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ANNUAL SOFTWARE MAINTENANCE & SUPPORT CONTRACT

Systems & Software, Inc. ("S&S") agrees to provide to the licensee named below (the "Customer") and the Customer agrees to accept, on the following terms and conditions, maintenance, approved enhancements, custom programming (quotes) and support services, with reference to the Licensed Software (as such term is defined below) installed at the Customer's site. The term of this Agreement is from **January 1, 2005 to December 31, 2005**. If the Customer has entered into a Software Maintenance & Support Contract with S&S that covers a term longer than one year, the Customer acknowledges that this Agreement reflects only the one-year period stated above. No portion of the fee is refundable, even if the Customer ceases use of the Licensed Software prior to the end of the term.

Customer No:	13000	Customer Name:	CITY OF REDLANDS
Installation Site:	REDLANDS, CA	Address:	35 CAJON STREET
Contact:	JANET MILLER	Address:	SUITE 15-A
Telephone:	909-798-7698	City / State / Zip:	REDLANDS, CA 92373

Description of Licensed Software and Services	Maintenance Fee
CIS-MULTI	70,265.00
CUSTOM INTERFACES	9,000.00
ENQUESTA THIN CLIENT	1,663.00
ENQUESTA MIDDLEWARE	1,940.00
AIX SUBSCRIPTION & SUPPORT (Paid through 9/15/06)	0.00
MICRO FOCUS RUNTIME	1,380.00
ORACLE	2,625.00
COGNOS IMPROMPTU	1,717.00
TOTAL MAINTENANCE FEE	88,590.00

The Customer agrees that the annual maintenance fee includes the services specified in Attachment A for the term specified and, furthermore, agrees to all the terms and conditions stated on the next page. The Customer agrees to submit a Software Request Form (available on S&S's website) for any and all installation requests.

Your signature below constitutes acceptance of the fees specified above, and all other provisions of this Agreement. After the term expires, an Annual Software Maintenance & Support Contract (in S&S's then-current form) is required for the continued use and support of the Licensed Software. FAILURE TO PAY THE ANNUAL MAINTENANCE FEE RESULTS IN TERMINATION OF THE CUSTOMER'S LICENSE TO USE THE APPLICATION SOFTWARE.

THE PARTIES HAVE READ THIS AGREEMENT, INCLUDING ALL PAGES ATTACHED HERETO, AND AGREE TO BE BOUND BY ALL ITS TERMS AND CONDITIONS. THIS AGREEMENT MAY BE MODIFIED OR AMENDED ONLY BY A WRITTEN INSTRUMENT SIGNED BY DULY AUTHORIZED REPRESENTATIVES OF BOTH S&S AND THE CUSTOMER.

SYSTEMS & SOFTWARE, INC.

SIGNATURE *Caroline Graham Masluka*
Title Controller
Date November 29, 2004

CUSTOMER

SIGNATURE *Juan Pappler*
Title Mayor, City of Redlands
Date December 21, 2004

Attest: *Janice Goyette*
City Clerk

1. DEFINITIONS:

- A. **"Application Software"** shall mean the enQuesta UtilitySuite™ software or the MUPS software licensed by S&S to the Customer.
- B. **"Attachment A"** means Attachment A to the Annual Software Maintenance & Support Contract, which provides guidelines and policies relating to maintenance and support services. Attachment A is attached hereto and incorporated herein and forms part of this Agreement.
- C. **"Documentation"** means all materials relating to the Licensed Software consisting of tangible, human-readable materials containing information developed for use in conjunction with any component of the Licensed Software, including, without limitation, manuals, user documentation, and training materials.
- D. **"Information System Agreement"** means the base contract, if any, between the Customer and S&S relating to installation of an information system by S&S.
- E. **"Licensed Software"** means the Application Software, operating system software, and third-party software listed on the front of this Agreement. The Licensed Software does not include the source code.
- 2. LICENSE:** S&S grants to the Customer a nonexclusive and nontransferable right and license to use the Licensed Software solely for the Customer's internal business purposes in accordance with the provisions of the Information System Agreement, if any. Unless otherwise specified in an Information System Agreement, (a) if the Customer experiences any increase in its metered account volumes beyond five percent per year, then Customer must pay additional license fees to S&S, such additional fees to be negotiated in good faith; and (b) if the Customer experiences any growth, regardless of the amount, due to the purchase of or merger with another entity or due to circumstances outside the ordinary course of business, then Customer must pay additional license fees to S&S, such additional fees to be negotiated in good faith. The license granted to Customer shall be automatically revoked at such time as (i) the Customer ceases to use the Licensed Software; (ii) the Customer cancels this Agreement; or (iii) the Customer breaches this Agreement in such manner that adversely impacts S&S's proprietary rights in the Licensed Software.
- 3. OWNERSHIP OF APPLICATION SOFTWARE:** The Customer acknowledges and agrees that S&S shall have and retain sole and exclusive ownership of all right, title and interest in and to the Application Software, including ownership of all trade secrets and copyrights pertaining thereto. The Customer further agrees that S&S shall have sole ownership of all improvements and modifications made to the Application Software, including, without limitation, those made in connection with modifications or improvements to benefit the Customer, regardless of whether such improvements and modifications are made by S&S alone or together with the Customer or third parties.
- 4. COPYING OF APPLICATION SOFTWARE PROHIBITED:** Customer may prepare one copy of the Application Software for backup purposes only; provided that the backup copy may be used only during the term of the license and the copy shall be destroyed or returned to S&S upon termination of the license. The Customer may prepare a reasonable number of copies of the Documentation for internal use only; provided that the copies of Documentation may be used only during the term of the license and the copies shall be destroyed or returned to S&S upon termination of the license. Customer shall not have the right to prepare any archival copy of the Application Software or Documentation.
- 5. CONFIDENTIALITY AND NONDISCLOSURE:** Customer acknowledges that the Application Software constitutes trade secrets of S&S and acknowledges that the Application Software and Documentation are confidential and proprietary property of S&S. During the term of this Agreement and for a period of five (5) years thereafter, Customer agrees (i) to limit access to the Application Software, Documentation, and any other confidential information of S&S (including, without limitation, any information marked "Confidential" by S&S) to only those employees who require access thereto in order to use the Application Software for permitted purposes; (ii) not to make available or disclose the Application Software or other confidential information of S&S to anyone without prior written consent of S&S; and (iii) to take all reasonable precautions to maintain the confidentiality of the Application Software, Documentation, and other confidential information of S&S, employing at least those precautions which the Customer employs to protect its own information of a similar nature.

