**DATE:** October 6, 2026

**TO:** Honorable Mayor and City Councilmembers

**FROM:** Shawn Sanders, Assistant City Administrator

**SUBJECT:** Urban SDK Professional Services Agreement.

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Throughout the year, the Engineering and Police Department receives complaints from residents about excessive speeds on streets in the City. Typically, the Police or the Engineering Department will set out a speed display sign or trailer on a city street, to gather data on speed and volumes over a period of time. Afterwards the signs are removed and data is downloaded for review. This can be quite a lengthy process.

This past year, both the Police and Engineering Department were contacted by a company called Urban SDK. Urban SDK is a geospatial artificial intelligence (AI) platform that provides local governments, law enforcement, and public works departments with real-time traffic data, mobility analytics, and workflow automation, derived from geospatial AI, connected vehicle telemetry, and satellite imagery. By using this platform, the City would have the ability to view only traffic speed and volume through the Urban SDK website when questions or concerns arrive on traffic speed and volume issues rather than the typically method of the setting out speed display signs. This would save considerable amount of time to provide information to the public and staff. Staff has negotiated a price of $10,000 per year for two years of $20,0000 with Urban SDK and if approved the cost would be split between the Engineering and Police Department.

## RECOMMENDATION

Staff recommends Council approve the Professional Services Agreement with Urban SDK.

## ACTION REQUIRED

If Council concurs with the staff recommendation, they should pass a motion approving the Professional Services agreement with Urban SDK .

**AGREEMENT FOR PROFESSIONAL SERVICES**
**URBAN SDK, LLC**

THIS AGREEMENT ("Agreement") is made and executed this ___ day of _____, 2026 by and between the City of Stillwater, 216 North Fourth Street, Stillwater, Minnesota 55082, ("City") and Urban SDK, 10151 Deerwood Park Blvd Bldg 100, Suite 100, Jacksonville, FL 32256 ("Consultant").

WHEREAS, the City has accepted the proposal of the Consultant for certain professional services; and

WHEREAS, Consultant desires to perform the services for the City under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual consideration contained herein, it is hereby agreed as follows:

1. SERVICES.

    a. City agrees to engage Consultant as an independent contractor for the purpose of performing certain professional Services ("Services"), as defined in the following documents:

        i. A proposal dated July 27, 2026, incorporated herein as Exhibit A.

        ii. Other documentation, incorporated herein as Exhibit B.

        (Hereinafter "Exhibits").

        iii. Where the terms and conditions of this Agreement and those terms and conditions included in the Exhibits specifically conflict, the terms of this Agreement shall apply.

    b. Consultant covenants and agrees to provide the Services to the satisfaction of the City in a timely fashion, as set forth in the Exhibits, subject to Section 7 of this Agreement.

    c. Consultant agrees to comply with all federal, state, and local laws and ordinances applicable to the Services to be performed under this Agreement. Consultant represents and warrants that it has the requisite training, skills, and experience necessary to provide the Services and is appropriately licensed and has obtained all permits from all applicable agencies and governmental entities.

2. PAYMENT.

    a. City agrees to pay and Consultant agrees to receive and accept payment for Services as set forth in the Exhibits.
    b. Any changes in the scope of the work of the Services that may result in an increase to the compensation due the Consultant shall require prior written approval by the authorized representative of the City or by the City Council. The City will not pay additional compensation for Services that do not have prior written authorization.
    c. If requested, Consultant shall submit itemized bills for Services provided to City on a monthly basis. Bills submitted shall be paid in the same manner as other claims made to City.

3. TERM. The term of this Agreement is identified in the Exhibits. This Agreement may be extended upon the written mutual consent of the parties for such additional periods as they deem appropriate, and upon the same terms and conditions as stated herein.

4. TERMINATION.

    a. Termination by Either Party. This Agreement may be terminated by either party upon thirty (30) days' written notice delivered to the other party to the addresses listed in Section 13 of this Agreement. Upon termination under this provision, if there is no default by the Consultant, Consultant shall be paid for Services rendered and reimbursable expenses incurred until the effective date of termination.

    b. Termination Due to Default. This Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement. The non-performing party shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure that is acceptable to the other party.

5. SUBCONTRACTORS. Consultant shall not enter into subcontracts for any of the Services provided for in this Agreement without the express written consent of the City, unless specifically provided for in the Exhibits. Consultant shall pay any subcontractor involved in the performance of this Agreement within ten (10) days of the Consultant's receipt of payment by the City for undisputed services provided by the subcontractor.

6. STANDARD OF CARE. In performing its Services, Consultant will use that degree of care and skill ordinarily exercised, under similar circumstances, by reputable members of its profession in the same locality at the time the Services are provided. No warranty, express or implied, is made or intended by Consultant's undertaking herein or its performance of Services.

7. DELAY IN PERFORMANCE. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances

include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and inability to procure permits, licenses or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either City or Consultant under this Agreement. If such circumstances occur, the nonperforming party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. Consultant will be entitled to payment for its reasonable additional charges, if any, due to the delay.

8. CITY'S REPRESENTATIVE. The City has designated Shawn Sanders to act as the City's representative with respect to the Services to be performed under this Agreement. He or she shall have complete authority to transmit instructions, receive information, interpret, and define the City's policy and decisions with respect to the Services covered by this Agreement.

9. PROJECT MANAGER AND STAFFING. The Consultant has designated _____ _____ and _____ to be the primary contacts for the City in the performance of the Services. They shall be assisted by other staff members as necessary to facilitate the completion of the Services in accordance with the terms established herein. Consultant may not remove or replace these designated staff without the approval of the City.

10. INDEMNIFICATION.

    a. Consultant and City each agree to indemnify, and hold harmless each other, its agents and employees, from and against legal liability for all claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are caused by its negligent acts, errors, or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of Consultant and City, they shall be borne by each party in proportion to its own negligence.

    b. Consultant shall indemnify City against legal liability for damages arising out of claims by Consultant's employees. City shall indemnify Consultant against legal liability for damages arising out of claims by City's employees.

11. INSURANCE. During the performance of the Services under this Agreement, Consultant shall maintain the following insurance:

    a. General Liability Insurance, with a limit of $2,000,000 for any number of claims arising out of a single occurrence.

    b. Professional Liability Insurance, with a limit of $2,000,000 for any number of claims arising out of a single occurrence.

c. Workers' Compensation Insurance in accordance with statutory requirements.

d. Automobile Liability Insurance, with a combined single limit of $2,000,000.

Consultant shall furnish the City with certificates of insurance, which shall include a provision that such insurance shall not be canceled without written notice to the City. The City shall be named as an additional insured on the General Liability Insurance policy.

12. OWNERSHIP OF DOCUMENTS. Professional documents, drawings, and specifications prepared by the Consultant as part of the Services shall become the property of the City when Consultant has been compensated for all Services rendered, provided, however, that Consultant shall have the unrestricted right to their use. Consultant shall retain its rights in its standard drawing details, specifications, databases, computer software, and other proprietary property. Rights to proprietary intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of the Consultant.

13. NOTICES. Notices shall be communicated to the following addresses:

If to City:
City of Stillwater
216 North Fourth Street
Stillwater, MN 55082
Attention: City Administrator

Or emailed: jkohlmann@stillwatermn.gov

If to Consultant:
Urban SDK, LLC
10151 Deerwood Park Blvd Bldg 100, Suite 100
Jacksonville, FL 32256
Attn:

Or emailed:

14. INDEPENDENT CONTRACTOR STATUS. All services provided by Consultant, its officers, agents and employees pursuant to this Agreement shall be provided as employees of Consultant or as independent contractors of Consultant and not as employees of the City for any purpose.

15. GENERAL PROVISIONS.

a. Assignment. This Agreement is not assignable without the mutual written agreement of the parties.

b. Waiver. A waiver by either City or Consultant of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

c. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Minnesota and any action must be venued in Washington County District Court.

d. Amendments. Any modification or amendment to this Agreement shall require a written agreement signed by both parties.

e. Severability. If any term of this Agreement is found be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

f. Data Practices Compliance. All data collected by the City pursuant to this Agreement shall be subject to the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13.

g. Entire Agreement. This Agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter hereof, whether oral or written.

[The remainder of this page is intentionally left blank]

**CITY OF STILLWATER**

By: _____
Ted Kozlowski, Mayor

By: _____
Beth Wolf, City Clerk

Date: 10/06/2026

**URBAN SDK, LLC**

Signature: *Micah Dickman*

Name: Micah Dickman

Its: Vp of Revenue

Date: 09/30/2026

**EXHIBIT A**
**PROPOSAL**




# Urban SDK

# &

# City of Stillwater, Minnesota

**Prepared For:**
Shawn Sanders
City of Stillwater, Minnesota

**Prepared By:**
Cole Daninger
Urban SDK

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# About Us

Urban SDK is a leading provider of geospatial AI solutions, equipping public leaders with actionable insights and automation for mission-critical decisions. Established in 2018 and headquartered in Jacksonville, Florida, Urban SDK is the only platform on the market that provides a comprehensive System of Action to state and local governments. Our team of military veterans, engineers, scientists, policymakers, and entrepreneurs are all committed to the same unified vision: easing the burdens of community leaders through innovation.

Our System of Action unifies data, workflows, and AI so local governments can break free from technical debt and respond to changing conditions at scale. In doing so, Urban SDK's approach delivers measurable ROI to each of our customers, enabling agencies to recapture time, budget and precision in order to accelerate projects, refine resource allocations and respond more quickly to their constituents.

