

SOFTWARE MAINTENANCE AGREEMENT

THIS AGREEMENT ("Agreement") is hereby entered into between the ("Customer") **Collin County**, whose offices are located at 200 S. McDonald, Suite 230, McKinney, TX 75069), and **Spindlemedia, Inc**, a Texas corporation, whose offices are located at 1005 Long Prairie Rd, Suite 200, Flower Mound, Texas ("Contractor") on the following terms and conditions:

1. Software Maintenance Services.

(a) Scope of Coverage. During the term of this Agreement (the "Term"), Contractor agrees to provide Customer with software support services for the **Tax Office 2004** software (the "Licensed Software") licensed by Contractor to Customer pursuant to the Software Licensing Agreement between the parties. Contractor shall provide Customer with copies of bug fixes and interim releases of the Licensed Software, which it generally distributes as maintenance releases. In addition, Contractor shall make a good faith effort during the Term to develop functional enhancements to the Licensed Software at its prevailing rates or as otherwise agreed in writing. For these purposes, a "functional enhancement" is a change to the Licensed Software that Contractor believes materially exceeds or is different from the current version but is not necessary to comply with the ad valorem tax laws of the State of Texas ("Tax Laws"). This may, if feasible, include workarounds or accommodations required to make the Licensed Software operate with other technology. Unless clearly erroneous, Contractor's characterization of requested service as a "functional enhancement" (rather than a maintenance release) shall be dispositive.

As a precondition to Contractor's responsibilities, the Customer shall ensure that:

- (i) the Licensed Software, any associated third party software and all equipment is installed and operated according to applicable specifications;
- (ii) Customer has installed all updates to associated third party software and equipment recommended by Contractor and has maintained all environmental conditions according to applicable specifications and industry standards;
- (iii) Customer has not introduced other equipment or software having an adverse impact on the Licensed Software;
- (iv) any specifications supplied to Contractor by Customer are accurate and complete and
- (v) Customer has made no changes to the Licensed Software after the effective date of this Agreement, nor permitted any changes to be made, other than by or with the express approval of Contractor or the applicable vendor.

(b) Annual Load. Contractor shall load and balance the certified Appraisal District Tax Roll on an annual basis.

(c) Telephone Support. Telephone support of the Licensed Software is available for the customer's trained personnel during the time period from 8:00 a.m. until 5:00 p.m., Central Standard Time, Monday through Friday, excluding nationally recognized holidays.

(d) Errors and Alarms. For purposes of this Agreement, an "Error" in the Licensed Software is one that prevents the Licensed Software from operating substantially in accordance with specifications and standards. A "Major Alarm" shall mean any Error in the Licensed Software that is causing an immediate and significant disruption of an important business operation of Customer and which could not reasonably be avoided through minor operational adjustments. A "Minor Alarm" is any Error in the Licensed Software other than a Major Alarm.

(e) Trouble Reports, Response Times. Customer shall supply Contractor with verifiable and reproducible evidence of Errors in accordance with the Contractor's "Trouble Report" (see exhibit B) procedures. Upon receipt of a Trouble Report, Contractor shall respond by telephone to acknowledge receipt of the Trouble Report within twenty-four (24) hours.

(i) Errors and Major Alarms. To the extent a Trouble Report identifies one or more Major Alarms, the Contractor shall, with the cooperation of the Customer (including installation of remote takeover software) immediately commence diagnosis. Once the cause of the Error is known and a temporary fix or workaround is identified, Contractor shall provide said temporary fix or workaround at the earliest opportunity. At no time should the time frame exceed forty-eight (48) hours. Contractor shall thereafter provide a permanent correction, once it has been identified and tested, as a permanent solution. Any notification of Major Alarm outside of normal business hours will be responded to within 12 hours. Diagnosis, temporary fixes, and/or workarounds will be addressed next normal business day.

(ii) Minor Alarms. In the case of Minor Alarms, the Contractor shall, within a reasonable timeframe initiate diagnosis and error correction efforts. Contractor's definition of a reasonable time frame is as follows:

August through January – Diagnosis and any temporary fixes or workarounds within 30 days.

