal vehicle (per IRS mileage guidelines) are reimbursable if necessary. Upon request, receipt(s) for the taxi will be submitted to Customer. Proof of mileage may be required and may be documented by a readily available electronic mapping service. The mileage rate will be the then-current IRS mileage guideline rate (subject to change with any change in IRS guidelines).

OTHER BUSINESS EXPENSES – Parking at the airport is reimbursable. Tolls to and from the airport and while traveling at the Customer site are reimbursable. Tipping on cab fare exceeding 15% is not reimbursable. Porter tips are reimbursable, not exceeding \$1.00 per bag. Laundry is reimbursable when travel includes a weekend day or Company Holiday and the hotel stay is four nights or more. Laundry charges must be incurred during the trip and the limit is one shirt and one pair of pants/skirt per day. With the exception of tips, receipts shall be provided to Customer upon request for all of the aforementioned items.

MEALS – Standard per Diem. Subject to change due to cost of living.



EXHIBIT 4

Minimum Insurance Requirements

- **Workers' Compensation**, statutory limits, and Employer's Liability with limits no less than \$1,000,000.
- **Commercial General Liability insurance**, covering bodily injury and property damage liability, products & completed operations, with minimum limits \$1,000,000 each occurrence for bodily injury and property damage, \$2,000,000 general aggregate.
- **Business Auto Liability insurance**, covering any vehicle used by vendor in performance of work for Superior or around Superior's premises. Limits no less than \$1,000,000 each accident.
- **Cyber Liability Insurance**, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this agreement and shall include claims involving infringement of intellectual property, 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.