Our partners throughout North America leverage Urban SDK to help:

- Replace manual data collection and empower decision making
- Orchestrate regulated processes and operating procedures
- Align staff with decision support systems to increase efficiency
- Connect disparate departments to achieve common goals
- Enable officials to adjust actions based on changing conditions

# Popular Use Cases



Including Traffic Enforcement, Urban SDK aids clients with daily mission critical objectives such as:

- **Traffic Calming** - Reducing speeds and improving pedestrian/bike safety
- **Traffic Enforcement** - Proactively reducing risky driving behaviors and ensuring compliance with traffic codes
- **School Zone Safety** - Reducing speeds and improving safety near schools
- **Work Zone Monitoring** - Monitoring traffic, safety, and compliance around road construction zones
- **Traffic Safety Analysis** - Prioritizing resources where crime and traffic risks overlap
- **Event Impact Monitoring** - Tracking congestion, blocked emergency lanes, and road closures before, during, and after major events
- **Cut-Through Traffic** - Identifying local residential streets or unintended routes used to bypass congestion, accidents, or delays on main thoroughfares
- **Sidewalk Inventory** - Performing ADA audits and safety workflows without field visits

URBANSDK

# Traffic Enforcement

## Definition

Traffic enforcement is the practice of proactively reducing risky driving behaviors and ensuring compliance with traffic codes using real-time data.

### Challenges of the Current Process

Departments are swamped with speeding and traffic complaints, despite 80% of them being perception issues. With no ground truth, departments respond to every complaint.

### How Urban SDK Solves These Issues

With Urban SDK, resources are directed to areas that have systematic issues rather than chasing perceptions.

## Key Objectives Improved by Urban SDK

- Reduction of crashes and fatalities
- Deter speeding, DUI, distracted driving
- Ensure compliance in school/work zones
- Support patrol coverage & public safety ops

## Required Urban SDK Data

01 Speed Module

## Add-On Options

01 Volumes Module

02 Crash Integration

## Platform Features

- Real-time hot spot dashboards
- Rules Engine alerts
- Automated workflows for patrol supervisors

## Departments that Benefit

**City Police Department**
More efficient enforcement efforts

**Traffic Unit**
Champions deploying assets

**County Sheriff Department**
Upholding elected duties regarding road safety

**Crime Analyst**
Targeted enforcement to high-risk corridors



# Statement of Work (SOW)

## Goals

The purpose of this Statement of Work (SOW) is to define the scope, deliverables, and responsibilities associated with Urban SDK's provision of roadway data for City of Stillwater, Minnesota.

This engagement will deliver comprehensive datasets that support the organization's safety, planning, and operational analysis initiatives.

# Responsibilities



## Urban SDK

- Provide data access and updates as defined in this SOW.
- Conduct onboarding and training sessions for staff.
- Conduct a full Q&A of all data to ensure locations and results meet the client's needs.
- Maintain application uptime and ensure timely delivery of data.
- Provide customer support throughout the engagement.

## City of Stillwater, Minnesota

- Provide designated points of contact for project oversight and user access assignments.
- Ensure timely attendance at training and onboarding sessions.

# Pricing & Fees

## Pricing Overview

| | |
|---|---|
| Contract Start Date | 2026-11-01 |
| Contract End Date | 2028-10-31 |
| Proposal Expires | [Document.ExpirationDate] |

## Products & Services

**M1/M2: Traffic Calming and Speed Enforcement** — Price $8,500.00

Unifies traffic calming and speed enforcement intelligence. Identifies where vehicle speeds, volumes, and road geometry drive safety risk, and delivers continuous speed monitoring to surface hotspots and enforcement gaps - so agencies can prioritize calming interventions, target enforcement where risk is highest, and defend decisions with evidence rather than perception.

Quantity 1 — Total $8,500.00

**Collision Index Layer** — Price $2,500.00 per year

Urban SDK's Collision Index represents the relative likelihood and severity of collisions occurring on a given road segment.

Quantity 1 — Total $2,500.00 per year

**Urban SDK User Seat** — Price $4,000.00

Urban SDK Administrative Access

Quantity 2 — Total $8,000.00

| | |
|---|---|
| Subtotal | $19,000.00 |
| Discount | $9,000.00 |
| **Total** | **$10,000.00** |



## Proposal Comments

URBAN SDK, INC.

**Urban SDK** will provide the **City of Stillwater, MN** with comprehensive Speed, Volume, and Collision Index data for every roadway. This includes:

- **User Seats**: 2 Administrative Seats
- **Traffic Calming:** Provides clear, continuous insight into real speeding issues. It pinpoints true hotspots, separates perception from reality, and shows how speeds change over time. Agencies can quickly see what works, respond to emerging problems, and demonstrate measurable progress toward safer streets.
- **Speed Enforcement**: Identifies recurring violations and high-risk behaviors so agencies can target enforcement where it has the greatest impact. It highlights the best times and locations for deployment, tracks changes after enforcement, and measures compliance improvements to ensure strategies are data-driven, equitable, and effective.

- **Collision Risk Mitigation**: Identifies high-risk segments and intersections by analyzing roadway conditions, design, and conflict patterns. Helps agencies prioritize safety investments, measure improvement impact, and focus resources where they can prevent the most severe crashes.

Contract Start Date 11/01/2026
Contract End Date 10/31/2028

**EXHIBIT B**

# Terms and Conditions

This website, www.urbansdk.com (the "**site**"), is owned and operated by UrbanSDK, LLC. and our affiliates ("**Urban SDK**", "**we**" or "**us**"). By using the site, services provided on the site, our proprietary software made available to you via the site, or content we make available to you through the services (collectively, "**Services**"), you agree to be bound by the following Terms and Conditions, as updated from time to time (collectively, the "**Terms**"). Customer shall be provided with 30 days' written notice prior to any change in Terms and Conditions.

## 1. General

GENERAL. The following terms and conditions ("Terms and Conditions") provide for terms that are common to this Agreement, including all Ordering Documents and Schedules. In the event of a conflict between these Terms and Conditions and any Ordering Document or Schedule, these Terms and Conditions will control, unless expressly stated to the contrary in the Ordering Document or Schedule. The Signature Page, any Statement of Work, and any other ordering document incorporating these Terms and Conditions by reference are individually and collectively referred to as "Ordering Document(s)."

## 2. Services

2.1 **General.** All services provided by Urban SDK under this Agreement ("Services"), including the Software Services, will be provided to Customer according to these Terms and Conditions, the Ordering Documents, and all schedules, exhibits, or other attachments made a part of this Agreement.

2.2 **Third-Party Services.** As set forth in an Ordering Document, the Services may include Customer's utilization of certain third-party software and data developed and owned by Urban SDK's third party licensors. This software and data is neither sold nor distributed to Customer, and Customer may use it solely as part of the Services and for no other purpose. Customer may not transfer such third-party software outside the Services or to any other person or entity. Except as otherwise provided for in an Ordering Document, Urban SDK and Urban SDK's third-party software and data licensors are not responsible for providing any support in connection with the Services or the third-party software. Customer's use of any such third-party software and data is governed by the third-party software or data licensor's terms as may be referenced and

incorporated into an applicable Ordering Document. Customer covenants to comply with the terms of such third-party licensor's terms as if Customer were the licensee. The Services may incorporate Annual Average Daily Traffic (AADT) data provided by the official transportation agencies of some or all of the 50 U.S. states as set forth in the Traffic Data Sources AADT Addendum, which is hereby incorporated by reference into these Terms and Conditions. These agencies serve as the authoritative sources for roadway traffic volume information within their respective jurisdictions. AADT data were used exclusively for validation purposes.

2.3 **Change Orders.** If either party wishes to change the scope or performance of the Services, it shall submit details of the requested change to the other in writing. Urban SDK shall, within a reasonable time after such request, provide a written estimate to Customer of: (a) the likely time required to implement the change; (b) any necessary variations to the fees and other charges for the Services arising from the change; (c) the likely effect of the change on the Services; and (d) any other impact the change might have on the performance of this Agreement. Promptly after receipt of the written estimate, the parties shall negotiate in good faith the terms of such change (if and when mutually agreed in writing, a "Change Order"). Neither party shall be bound by any Change Order unless mutually agreed upon in writing.

## 3. Software Services

3.1 **Software Services.** Urban SDK will provide Customer, and its authorized employees, contractors and other personnel authorized by Customer ("End Users") with access to the software products and related services provided by Urban SDK via a web browser (or mobile application) and identified on the applicable Ordering Document ("Software Services"). During the Term and subject to Customer's compliance with this Agreement, Urban SDK grants Customer the non-exclusive, nontransferable,
non-assignable, and limited right to allow End Users to remotely access the Software Services for Customer's internal business purposes in accordance with the terms of this Agreement.

3.2 **Restrictions.** Customer shall not lease, license, sell, sublicense or otherwise transfer its access to or use of the Software Services. The Software Services may only be used by Customer and End Users. In addition, Customer shall not modify, create derivative works of, or attempt to decipher, decompile, disassemble or reverse engineer the Software Services. Nothing in this Agreement confers upon either party any right to use the other party's Marks, except in Urban SDK's performance of the Services. All use of such Marks by either party will inure to the benefit of the owner of such Marks, use of which will be subject to specifications controlled by the owner.

## 4. Professional Services

**4.1 Professional Services.** Urban SDK may provide integration, implementation, or other professional services (each to the extent identified as professional services on a Statement of Work, "Professional Services") and Deliverables to Customer as set forth in a Statement of Work. "Deliverables" means all Creations that are delivered to Customer by or on behalf of Urban SDK as a part of the Professional Services, together with any items identified as such in a Statement of Work. "Creations" means any tangible or intangible thing or information, in any language, format or medium now existing or hereafter developed, and all tangible embodiments thereof, whether or not such creation is or may in the future be protected under any intellectual property right or considered Confidential Information, including ideas, creations, inventions, discoveries, innovations, industrial models, improvements, designs, methods, processes, formulae, works of authorship, products, compositions, displays, models, prototypes, samples, findings, documentation, specifications, abstracts, research and development information, know-how, procedural knowledge, industrial property, utility models, data, databases, metadata, industrial designs, mask works, Confidential Information, content, lists, electronic data files, training materials and manuals, user guides, drawings, techniques, computer software (in object, source, interpreted or other code forms), modifications to software or documentation, business information, business plans, technical knowledge, technical information, maintenance information, brochures, labels, papers, records, text, sound recordings, videos, pictures, photographs, audiovisual works, pictorial reproductions, drawings, or other graphical representations, and all other items with similar characteristics.