February through July – Diagnosis and any temporary fixes with 10 days.

(f) Services Excluded. The following items are not included under this Agreement, and will incur additional charges to the Customer at Contractor's hourly rate set forth on Exhibit "A" attached hereto, if requested by Customer.

- (i) All support of untrained personnel (the attached Proposal, dated July 28, 2008, provides for initial training of the Customer's staff, but subsequent training of untrained personnel is not included),
- (ii) Custom software corrections, changes or modifications,
- (iii) Programming for custom reports and document creation with utility software such as report writers, word processors and spreadsheets,
- (iv) Programming training or support required as a result of third party changes such as government regulations (excluding tax law changes), changes in forms, changes in hardware, or for operator errors which were not the fault of the software, and
- (v) Updates and installation of third party software and operating system software products supplied by vendors that charge a separate fee for their support and update services.

2. Fees and Payment.

(a) Maintenance Fee. In consideration for the software maintenance services provided by Contractor to Customer pursuant to this Agreement, Customer agrees to pay to Contractor the Maintenance Fee in the following schedule: Year One - \$49,400; Year Two - \$49,400; Year Three - \$52,000; Year Four \$54,600; and Year Five - \$55,900. The annual Maintenance Fee is due and payable upon the anniversary date of this agreement. The Contractor may not adjust the Maintenance Fee more frequently than annually and at no higher increase than 10%, upon each renewal of the Term.

(b) Out-of-Pocket Costs & Taxes. Except as otherwise set forth in Exhibit "A," prices quoted do not include, and Customer shall reimburse Contractor for, Contractor's reasonable, documented out-of-pocket costs incurred by Contractor in the performance of its duties in Services Excluded, listed in Section 1f hereunder, including, but not limited to travel costs, cab fare, lodging, auto rental, gas, postage, courier fees, long distance telephone and other similar out-of-pocket expenses not to exceed to the daily allowable per diem limit of \$250.00.

(c) Invoices & Payment. Customer shall pay the Maintenance Fee, and any applicable surcharge or out-of-pocket costs authorized under the terms of this Agreement, within thirty (30) days after date of invoice. Customer may not withhold or "setoff" any amounts due hereunder. Contractor reserves the right to stop work without prejudice until all amounts due hereunder are paid in full. Any late payment shall be subject to any costs of collection (including reasonable legal fees) and shall bear interest at the rate of one (1) percent per month or fraction thereof until paid.

3. Term, Termination.

The term of this Agreement ("Term") shall commence on the date that the last signature is obtained and as also provided for in the Software License Agreement between the parties (the "Software License Agreement), and shall continue in full force and effect for a period of one (1) year, unless terminated earlier as provided herein. The Term shall be automatically renewed for successive like periods unless Customer notifies Contractor at least thirty (30) days prior to the expiration of the Term (or renewal Term, as the case may be) that the Term shall not be renewed, in which case this Agreement shall terminate upon the expiration of the then current Term. This Agreement may be terminated earlier on account of either party's default which remains uncured upon compliance with the procedures set forth in Section 5 hereof.