- 6. MAINTENANCE AND SUPPORT SERVICES:** S&S shall perform corrective maintenance as specified in Attachment A. S&S shall provide corrective maintenance from its business premises via the technological means and in the manner set forth in Attachment A. The Customer is responsible to provide access capability to allow S&S access into Customer's information system as set forth in Attachment A. Corrective maintenance will be provided only for the current version of the Application Software and the most recent release just prior to the current version. Corrective maintenance will be provided solely if the Application Software is not functioning in accordance with its design specifications. In the event that Customer desires a different functionality, such requests for changes are not covered under the fee set forth on the front page of this Agreement. If the Customer elects to cease maintenance support on particular line items or modules, the Customer must pay for all prior annual maintenance fees that were not paid if it desires to reinstate the particular application. S&S is not required to perform corrective maintenance with respect to Application Software malfunctions caused by (i) Customer's modifications to the Application Software unless performed at the direction of S&S; (ii) Customer's failure to use updates, enhancements or program error corrections; or (iii) Customer's failure to use the Application Software in accordance with this Agreement or the Information System Agreement.
- 7. MODIFICATION SUPPORT:** The Customer may request modifications to the Application Software as set forth in Attachment A.
- 8. DISCLAIMER OF WARRANTIES; NO LIABILITY:** S&S DISCLAIMS AND EXPRESSLY WAIVES ALL WARRANTIES, EXPRESS AND IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. UNDER NO CIRCUMSTANCES SHALL S&S BE LIABLE FOR ANY DIRECT, SPECIAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, OR INCIDENTAL DAMAGES OF ANY KIND INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, WORK STOPPAGE, SYSTEM FAILURE OR MALFUNCTION, LOSS OF DATA, OR ANY OTHER DAMAGES OR LOSSES IN CONNECTION WITH THE USE OF THE LICENSED SOFTWARE OR OTHERWISE, EVEN IF S&S HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 9. REQUIREMENTS UPON TERMINATION OF LICENSE:** At such time as the license for the Application Software terminates, the Customer shall cease use of the Application Software and return to S&S or destroy all copies of the Licensed Software and all Documentation in the Customer's possession or under its control. Within ten (10) business days after termination of said license, the Customer shall send written confirmation to S&S, by first-class, certified mail, return receipt requested, that Customer (i) has completed such destruction or return of the Application Software and Documentation; (ii) has not permitted any improper disclosure, use of or access to the Application Software or Documentation; (iii) acknowledges and agrees that Customer remains bound by the confidentiality provisions set forth in Section 5 above. Customer agrees that S&S shall have the right to disable the Application Software upon the termination of the license; provided that S&S shall not disable the Application Software if the Customer is contesting the termination in good faith and the Customer continues to pay all fees required by this Agreement and any Information System Agreement when due.
- 10. INCONSISTENT PROVISIONS:** In the event that provisions in this Agreement are inconsistent with corresponding provisions in the Information System Agreement, the provisions in this Agreement shall govern. Corresponding provisions in the Information System Agreement and in this Agreement that provide more detail or result in greater protection to S&S shall not be deemed to be inconsistent with each other; only provisions that are in direct conflict with each other shall be construed as inconsistent provisions.
- 11. MISCELLANEOUS:** In the event that a particular provision of this Agreement is found to be in violation of any applicable law, each such provision shall be enforced only to the extent it is not in violation of such law or is not otherwise enforceable; and all other provisions of this Agreement shall remain in full force and effect. Unless otherwise specified in an Information System Agreement, this Agreement shall be governed by the laws of the State of Vermont, without giving effect to the principles of conflicts of laws.