**4.2 Acceptance.** Any software constituting a Deliverable (each a "Software Deliverable") shall be subject to acceptance by Customer to ensure that it meets the specifications of this Agreement and the applicable Statement of Work. If Customer does not reject any final Software Deliverable within 30 days of delivery, such Software Deliverable shall be deemed accepted. If any final Software Deliverable does not materially meet the applicable specifications, Customer shall notify Urban SDK of such nonconformities in reasonable detail, and Urban SDK will, at no additional cost, use commercially reasonable efforts to promptly correct such Software Deliverable so that it conforms to the applicable specifications. If within 30 days of such Customer notification, any final Software Deliverable still does not meet the specifications, Customer may at any time thereafter, as its sole remedy, terminate the applicable Statement of Work, return the Software Deliverable and all copies thereof to Urban SDK, and receive a refund of any fees or expenses paid in connection with such Software Deliverable.

**4.3 Urban SDK Personnel**. Urban SDK shall appoint an Urban SDK employee to serve as a primary contact with respect to any Professional Services (the "Urban SDK Contract Manager"). Urban SDK shall also appoint Urban SDK Personnel, who shall be suitably skilled, experienced, and qualified to perform the Professional Services. Additionally, Urban SDK may subcontract parts of the Professional Services to affiliated companies or third parties, provided that Urban SDK shall remain responsible for the performance of the Professional Services. In the event that any Urban SDK's Personnel does not perform to Customer's reasonable satisfaction, Urban SDK shall remove such Urban SDK's Personnel and replace him or her with a similarly qualified Urban SDK Personnel. Urban SDK is responsible for all Urban SDK Personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments, disability benefits, pensions, retirement benefits, insurance, and other benefits.

**4.4 License and Consents.** Urban SDK shall maintain all necessary licenses and consents and comply with all laws applicable to the provision of the Professional Services.

**4.5 Tools, Labor, Materials and Supplies.** Unless otherwise provided in a Statement of Work, Urban SDK shall provide, at its expense, all tools, materials, supplies, labor, and equipment necessary to perform the Professional Services.

## 5. Rights Reserved

Customer and its licensors are, and shall remain, the sole and exclusive owner of all right, title and interest in and to the "Customer Materials" (as defined in an applicable Statement of Work, if applicable), including all intellectual property rights therein. Urban SDK shall have no right or license to use any Customer Materials except during the Term to the extent necessary to provide the Professional Services to Customer. All other rights in and to the Customer Materials are expressly reserved by Customer. All right, title and interest, including all intellectual and proprietary rights, in and to the Software Services. Deliverables, and all Urban SDK service marks, trademarks, trade names, logos, and any modifications to the foregoing ("Marks") (and all suggestions, feedback, contributions, enhancements, improvements, additions, modifications, or derivative works thereto and copies thereof) will remain in possession of Urban SDK. Customer acknowledges that the Software Services in source code form is the Confidential Information of Urban SDK and that the source code is not licensed to Customer by this Agreement or any Schedule and will not be provided by Urban SDK. No right or implied

license or right of any kind is granted to Customer regarding the Services, including any right to use, reproduce, market, sell, translate, distribute, transfer, adopt, disassemble, decompile, reverse engineer the Software Services or the documentation thereof, or any portions thereof, or obtain possession of any source code or other technical material relating to the Software Services.

## 6. Fees and Payment Terms

**6.1 Services Fees.** For the Services provided under this Agreement, Customer will pay Urban SDK the fees in the amounts set forth on the applicable Ordering Document. Unless otherwise set forth on the applicable Ordering Document, applicable fees will be invoiced to Customer annually in advance and payable (i) immediately upon invoice if Customer's payment method is on file with Urban SDK, or (ii) if no payment method has been provided to Urban SDK, within thirty (30) days of invoice. Fees are non-cancelable and non-refundable, except in a Termination by Customer due to a violation of Critical Service Errors as described in Support Services - Termination Rights or due to Urban SDK's breach. In the event of early termination of this Agreement other than due to Urban SDK's breach, all amounts outstanding that would have otherwise been due through the end of the then-current Term shall automatically be due and payable by Customer upon termination.

**6.2 Fee Changes.** After the Initial Term, and at the beginning of each Renewal Term thereafter, Urban SDK may adjust the fees applicable during the upcoming Renewal Term upon written notice provided at least sixty (60) days prior to the end of the Initial Term or applicable Renewal Term, as the case may be. All fees paid and expenses reimbursed under this Agreement will be in United States currency. Urban SDK may increase pricing and fees on an annual basis by the greater of: (a) six percent (6%) per annum, or (b) the percentage by which the then most-recently published Consumer Price Index in the United States for all Urban Consumers (Index base: 1982/1984 = 100; Index Components: All Items) ("CPI") exceeds the CPI as of the Effective Date or, if later, the immediately preceding change in pricing. Additionally, Upon written notice to Customer at least thirty (30) days prior to effectiveness, Urban SDK may increase the amount of the fees in an Ordering Document relating to, if applicable: (a) data storage and/or relational databases if the applicable cloud data provider has increased the prices paid by Urban SDK for such data storage and/or relational databases, and any such increase shall be proportionate to the increase imposed upon Urban SDK by the applicable utility provider; and (b) the cost of third party Services or services (including software and datasets) performed or provided by a third party that comprise all or some part of the Services including any increases to such costs.

**6.3 Late Fees.** Customer will pay a late fee of 1.5% per month (not to exceed the maximum allowed under state law) on all balances not paid when due. Urban SDK, at its option, may suspend the Services, in whole or in part, if Urban SDK does not receive all undisputed amounts due and owing under this Agreement within thirty (30) days after delivery of notice to Customer of the failure to pay such overdue balances.

**6.4 Taxes.** The fees and expenses due to Urban SDK as set forth in this Agreement are net amounts to be received by Urban SDK, exclusive of all sales, use, withholding, excise, value added, ad valorem taxes or duties incurred by Customer or imposed on Urban SDK in the performance of this Agreement or otherwise due as a result of this Agreement. This section will not apply to taxes based solely on Urban SDK'S income.

**6.5 Offset.** Fees and expenses due from Customer under this Agreement may not be withheld or offset by Customer against other amounts for any reason.

## 7. Customer Acknowledgements.

**7.1 Customer Requirements.** Customer must have required equipment, software, and Internet access to be able to use the Software Services. Acquiring, installing, maintaining and operating equipment and Internet access is solely Customer's responsibility. Urban SDK neither represents nor warrants that the Software Services will be accessible through all web browser releases. Customer shall take all steps necessary for Urban SDK to perform the Services effectively, including with respect to
(a) providing access to Customer's resources or staff as needed to perform the Services; (b) maintaining, testing, configuring, operating, and upgrading Customer's data, applications, server hardware, operating system, environment, and facilities, as applicable, related to the Services.

**7.2 Use of Software Services.** Customer shall not and shall not permit others in using the Software Services to: (i) defame, abuse, harass, stalk, threaten or otherwise violate or infringe the legal rights (such as rights of privacy, publicity and intellectual property) of others or Urban SDK; (ii) publish, ship, distribute or disseminate any harmful, inappropriate, profane, vulgar, infringing, obscene, false, fraudulent, tortuous, indecent, unlawful, immoral or otherwise objectionable material or information (including any unsolicited commercial communications); (iii) publish, ship, distribute or disseminate material or information that encourages conduct that could constitute a criminal offense or give rise to civil liability; (iv) engage in any conduct that could constitute a criminal offense or give rise to civil liability for Urban SDK; (v) misrepresent or in any other way falsely identify Customer's identity or affiliation, including through impersonation or

altering any technical information in communications using the Software Services; (vi) transmit or upload any material through the Software Services contains viruses, trojan horses, worms, time bombs, cancelbots, or any other programs with the intent or effect of damaging, destroying, disrupting or otherwise impairing Urban SDK', or any other person's or entity's, network, computer system, or other equipment; (vii) interfere with or disrupt the Software Services, networks or servers connected to the Urban SDK systems or violate the regulations, policies or procedures of such networks or servers, including unlawful or unauthorized altering any of the information submitted through the Software Services; (viii) attempt to gain unauthorized access to the Software Services, other Urban SDK customers' computer systems or networks using the Software Services through any means; or (ix) interfere with another party's use of the Software Services, including any parties Customer has done business with or choose not to do business with through the Software Services. Urban SDK has no obligation to monitor Customer's use of the Software Services. However, Urban SDK may at any time monitor, review, retain and disclose any information as necessary to satisfy or cooperate with any applicable law, regulation, legal process or governmental request. Customer shall use commercially reasonable efforts, including reasonable security measures relating to administrator account access details, to ensure that no unauthorized person may gain access to the Services.

7.3 **Compliance with Law.** Customer agrees not to use (and will use its best efforts not to allow its End Users to use) the Software Services for illegal purposes or for the transmission of material that is unlawful, harassing, libelous (untrue and damaging to others), invasive of another's privacy, abusive, threatening, or obscene, or that infringes the rights of others. Customer is solely responsible for any and all improper use of the Software Services that occurs as a direct or indirect result of any act or omission of Customer. Customer will notify Urban SDK immediately of any unauthorized use of the Software Services or any other breach of security that is known or suspected by Customer.