4. Warranties.

- (a) Limited Warranty on Services. During the Term, Contractor shall make all reasonable efforts to ensure that the Licensed Software operates substantially in accordance with the written specifications of the Software License Agreement. Contractor does not warrant that Customer's use of the Licensed Software will be uninterrupted or error free. Contractor represents and warrants that none of the Custom Work Product (as defined in the License Agreement) will contain any timer, counter, lock or similar device (other than security features specifically approved by Customer in such specifications) that inhibits or in any way limits its ability to operate.
- (b) Warranty Disclaimer. CONTRACTOR DISCLAIMS WITH RESPECT TO ALL SERVICES, CUSTOM WORK PRODUCT, FIXES, ENHANCEMENTS OR OTHER DELIVERABLES HEREUNDER, ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE.
- (c) Limitation of Remedies & Liabilities. The parties acknowledge that the following provisions have been negotiated by them and reflect a fair allocation of risk:
- (i) Remedies. Customer's remedies for Contractor's default hereunder include (i) to obtain the repair, replacement or correction of the defective services or deliverables to the extent warranted under Section 4 or, if Contractor reasonably determines that such remedy is not economically or technically feasible, (ii) to obtain an equitable partial or full refund of amounts paid with respect to the defective services or deliverables, (iii) any other remedy available by law.
- (ii) Liabilities. CONTRACTOR SHALL NOT BE LIABLE FOR ANY AMOUNT EXCEEDING THE TOTAL AMOUNT OF THE CONTRACT PRICE ACTUALLY PAID BY CUSTOMER DURING

THE TERM. IN NO EVENT SHALL CONTRACTOR BE LIABLE, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOST SAVINGS, PROFIT OR BUSINESS INTERRUPTION EVEN IF CONTRACTOR IS NOTIFIED IN ADVANCE OF SUCH POSSIBILITY) ARISING OUT OF OR PERTAINING TO THE SUBJECT MATTER OF THIS AGREEMENT.

5. Default.

Either party may be declared in default of this Agreement if it breaches any material provision hereof and fails within thirty (30) days after receipt of notice of default to correct such default or to commence corrective action reasonably acceptable to the other party and proceed with due diligence to completion. Either party shall be in default hereof if it becomes insolvent, makes an assignment for the benefit of its creditors, a receiver is appointed or a petition in bankruptcy is filed with respect to the party and is not dismissed within thirty (30) days.

6. Disputes, Choice of Law.

The laws of the State of Texas will govern this Agreement. Exclusive venue shall be in the courts of Collin County, Texas. If either party is required to engage in any proceedings, legal or otherwise to enforce its rights under this Agreement, the prevailing party shall be entitled to recover from the other, in addition to any other sums due, the reasonable attorneys' fees, costs and necessary disbursements involved in said proceedings.

7. Miscellaneous.

This document, the Software License Agreement, the Spindlemedia Proposal dated December 11, 2008, and the accompanying schedules and exhibits constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all other communications, whether written or oral. This Agreement may be modified or amended only by a writing signed by the party against whom enforcement is sought. Except as specifically permitted herein, neither this Agreement nor any rights or obligations hereunder may be transferred or assigned without the other party's prior written consent and any attempt to the contrary shall be void. Neither party shall be liable for delays caused by events beyond its reasonable control. Waiver of any provision hereof in one instance shall not preclude enforcement thereof on future occasions.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the dates indicated below.

CUSTOMER:

CONTRACTOR:

COLLIN COUNTY, TEXAS

SPINDLEMEDIA INC.

By: Franklin Tyler Co
Name:
Title:

By: SA John
Steven D. Johnson
President

Date: 3/30/09

Date: 3/31/09

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Exhibit A

In the event that additional services are needed Customer agrees to pay and understands that the hourly rate will be \$ 195.00 per hour.

Exhibit B

Trouble Reporting Procedures

Verifiable and reproducible evidence of errors should be reported as follows:

Errors and Major Alarms should be reported directly to Spindlemedia via phone, phone message, fax, or email. This report must include all pertinent information and documentation referencing the issue.

Minor Alarms should be entered into the Spindlemedia Service Site Trouble Reporting System. Spindlemedia will provide Customer with secure User IDs and Passwords as well as training on how to use the Trouble Reporting System.

Acceptable forms of documentation include but are not limited to:

Written steps taken prior to and during the onset of the issue.

Screen Shots.

Reports.

Our policy is to attempt to reproduce your issue on our in-house systems; any and all details regarding the issue such as but not limited to applicable dates, batch numbers, account numbers and money amounts must to be conveyed to our support team. This also includes all navigation steps, selections made, and click events.

Mandatory:

All clients are required to make remote access available to Spindlemedia Support in order to properly diagnose and/or address any issues.