7.4 **Professional Services.** With respect to any Professional Services, Customer shall have the following obligations set forth in this Section 7.4.

a. Customer Contract Manager. Customer shall cooperate with Urban SDK in all matters relating to the Professional Services and appoint a Customer employee to serve as the primary contact with respect to this Agreement (the "Customer Contract Manager").

b. Access and Assistance; Customer Materials. Customer shall provide such access to Customer's premises, facilities, and computer systems and networks as may reasonably be requested by Urban SDK for the purposes of performing the Professional Services. Customer shall respond promptly to any Urban SDK request to provide

direction, information, approvals, authorizations or decisions that are reasonably necessary for Urban SDK to perform the Professional Services. Customer shall provide such Customer Materials as set forth in the applicable Statement of Work or as Urban SDK may reasonably request in order to carry out the Professional Services, in a timely manner, and ensure that it is complete and accurate in all material respects.

c. Delay in Performance. If Urban SDK's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants or employees, Urban SDK shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay, and Urban SDK's obligation to perform will be extended based on Urban SDK's reasonable ability to reallocate resources to performing and such delay may result in reasonable additional fees to the extent Urban SDK incurs additional costs due to the delay.

## 8. Non-disclosure and confidentiality.

**8.1 Disclosure.** Each party may disclose to the other party certain Confidential Information of such party or of such party's associated companies, distributors, licensors, suppliers, or customers. "Confidential Information" means any information that is of value to its owner and is treated as confidential, including trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing; "Disclosing Party" refers to the party disclosing Confidential Information hereunder, whether such disclosure is directly from Disclosing Party or through Disclosing Party's employees or agents; and "Recipient" refers to the party receiving any Confidential Information hereunder, whether such disclosure is received directly or through Recipient's employees or agents**.**

**8.2 Requirement of Confidentiality.** The Recipient agrees: (a) not to disclose or otherwise make available Confidential Information of the Disclosing Party to any third party without the prior written consent of the Disclosing Party, provided that the Recipient may disclose the Confidential Information of the Disclosing Party to its, and its affiliates, officers, employees, consultants and legal advisors who have a "need to know", who have been apprised of this restriction and who are themselves bound by nondisclosure obligations at least as restrictive as those set forth in this Section 8; (b) to use the Confidential Information of the Disclosing Party only for the purposes of performing its obligations or as otherwise authorized under the Agreement; and (c) to promptly notify the Disclosing Party in the event it becomes aware of any loss or

disclosure of any of the Confidential Information of Disclosing Party. Customer acknowledges that the Software Services and documentation are the Confidential Information of Urban SDK. The obligations in this Section 8 shall survive termination and continue for so long as the applicable information constitutes Confidential Information. Confidential Information shall not include information that: (a) is already known to the Recipient without restriction on use or disclosure prior to receipt of such information from the Disclosing Party; (b) is or becomes generally known by the public other than by breach of this Agreement by, or other wrongful act of, the Recipient; (c) is developed by the Recipient independently of, and without reference to, any Confidential Information of the Disclosing Party; or (d) is received by the Recipient from a third party who is not under any obligation to the Disclosing Party to maintain the confidentiality of such information.

**8.3 Compelled Disclosure.** If the Recipient becomes legally compelled to disclose any Confidential Information, the Recipient shall provide: (a) prompt written notice of such requirement so that the Disclosing Party may seek, at its sole cost and expense, a protective order or other remedy; and (b) reasonable assistance, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If, after providing such notice and assistance as required herein, the Recipient remains required by law to disclose any Confidential Information, the Recipient shall disclose no more than that portion of the Confidential Information which, on the advice of the Recipient's legal counsel, the Recipient is legally required to disclose and, upon the Disclosing Party's request, shall use commercially reasonable efforts to obtain assurances from the applicable court or agency that such Confidential Information will be afforded confidential treatment.

**8.4 Customer Data; Data Use.** "Customer Data" means information, data and other content, in any form or medium, that is collected, downloaded or otherwise received, directly or indirectly from Customer or an End User by or through the Services, but does not include any data collected, downloaded or otherwise received, directly or indirectly from any other user of the Services. Customer hereby grants to Urban SDK a
non-exclusive license to copy, reproduce, store, distribute, publish, export, adapt, edit and translate Customer Data to the extent reasonably required only for purposes of the performance of Urban SDK's obligations and the exercise of Urban SDK's rights under this Agreement and for no other purpose. Customer warrants to Urban SDK that Customer has the right to provide such Customer Data to Urban SDK in accordance with this Agreement.

## 9. Limited Warranty; Disclaimers.

Urban SDK represents and warrants that it will provide the Services in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Software Services will perform substantially in accordance with the documentation under normal use and circumstances. Each party represents and warrants that it has the legal power and authority to enter into this Agreement. OTHER THAN AS EXPRESSLY SET FORTH IN THIS SECTION 9, EACH PARTY DISCLAIMS ALL WARRANTIES, CONDITIONS, OR REPRESENTATIONS TO THE OTHER PARTY REGARDING THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED, OR STATUTORY. WITHOUT LIMITING THE FOREGOING, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, THE IMPLIED WARRANTY AGAINST INFRINGEMENT, THE IMPLIED WARRANTY OR CONDITION OF FITNESS FOR A PARTICULAR PURPOSE, AND THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE ARE EXPRESSLY EXCLUDED AND DISCLAIMED BY Urban SDK. NO WARRANTY IS MADE THAT USE OF THE SERVICES WILL BE ERROR FREE OR UNINTERRUPTED, THAT ANY ERRORS OR DEFECTS IN THE SERVICES WILL BE CORRECTED, OR THAT THE SERVICES FUNCTIONALITY WILL MEET CUSTOMER'S REQUIREMENTS. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, CUSTOMER ACKNOWLEDGES AND AGREES THAT URBAN SDK MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO ANY THIRD-PARTY HARDWARE, SOFTWARE, PRODUCT OR SERVICE INCLUDED WITH ANY OF THE SERVICES.

## 10. Limitation of Liability

**10.1 Liability Cap.** EXCEPT AS OTHERWISE PROVIDED IN SECTION 10.3, IN NO EVENT WILL EITHER PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED $50,000.00.

**10.2 Exceptions.** The exclusions and limitations in Section 10.1 and Section 10.2 shall not apply to: (a) damages or other liabilities arising out of or relating to a party's failure to comply with its obligations under Section 8 (Non-Disclosure and Confidentiality); or
(b) a party's obligations under Section 11 (Indemnification).

## 11. Indemnification

**11.1 Urban SDK Indemnification**. Urban SDK shall defend Customer and its officers, directors, employees, agents, successors and permitted assigns against any third party claim, suit, action or proceeding (each, an "Action") based on a claim of Urban SDK's negligence acts or that Customer's receipt or use of the Services in accordance with this Agreement infringes any intellectual property right or misappropriates any trade secret of a third party, and shall pay all

settlements entered into and damages awarded against Customer to the extent based on such an Action; provided, however, that Urban SDK shall have no obligations under this Section 11.1 with respect to claims to the extent arising out of: (a) any instruction, information, designs, specifications or other materials provided by Customer to Urban SDK; (b) use of the Services in combination with any materials or equipment not supplied to Customer or specified by Urban SDK in writing; or (c) any modifications or changes made to the Services by or on behalf of any person or entity other than Urban SDK. If the Services, or any part thereof, become are an action for negligent acts, or in the opinion of Urban SDK may become, the subject of a claim of infringement or misappropriation, Urban SDK may, at its option: (i) procure for Customer the right to use such Services free of any liability; (ii) replace or modify the Services to make them non-infringing; or (iii) terminate this Agreement and refund to Customer any portion of the fees prepaid by Customer for the negligent acts or infringing Services.

**11.2 Customer Indemnification.** Customer shall defend Urban SDK and its officers, directors, employees, agents, affiliates, successors and permitted assigns against all Actions based on a claim that any information or materials provided by Customer (including Customer Data), or Urban SDK's receipt or use thereof, infringes any intellectual property right or misappropriates any trade secret of a third party, and shall

pay all settlements entered into and damages awarded against Urban SDK to the extent based on such an Action.

**11.3 Indemnification Procedures.** The party seeking indemnification hereunder shall promptly notify the indemnifying party in writing of any Action and cooperate with the indemnifying party at the indemnifying party's sole cost and expense.

## 12. TERM AND TERMINATION.

**12.1 Initial Term.** This Agreement shall commence on the Effective Date and shall continue in full force and effect for the initial term set forth on the applicable Ordering Document ("Initial Term"), unless earlier terminated as provided for below. Thereafter, except with respect to any Statements of Work (which shall expire in accordance with their terms), the Initial Term shall automatically renew for successive periods of one (1) year each (each a "Renewal Term" and together with the Initial Term, the "Term"), unless either party provides written notice to the other party at least 30 days prior to the end of the then-current Initial Term or Renewal Term of its intent to not renew the Agreement.

**12.2 Termination.** Without prejudice to any other remedies and in addition to any other termination rights herein, the parties shall have the right to terminate this Agreement as provided

below:

a. By either party if the other party commits a material breach of this Agreement and such breach remains uncured 30 days after written notice of such breach is delivered to such other party including the failure to pay any fees due to Urban SDK; or

b. By either party if the other party makes an assignment for the benefit of creditors, or commences or has commenced against it any proceeding in bankruptcy, insolvency, or reorganization pursuant to bankruptcy laws, laws of debtor's moratorium or similar laws.

12.3 **Termination of Statement of Work.** Either party may terminate any outstanding Statement of Work without terminating the entire Agreement if the other party commits a material breach of such Statement of Work and such breach remains uncured 30 days after written notice thereof is delivered to the other party.

12.4 **Effect.** Upon termination of this Agreement for any reason, all rights and licenses granted by Urban SDK hereunder to Customer will immediately cease. Customer must retrieve all of its data from the Software Services within thirty (30) days of the termination or expiration of this Agreement, at which time Urban SDK reserves the right to delete all data. If terminated for a breach by Urban SDK, Customer shall be entitled to a prorated refund for the remaining Term.

12.5 **Survival.** Termination of this Agreement or any Schedule will not affect the provisions regarding Urban SDK's or Customer's treatment of Confidential Information, provisions relating to the payments of amounts due, indemnification provisions, provisions limiting or disclaiming Urban SDK's liability, or any other terms which by their nature should survive, which provisions will survive such termination.

## 13. GENERAL

13.1 **Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Florida without giving effect to any choice or conflict of law provision or rule. Jurisdiction and venue for purposes of any litigation in connection with this Agreement will be in the relevant state court located in Washington County, Minnesota.

13.2 **Conflicting Terms.** Notwithstanding the content of any Customer purchase order or any other document or record, whether in writing or electronic, relating to the subject matter of this Agreement, the Terms of this Agreement shall govern and any conflicting, inconsistent, or

additional terms contained in such documents shall be null and void.

**13.3 Notice.** All communications required or otherwise provided under this Agreement shall be in writing and shall be deemed given when delivered (i) by hand, (ii) by registered or certified mail, postage prepaid, return receipt requested; or (iii) by a nationally recognized overnight courier service; to the address set forth on the applicable Ordering Document, as may be amended by the parties by written notice to the other party in accordance with this Section 13.3.

**13.4 Assignment.** Neither party may assign, transfer or delegate any or all of its rights or obligations under this Agreement, without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed; provided that upon prior written notice to the other party, either party may assign the Agreement to an affiliate of such party or to a successor of all or substantially all of the assets of such party through merger, reorganization, consolidation or acquisition. No assignment shall relieve the assigning party of any of its obligations hereunder. Any attempted assignment, transfer or other conveyance in violation of the foregoing shall be null and void. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

**13.5 Interpretation.** For purposes of this Agreement, (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Should any provision of this Agreement require judicial interpretation, the parties agree that the court interpreting or construing the same shall not apply a presumption that the terms of this Agreement shall be more strictly construed against one party than against another.

**13.6 Severability.** In case any one or more of the provisions of this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

**13.7 Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes all written or oral prior agreements or understandings with respect thereto.

**13.8 Amendment; Waiver.** This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the

provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**13.9 Force Majeure.** Neither party shall be liable for delay or failure in performing any of its obligations hereunder due to causes beyond its reasonable control, including an act of nature, war, natural disaster, governmental regulations, terrorism, communication or utility failures or casualties or the failures or acts of third parties.

**13.10 Equitable Relief.** Each party acknowledges that a breach by a party of Section 3.2 (Restrictions) or Section 8 (Non-Disclosure and Confidentiality) may cause the non-breaching party irreparable damages, for which an award of damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the non-breaching party will be entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the non-breaching party may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

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

**13.13 Relationship of Parties.** Nothing in this Agreement shall constitute or be deemed to constitute a partnership between the parties hereto or constitute or be deemed to constitute one party as agent of the other, for any purpose whatsoever, and neither party shall have the authority or power to bind the other, or to contract in the name of or create a liability against the other, in any way or for any purpose.

**13.14 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be 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 shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement

# Support Services Schedule

## Support Service Responsibilities

Urban SDK shall provide support services (collectively, "Support Services") for the Software Services in accordance with the provisions of this Schedule. The Support Services are included in the Software Services, and Urban SDK shall not assess any additional fees, costs or charges for such Support Services.

Urban SDK shall use commercially reasonable efforts to:

correct all failures of any Software Services to be available or otherwise perform in accordance with this Agreement ("Service Errors") in accordance with the Support Service Level Requirements, including by providing defect repair, programming corrections and remedial programming;

provide unlimited telephone support during the hours of 8 a.m. to 6 p.m. Eastern Time on business days;

provide unlimited online ticket support outside business hours and on weekends; Provide online access to technical support bulletins and other user support information and forums, to the full extent Urban SDK makes such resources available to its other customers; and

Respond to and resolve Support Requests.

### Service Monitoring and Management

Urban SDK shall use commercially reasonable efforts to continuously monitor and manage the Software Services to enable Availability that meets or exceeds the Availability Requirement.

### Service Maintenance

Urban SDK shall use commercially reasonable efforts to maintain the Software Services in order to enable Availability that meets or exceeds the Availability Requirement. Such maintenance services shall include using commercially reasonable efforts to provide to Customer:

all updates, bug fixes, enhancements, new releases, new versions and other improvements to the Software Services, that Urban SDK provides at no additional charge to its other similarly situated customers; and

all such services and repairs as are required to maintain the Software Services or are ancillary, necessary or otherwise related to Customer's or its End Users' access to or use of the Software Services, so that the Software Services operate properly in accordance with this Agreement.

### Support Requests

Customer shall submit its requests for Service Error corrections and they will be classified in accordance with the descriptions set forth in the chart below (each a "Support Request"). Customer shall notify Urban SDK of Support Requests by email, telephone or such other means as the parties may hereafter agree to in writing.

### Support Request Classification Description:

Any Service Error Comprising or Causing any of the Following Events or Effects

### Critical Service Error

Issue affecting entire system or single critical production function; System down or operating in materially degraded state; or Widespread access interruptions.

### High Service Error

Primary component failure that materially impairs its performance; or Data entry or access is materially impaired on a limited basis.

### Medium Service Error

Software Services are operating with minor issues that can be addressed with a work around.

### Low Service Error

Request for assistance, information, services that are routine in nature, or updates that are desired but do not impair system operation or functionality

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## Escalation

With respect to any Critical Service Error Support Request, until such Support Request is resolved, Urban SDK shall escalate that Support Request within sixty (60) minutes of the receipt of such Support Request by the appropriate Urban SDK support personnel.

## Corrective Action Plan

If two (2) or more Critical Service Errors occur in any thirty (30) day period during (a) the Term or (b) any additional periods during which Urban SDK does or is required to perform any Software Services, Urban SDK shall promptly investigate the root causes of these Service Errors and provide to Customer within five (5) business days of its receipt of notice of the second such Support Request an analysis of such root causes and a proposed written corrective action plan for Customer's review, comment and approval, which, subject to and upon Customer's written approval, shall be a part of, and by this reference is incorporated in, this Agreement as the parties' corrective action plan (the "**Corrective Action Plan**"). The Corrective Action Plan shall include, at a minimum: (x) Urban SDK's commitment to Customer to devote the appropriate time, skilled personnel, systems support and equipment and other resources necessary to resolve and prevent any further occurrences of the Service Errors giving rise to such Support Requests; (y) a strategy for developing any programming, software updates, fixes, patches, etc. necessary to remedy, and prevent any further occurrences of, such Service Errors; and (z) time frames for implementing the Corrective Action Plan. There will be no additional charge for Urban SDK's preparation or implementation of the Corrective Action Plan in the time frames and manner set forth therein.

## Termination Rights

If (i) four (4) or more Critical Service Errors occur during a single thirty (30) day period,

(ii) eight (8) or more High Service Errors or Critical Service Hours (combined in any combination) occur during a single thirty (30) day period, (iii) eight (8) or more Critical Service Errors occur during a six (6) month period, or sixteen (16) or more High Service Errors or Critical Service Hours (combined in any combination) occur during a six (6) month period, in addition to all other remedies available to Customer, Customer may terminate this Agreement on written notice to Urban SDK with no liability, obligation or penalty to Customer by reason of such termination. Termination pursuant to this section shall result in a prorated refund to Customer for the balance of the Term.

# Terms and Conditions

This website, www.urbansdk.com (the "**site**"), is owned and operated by UrbanSDK, LLC. and our affiliates ("**Urban SDK**", "**we**" or "**us**"). By using the site, services provided on the site, our proprietary software made available to you via the site, or content we make available to you through the services (collectively, "**Services**"), you agree to be bound by the following Terms and Conditions, as updated from time to time (collectively, the "**Terms**"). Customer shall be provided with 30 days' written notice prior to any change in Terms and Conditions.

## 7. General

GENERAL. The following terms and conditions ("Terms and Conditions") provide for terms that are common to this Agreement, including all Ordering Documents and Schedules. In the event of a conflict between these Terms and Conditions and any Ordering Document or Schedule, these Terms and Conditions will control, unless expressly stated to the contrary in the Ordering Document or Schedule. The Signature Page, any Statement of Work, and any other ordering document incorporating these Terms and Conditions by reference are individually and collectively referred to as "Ordering Document(s)."

## 8. Services

8.1 **General.** All services provided by Urban SDK under this Agreement ("Services"), including the Software Services, will be provided to Customer according to these Terms and Conditions, the Ordering Documents, and all schedules, exhibits, or other attachments made a part of this Agreement.

8.2 **Third-Party Services.** As set forth in an Ordering Document, the Services may include Customer's utilization of certain third-party software and data developed and owned by Urban SDK's third party licensors. This software and data is neither sold nor distributed to Customer, and Customer may use it solely as part of the Services and for no other purpose. Customer may not transfer such third-party software outside the Services or to any other person or entity. Except as otherwise provided for in an Ordering Document, Urban SDK and Urban SDK's third-party software and data licensors are not responsible for providing any support in connection with the Services or the third-party software. Customer's use of any such third-party software and data is governed by the third-party software or data licensor's terms as may be referenced and incorporated into an applicable Ordering Document. Customer covenants to comply with the terms of such third-party licensor's terms as if Customer were the licensee. The

Services may incorporate Annual Average Daily Traffic (AADT) data provided by the official transportation agencies of some or all of the 50 U.S. states as set forth in the Traffic Data Sources AADT Addendum, which is hereby incorporated by reference into these Terms and Conditions. These agencies serve as the authoritative sources for roadway traffic volume information within their respective jurisdictions. AADT data were used exclusively for validation purposes.

8.3 **Change Orders.** If either party wishes to change the scope or performance of the Services, it shall submit details of the requested change to the other in writing. Urban SDK shall, within a reasonable time after such request, provide a written estimate to Customer of: (a) the likely time required to implement the change; (b) any necessary variations to the fees and other charges for the Services arising from the change; (c) the likely effect of the change on the Services; and (d) any other impact the change might have on the performance of this Agreement. Promptly after receipt of the written estimate, the parties shall negotiate in good faith the terms of such change (if and when mutually agreed in writing, a "Change Order"). Neither party shall be bound by any Change Order unless mutually agreed upon in writing.

## 9. Software Services

9.1 **Software Services.** Urban SDK will provide Customer, and its authorized employees, contractors and other personnel authorized by Customer ("End Users") with access to the software products and related services provided by Urban SDK via a web browser (or mobile application) and identified on the applicable Ordering Document ("Software Services"). During the Term and subject to Customer's compliance with this Agreement, Urban SDK grants Customer the non-exclusive, nontransferable,
non-assignable, and limited right to allow End Users to remotely access the Software Services for Customer's internal business purposes in accordance with the terms of this Agreement.

9.2 **Restrictions.** Customer shall not lease, license, sell, sublicense or otherwise transfer its access to or use of the Software Services. The Software Services may only be used by Customer and End Users. In addition, Customer shall not modify, create derivative works of, or attempt to decipher, decompile, disassemble or reverse engineer the Software Services. Nothing in this Agreement confers upon either party any right to use the other party's Marks, except in Urban SDK's performance of the Services. All use of such Marks by either party will inure to the benefit of the owner of such Marks, use of which will be subject to specifications controlled by the owner.

## 10. Professional Services

**10.1 Professional Services.** Urban SDK may provide integration, implementation, or other professional services (each to the extent identified as professional services on a Statement of Work, "Professional Services") and Deliverables to Customer as set forth in a Statement of Work. "Deliverables" means all Creations that are delivered to Customer by or on behalf of Urban SDK as a part of the Professional Services, together with any items identified as such in a Statement of Work. "Creations" means any tangible or intangible thing or information, in any language, format or medium now existing or hereafter developed, and all tangible embodiments thereof, whether or not such creation is or may in the future be protected under any intellectual property right or considered Confidential Information, including ideas, creations, inventions, discoveries, innovations, industrial models, improvements, designs, methods, processes, formulae, works of authorship, products, compositions, displays, models, prototypes, samples, findings, documentation, specifications, abstracts, research and development information, know-how, procedural knowledge, industrial property, utility models, data, databases, metadata, industrial designs, mask works, Confidential Information, content, lists, electronic data files, training materials and manuals, user guides, drawings, techniques, computer software (in object, source, interpreted or other code forms), modifications to software or documentation, business information, business plans, technical knowledge, technical information, maintenance information, brochures, labels, papers, records, text, sound recordings, videos, pictures, photographs, audiovisual works, pictorial reproductions, drawings, or other graphical representations, and all other items with similar characteristics.

**10.2 Acceptance.** Any software constituting a Deliverable (each a "Software Deliverable") shall be subject to acceptance by Customer to ensure that it meets the specifications of this Agreement and the applicable Statement of Work. If Customer does not reject any final Software Deliverable within 30 days of delivery, such Software Deliverable shall be deemed accepted. If any final Software Deliverable does not materially meet the applicable specifications, Customer shall notify Urban SDK of such nonconformities in reasonable detail, and Urban SDK will, at no additional cost, use commercially reasonable efforts to promptly correct such Software Deliverable so that it conforms to the applicable specifications. If within 30 days of such Customer notification, any final Software Deliverable still does not meet the specifications, Customer may at any time thereafter, as its sole remedy, terminate the applicable Statement of Work, return the Software Deliverable and all copies thereof to Urban SDK, and receive a refund of any fees or expenses paid in connection with such Software Deliverable.

10.3 **Urban SDK Personnel**. Urban SDK shall appoint an Urban SDK employee to serve as a primary contact with respect to any Professional Services (the "Urban SDK Contract Manager"). Urban SDK shall also appoint Urban SDK Personnel, who shall be suitably skilled, experienced, and qualified to perform the Professional Services. Additionally, Urban SDK may subcontract parts of the Professional Services to affiliated companies or third parties, provided that Urban SDK shall remain responsible for the performance of the Professional Services. In the event that any Urban SDK's Personnel does not perform to Customer's reasonable satisfaction, Urban SDK shall remove such Urban SDK's Personnel and replace him or her with a similarly qualified Urban SDK Personnel. Urban SDK is responsible for all Urban SDK Personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments, disability benefits, pensions, retirement benefits, insurance, and other benefits.

10.4 **License and Consents.** Urban SDK shall maintain all necessary licenses and consents and comply with all laws applicable to the provision of the Professional Services.

10.5 **Tools, Labor, Materials and Supplies.** Unless otherwise provided in a Statement of Work, Urban SDK shall provide, at its expense, all tools, materials, supplies, labor, and equipment necessary to perform the Professional Services.

## 11. Rights Reserved

Customer and its licensors are, and shall remain, the sole and exclusive owner of all right, title and interest in and to the "Customer Materials" (as defined in an applicable Statement of Work, if applicable), including all intellectual property rights therein. Urban SDK shall have no right or license to use any Customer Materials except during the Term to the extent necessary to provide the Professional Services to Customer. All other rights in and to the Customer Materials are expressly reserved by Customer. All right, title and interest, including all intellectual and proprietary rights, in and to the Software Services. Deliverables, and all Urban SDK service marks, trademarks, trade names, logos, and any modifications to the foregoing ("Marks") (and all suggestions, feedback, contributions, enhancements, improvements, additions, modifications, or derivative works thereto and copies thereof) will remain in possession of Urban SDK. Customer acknowledges that the Software Services in source code form is the Confidential Information of Urban SDK and that the source code is not licensed to Customer by this Agreement or any Schedule and will not be provided by Urban SDK. No right or implied

license or right of any kind is granted to Customer regarding the Services, including any right to use, reproduce, market, sell, translate, distribute, transfer, adopt, disassemble, decompile, reverse engineer the Software Services or the documentation thereof, or any portions thereof, or obtain possession of any source code or other technical material relating to the Software Services.

## 12. Fees and Payment Terms

**14.1 Services Fees.** For the Services provided under this Agreement, Customer will pay Urban SDK the fees in the amounts set forth on the applicable Ordering Document. Unless otherwise set forth on the applicable Ordering Document, applicable fees will be invoiced to Customer annually in advance and payable (i) immediately upon invoice if Customer's payment method is on file with Urban SDK, or (ii) if no payment method has been provided to Urban SDK, within thirty (30) days of invoice. Fees are non-cancelable and non-refundable, except in a Termination by Customer due to a violation of Critical Service Errors as described in Support Services - Termination Rights or due to Urban SDK's breach. In the event of early termination of this Agreement other than due to Urban SDK's breach, all amounts outstanding that would have otherwise been due through the end of the then-current Term shall automatically be due and payable by Customer upon termination.

**14.2 Fee Changes.** After the Initial Term, and at the beginning of each Renewal Term thereafter, Urban SDK may adjust the fees applicable during the upcoming Renewal Term upon written notice provided at least sixty (60) days prior to the end of the Initial Term or applicable Renewal Term, as the case may be. All fees paid and expenses reimbursed under this Agreement will be in United States currency. Urban SDK may increase pricing and fees on an annual basis by the greater of: (a) six percent (6%) per annum, or (b) the percentage by which the then most-recently published Consumer Price Index in the United States for all Urban Consumers (Index base: 1982/1984 = 100; Index Components: All Items) ("CPI") exceeds the CPI as of the Effective Date or, if later, the immediately preceding change in pricing. Additionally, Upon written notice to Customer at least thirty (30) days prior to effectiveness, Urban SDK may increase the amount of the fees in an Ordering Document relating to, if applicable: (a) data storage and/or relational databases if the applicable cloud data provider has increased the prices paid by Urban SDK for such data storage and/or relational databases, and any such increase shall be proportionate to the increase imposed upon Urban SDK by the applicable utility provider; and (b) the cost of third party Services or services (including software and datasets) performed or provided by a third party that comprise all or some part of the Services including any increases to such costs.

14.3 **Late Fees.** Customer will pay a late fee of 1.5% per month (not to exceed the maximum allowed under state law) on all balances not paid when due. Urban SDK, at its option, may suspend the Services, in whole or in part, if Urban SDK does not receive all undisputed amounts due and owing under this Agreement within thirty (30) days after delivery of notice to Customer of the failure to pay such overdue balances.

14.4 **Taxes.** The fees and expenses due to Urban SDK as set forth in this Agreement are net amounts to be received by Urban SDK, exclusive of all sales, use, withholding, excise, value added, ad valorem taxes or duties incurred by Customer or imposed on Urban SDK in the performance of this Agreement or otherwise due as a result of this Agreement. This section will not apply to taxes based solely on Urban SDK'S income.

14.5 **Offset.** Fees and expenses due from Customer under this Agreement may not be withheld or offset by Customer against other amounts for any reason.

## 15. Customer Acknowledgements.

7.5 **Customer Requirements.** Customer must have required equipment, software, and Internet access to be able to use the Software Services. Acquiring, installing, maintaining and operating equipment and Internet access is solely Customer's responsibility. Urban SDK neither represents nor warrants that the Software Services will be accessible through all web browser releases. Customer shall take all steps necessary for Urban SDK to perform the Services effectively, including with respect to
(c) providing access to Customer's resources or staff as needed to perform the Services; (b) maintaining, testing, configuring, operating, and upgrading Customer's data, applications, server hardware, operating system, environment, and facilities, as applicable, related to the Services.

7.6 **Use of Software Services.** Customer shall not and shall not permit others in using the Software Services to: (i) defame, abuse, harass, stalk, threaten or otherwise violate or infringe the legal rights (such as rights of privacy, publicity and intellectual property) of others or Urban SDK; (ii) publish, ship, distribute or disseminate any harmful, inappropriate, profane, vulgar, infringing, obscene, false, fraudulent, tortuous, indecent, unlawful, immoral or otherwise objectionable material or information (including any unsolicited commercial communications); (iii) publish, ship, distribute or disseminate material or information that encourages conduct that could constitute a criminal offense or give rise to civil liability; (iv) engage in any conduct that could constitute a criminal offense or give rise to civil liability for Urban SDK; (v) misrepresent or in any other way falsely identify Customer's identity or affiliation, including through impersonation or

altering any technical information in communications using the Software Services; (vi) transmit or upload any material through the Software Services contains viruses, trojan horses, worms, time bombs, cancelbots, or any other programs with the intent or effect of damaging, destroying, disrupting or otherwise impairing Urban SDK', or any other person's or entity's, network, computer system, or other equipment; (vii) interfere with or disrupt the Software Services, networks or servers connected to the Urban SDK systems or violate the regulations, policies or procedures of such networks or servers, including unlawful or unauthorized altering any of the information submitted through the Software Services; (viii) attempt to gain unauthorized access to the Software Services, other Urban SDK customers' computer systems or networks using the Software Services through any means; or (ix) interfere with another party's use of the Software Services, including any parties Customer has done business with or choose not to do business with through the Software Services. Urban SDK has no obligation to monitor Customer's use of the Software Services. However, Urban SDK may at any time monitor, review, retain and disclose any information as necessary to satisfy or cooperate with any applicable law, regulation, legal process or governmental request. Customer shall use commercially reasonable efforts, including reasonable security measures relating to administrator account access details, to ensure that no unauthorized person may gain access to the Services.

7.7 **Compliance with Law.** Customer agrees not to use (and will use its best efforts not to allow its End Users to use) the Software Services for illegal purposes or for the transmission of material that is unlawful, harassing, libelous (untrue and damaging to others), invasive of another's privacy, abusive, threatening, or obscene, or that infringes the rights of others. Customer is solely responsible for any and all improper use of the Software Services that occurs as a direct or indirect result of any act or omission of Customer. Customer will notify Urban SDK immediately of any unauthorized use of the Software Services or any other breach of security that is known or suspected by Customer.

7.8 **Professional Services.** With respect to any Professional Services, Customer shall have the following obligations set forth in this Section 7.4.

d. Customer Contract Manager. Customer shall cooperate with Urban SDK in all matters relating to the Professional Services and appoint a Customer employee to serve as the primary contact with respect to this Agreement (the "Customer Contract Manager").

e. Access and Assistance; Customer Materials. Customer shall provide such access to Customer's premises, facilities, and computer systems and networks as may reasonably be requested by Urban SDK for the purposes of performing the Professional Services. Customer shall respond promptly to any Urban SDK request to provide

direction, information, approvals, authorizations or decisions that are reasonably necessary for Urban SDK to perform the Professional Services. Customer shall provide such Customer Materials as set forth in the applicable Statement of Work or as Urban SDK may reasonably request in order to carry out the Professional Services, in a timely manner, and ensure that it is complete and accurate in all material respects.

f. Delay in Performance. If Urban SDK's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants or employees, Urban SDK shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay, and Urban SDK's obligation to perform will be extended based on Urban SDK's reasonable ability to reallocate resources to performing and such delay may result in reasonable additional fees to the extent Urban SDK incurs additional costs due to the delay.

## 16.Non-disclosure and confidentiality.

8.5 **Disclosure.** Each party may disclose to the other party certain Confidential Information of such party or of such party's associated companies, distributors, licensors, suppliers, or customers. "Confidential Information" means any information that is of value to its owner and is treated as confidential, including trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing; "Disclosing Party" refers to the party disclosing Confidential Information hereunder, whether such disclosure is directly from Disclosing Party or through Disclosing Party's employees or agents; and "Recipient" refers to the party receiving any Confidential Information hereunder, whether such disclosure is received directly or through Recipient's employees or agents**.**

8.6 **Requirement of Confidentiality.** The Recipient agrees: (a) not to disclose or otherwise make available Confidential Information of the Disclosing Party to any third party without the prior written consent of the Disclosing Party, provided that the Recipient may disclose the Confidential Information of the Disclosing Party to its, and its affiliates, officers, employees, consultants and legal advisors who have a "need to know", who have been apprised of this restriction and who are themselves bound by nondisclosure obligations at least as restrictive as those set forth in this Section 8; (b) to use the Confidential Information of the Disclosing Party only for the purposes of performing its obligations or as otherwise authorized under the Agreement; and (c) to promptly notify the Disclosing Party in the event it becomes aware of any loss or

disclosure of any of the Confidential Information of Disclosing Party. Customer acknowledges that the Software Services and documentation are the Confidential Information of Urban SDK. The obligations in this Section 8 shall survive termination and continue for so long as the applicable information constitutes Confidential Information. Confidential Information shall not include information that: (a) is already known to the Recipient without restriction on use or disclosure prior to receipt of such information from the Disclosing Party; (b) is or becomes generally known by the public other than by breach of this Agreement by, or other wrongful act of, the Recipient; (c) is developed by the Recipient independently of, and without reference to, any Confidential Information of the Disclosing Party; or (d) is received by the Recipient from a third party who is not under any obligation to the Disclosing Party to maintain the confidentiality of such information.

8.7 **Compelled Disclosure.** If the Recipient becomes legally compelled to disclose any Confidential Information, the Recipient shall provide: (a) prompt written notice of such requirement so that the Disclosing Party may seek, at its sole cost and expense, a protective order or other remedy; and (b) reasonable assistance, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If, after providing such notice and assistance as required herein, the Recipient remains required by law to disclose any Confidential Information, the Recipient shall disclose no more than that portion of the Confidential Information which, on the advice of the Recipient's legal counsel, the Recipient is legally required to disclose and, upon the Disclosing Party's request, shall use commercially reasonable efforts to obtain assurances from the applicable court or agency that such Confidential Information will be afforded confidential treatment.

8.8 **Customer Data; Data Use.** "Customer Data" means information, data and other content, in any form or medium, that is collected, downloaded or otherwise received, directly or indirectly from Customer or an End User by or through the Services, but does not include any data collected, downloaded or otherwise received, directly or indirectly from any other user of the Services. Customer hereby grants to Urban SDK a
non-exclusive license to copy, reproduce, store, distribute, publish, export, adapt, edit and translate Customer Data to the extent reasonably required only for purposes of the performance of Urban SDK's obligations and the exercise of Urban SDK's rights under this Agreement and for no other purpose. Customer warrants to Urban SDK that Customer has the right to provide such Customer Data to Urban SDK in accordance with this Agreement.

## 17.Limited Warranty; Disclaimers.

Urban SDK represents and warrants that it will provide the Services in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Software Services will perform substantially in accordance with the documentation under normal use and circumstances. Each party represents and warrants that it has the legal power and authority to enter into this Agreement. OTHER THAN AS EXPRESSLY SET FORTH IN THIS SECTION 9, EACH PARTY DISCLAIMS ALL WARRANTIES, CONDITIONS, OR REPRESENTATIONS TO THE OTHER PARTY REGARDING THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED, OR STATUTORY. WITHOUT LIMITING THE FOREGOING, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, THE IMPLIED WARRANTY AGAINST INFRINGEMENT, THE IMPLIED WARRANTY OR CONDITION OF FITNESS FOR A PARTICULAR PURPOSE, AND THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE ARE EXPRESSLY EXCLUDED AND DISCLAIMED BY Urban SDK. NO WARRANTY IS MADE THAT USE OF THE SERVICES WILL BE ERROR FREE OR UNINTERRUPTED, THAT ANY ERRORS OR DEFECTS IN THE SERVICES WILL BE CORRECTED, OR THAT THE SERVICES FUNCTIONALITY WILL MEET CUSTOMER'S REQUIREMENTS. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, CUSTOMER ACKNOWLEDGES AND AGREES THAT URBAN SDK MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO ANY THIRD-PARTY HARDWARE, SOFTWARE, PRODUCT OR SERVICE INCLUDED WITH ANY OF THE SERVICES.

## 18. Limitation of Liability

10.3 **Liability Cap.** EXCEPT AS OTHERWISE PROVIDED IN SECTION 10.3, IN NO EVENT WILL EITHER PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED $50,000.00.

10.4 **Exceptions.** The exclusions and limitations in Section 10.1 and Section 10.2 shall not apply to: (a) damages or other liabilities arising out of or relating to a party's failure to comply with its obligations under Section 8 (Non-Disclosure and Confidentiality); or
(d) a party's obligations under Section 11 (Indemnification).

## 19. Indemnification

11.4 **Urban SDK Indemnification**. Urban SDK shall defend Customer and its officers, directors, employees, agents, successors and permitted assigns against any third party claim, suit, action or proceeding (each, an "Action") based on a claim of Urban SDK's negligence acts or that Customer's receipt or use of the Services in accordance with this Agreement infringes any

intellectual property right or misappropriates any trade secret of a third party, and shall pay all settlements entered into and damages awarded against Customer to the extent based on such an Action; provided, however, that Urban SDK shall have no obligations under this Section 11.1 with respect to claims to the extent arising out of: (a) any instruction, information, designs, specifications or other materials provided by Customer to Urban SDK; (b) use of the Services in combination with any materials or equipment not supplied to Customer or specified by Urban SDK in writing; or (c) any modifications or changes made to the Services by or on behalf of any person or entity other than Urban SDK. If the Services, or any part thereof, become are an action for negligent acts, or in the opinion of Urban SDK may become, the subject of a claim of infringement or misappropriation, Urban SDK may, at its option: (i) procure for Customer the right to use such Services free of any liability; (ii) replace or modify the Services to make them non-infringing; or (iii) terminate this Agreement and refund to Customer any portion of the fees prepaid by Customer for the negligent acts or infringing Services.

**11.5 Customer Indemnification.** Customer shall defend Urban SDK and its officers, directors, employees, agents, affiliates, successors and permitted assigns against all Actions based on a claim that any information or materials provided by Customer (including Customer Data), or Urban SDK's receipt or use thereof, infringes any intellectual property right or misappropriates any trade secret of a third party, and shall

pay all settlements entered into and damages awarded against Urban SDK to the extent based on such an Action.

**11.6 Indemnification Procedures.** The party seeking indemnification hereunder shall promptly notify the indemnifying party in writing of any Action and cooperate with the indemnifying party at the indemnifying party's sole cost and expense.

## 20. TERM AND TERMINATION.

**12.6 Initial Term.** This Agreement shall commence on the Effective Date and shall continue in full force and effect for the initial term set forth on the applicable Ordering Document ("Initial Term"), unless earlier terminated as provided for below. Thereafter, except with respect to any Statements of Work (which shall expire in accordance with their terms), the Initial Term shall automatically renew for successive periods of one (1) year each (each a "Renewal Term" and together with the Initial Term, the "Term"), unless either party provides written notice to the other party at least 30 days prior to the end of the then-current Initial Term or Renewal Term of its intent to not renew the Agreement.

**12.7 Termination.** Without prejudice to any other remedies and in addition to any other termination rights herein, the parties shall have the right to terminate this Agreement as provided below:

c. By either party if the other party commits a material breach of this Agreement and such breach remains uncured 30 days after written notice of such breach is delivered to such other party including the failure to pay any fees due to Urban SDK; or

d. By either party if the other party makes an assignment for the benefit of creditors, or commences or has commenced against it any proceeding in bankruptcy, insolvency, or reorganization pursuant to bankruptcy laws, laws of debtor's moratorium or similar laws.

12.8 **Termination of Statement of Work.** Either party may terminate any outstanding Statement of Work without terminating the entire Agreement if the other party commits a material breach of such Statement of Work and such breach remains uncured 30 days after written notice thereof is delivered to the other party.

12.9 **Effect.** Upon termination of this Agreement for any reason, all rights and licenses granted by Urban SDK hereunder to Customer will immediately cease. Customer must retrieve all of its data from the Software Services within thirty (30) days of the termination or expiration of this Agreement, at which time Urban SDK reserves the right to delete all data. If terminated for a breach by Urban SDK, Customer shall be entitled to a prorated refund for the remaining Term.

12.10 **Survival.** Termination of this Agreement or any Schedule will not affect the provisions regarding Urban SDK's or Customer's treatment of Confidential Information, provisions relating to the payments of amounts due, indemnification provisions, provisions limiting or disclaiming Urban SDK's liability, or any other terms which by their nature should survive, which provisions will survive such termination.

## 21. GENERAL

13.11 **Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Florida without giving effect to any choice or conflict of law provision or rule. Jurisdiction and venue for purposes of any litigation in connection with this Agreement will be in the relevant state court located in Washington County, Minnesota.

13.12 **Conflicting Terms.** Notwithstanding the content of any Customer purchase order or any other document or record, whether in writing or electronic, relating to the subject matter of this Agreement, the Terms of this Agreement shall govern and any conflicting, inconsistent, or additional terms contained in such documents shall be null and void.

**13.13 Notice.** All communications required or otherwise provided under this Agreement shall be in writing and shall be deemed given when delivered (i) by hand, (ii) by registered or certified mail, postage prepaid, return receipt requested; or (iii) by a nationally recognized overnight courier service; to the address set forth on the applicable Ordering Document, as may be amended by the parties by written notice to the other party in accordance with this Section 13.3.

**13.14 Assignment.** Neither party may assign, transfer or delegate any or all of its rights or obligations under this Agreement, without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed; provided that upon prior written notice to the other party, either party may assign the Agreement to an affiliate of such party or to a successor of all or substantially all of the assets of such party through merger, reorganization, consolidation or acquisition. No assignment shall relieve the assigning party of any of its obligations hereunder. Any attempted assignment, transfer or other conveyance in violation of the foregoing shall be null and void. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

**13.15 Interpretation.** For purposes of this Agreement, (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Should any provision of this Agreement require judicial interpretation, the parties agree that the court interpreting or construing the same shall not apply a presumption that the terms of this Agreement shall be more strictly construed against one party than against another.

**13.16 Severability.** In case any one or more of the provisions of this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

**13.17 Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes all written or oral prior agreements or understandings with respect thereto.

**13.18 Amendment; Waiver.** This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be

construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**13.19 Force Majeure.** Neither party shall be liable for delay or failure in performing any of its obligations hereunder due to causes beyond its reasonable control, including an act of nature, war, natural disaster, governmental regulations, terrorism, communication or utility failures or casualties or the failures or acts of third parties.

**13.20 Equitable Relief.** Each party acknowledges that a breach by a party of Section 3.2 (Restrictions) or Section 8 (Non-Disclosure and Confidentiality) may cause the non-breaching party irreparable damages, for which an award of damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the non-breaching party will be entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the non-breaching party may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

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

**13.16 Relationship of Parties.** Nothing in this Agreement shall constitute or be deemed to constitute a partnership between the parties hereto or constitute or be deemed to constitute one party as agent of the other, for any purpose whatsoever, and neither party shall have the authority or power to bind the other, or to contract in the name of or create a liability against the other, in any way or for any purpose.

**13.17 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be 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 shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement

# Support Services Schedule

## Support Service Responsibilities

Urban SDK shall provide support services (collectively, "Support Services") for the Software Services in accordance with the provisions of this Schedule. The Support Services are included in the Software Services, and Urban SDK shall not assess any additional fees, costs or charges for such Support Services.

Urban SDK shall use commercially reasonable efforts to:

correct all failures of any Software Services to be available or otherwise perform in accordance with this Agreement ("Service Errors") in accordance with the Support Service Level Requirements, including by providing defect repair, programming corrections and remedial programming;

provide unlimited telephone support during the hours of 8 a.m. to 6 p.m. Eastern Time on business days;

provide unlimited online ticket support outside business hours and on weekends; Provide online access to technical support bulletins and other user support information and forums, to the full extent Urban SDK makes such resources available to its other customers; and

Respond to and resolve Support Requests.

### Service Monitoring and Management

Urban SDK shall use commercially reasonable efforts to continuously monitor and manage the Software Services to enable Availability that meets or exceeds the Availability Requirement.

### Service Maintenance

Urban SDK shall use commercially reasonable efforts to maintain the Software Services in order to enable Availability that meets or exceeds the Availability Requirement. Such maintenance services shall include using commercially reasonable efforts to provide to Customer:

all updates, bug fixes, enhancements, new releases, new versions and other improvements to the Software Services, that Urban SDK provides at no additional charge to its other similarly situated customers; and

all such services and repairs as are required to maintain the Software Services or are ancillary, necessary or otherwise related to Customer's or its End Users' access to or use of the Software Services, so that the Software Services operate properly in accordance with this Agreement.

## Support Requests

Customer shall submit its requests for Service Error corrections and they will be classified in accordance with the descriptions set forth in the chart below (each a "Support Request"). Customer shall notify Urban SDK of Support Requests by email, telephone or such other means as the parties may hereafter agree to in writing.

| Support Request | Classification Description: |
|---|---|
| Critical Service Error | Any Service Error Comprising or Causing any of the Following Events or Effects<br>Issue affecting entire system or single critical production function; System down or operating in materially degraded state; or Widespread access interruptions. |
| High Service Error | Primary component failure that materially impairs its performance; or Data entry or access is materially impaired on a limited basis. |
| Medium Service Error | Software Services are operating with minor issues that can be addressed with a work around. |
| Low Service Error | |

Request for assistance, information, services that are routine in nature, or updates that are desired but do not impair system operation or functionality.

## Escalation

With respect to any Critical Service Error Support Request, until such Support Request is resolved, Urban SDK shall escalate that Support Request within sixty (60) minutes of the receipt of such Support Request by the appropriate Urban SDK support personnel.

## Corrective Action Plan

If two (2) or more Critical Service Errors occur in any thirty (30) day period during (a) the Term or (b) any additional periods during which Urban SDK does or is required to perform any Software Services, Urban SDK shall promptly investigate the root causes of these Service Errors and provide to Customer within five (5) business days of its receipt of notice of the second such Support Request an analysis of such root causes and a proposed written corrective action plan for Customer's review, comment and approval, which, subject to and upon Customer's written approval, shall be a part of, and by this reference is incorporated in, this Agreement as the parties' corrective action plan (the "**Corrective Action Plan**"). The Corrective Action Plan shall include, at a minimum: (x) Urban SDK's commitment to Customer to devote the appropriate time, skilled personnel, systems support and equipment and other resources necessary to resolve and prevent any further occurrences of the Service Errors giving rise to such Support Requests; (y) a strategy for developing any programming, software updates, fixes, patches, etc. necessary to remedy, and prevent any further occurrences of, such Service Errors; and (z) time frames for implementing the Corrective Action Plan. There will be no additional charge for Urban SDK's preparation or implementation of the Corrective Action Plan in the time frames and manner set forth therein.

## Termination Rights

If (i) four (4) or more Critical Service Errors occur during a single thirty (30) day period,

(ii) eight (8) or more High Service Errors or Critical Service Hours (combined in any combination) occur during a single thirty (30) day period, (iii) eight (8) or more Critical Service Errors occur during a six (6) month period, or sixteen (16) or more High Service Errors or Critical Service Hours (combined in any combination) occur during a six (6) month period, in addition to all other remedies available to Customer, Customer may terminate this Agreement on written notice to Urban SDK with no liability, obligation or penalty to Customer by reason of such termination. Termination pursuant to this section shall result in a prorated refund to Customer for the balance of the Term.