

## Support Agreement

This Support Agreement ("Agreement") is entered into on Jan 1, 2019 between Town and Country Technical Services Inc., DBA Keytel Systems, 6200 Eastgreen Blvd, Reynoldsburg, Ohio, 43068, hereinafter referred to as Provider and City of Pataskala, 621 West Broad Street, Pataskala Ohio, 43062, hereinafter referred to as "Client. The Provider and the Client shall be collectively referred to as the Parties. Under this Agreement, the Provider will provide Computer Support and related services to Client. The parties agree as follows:

### **1. Acceptance**

By accepting this Agreement and using Provider's Computer Support ("Services"), Client agrees to be bound by all the terms and conditions of this Agreement.

### **2. Provision of Services**

Provider agrees to provide Client with Computer Support and such additional services, as may be provided by Provider from time to time. Provider reserves the right to change or modify the features of Client's service plan from time to time on 30 days written or e-mailed notice to Client. Client's continued use of Provider's services after receipt of such a notice of modification shall constitute Client's acceptance of and agreement to be bound by the Provider's modification of the terms and conditions of this Agreement.

### **3. Agreement Term**

The term of this Agreement shall commence on the date of execution of this Agreement and shall continue through December 31<sup>st</sup> 2022.

### **4. Termination without Cause**

(a) Client may terminate this Agreement at any time, for any reason, by contacting Provider, in writing sixty days in advance by certified mail, and requesting that Client's account be canceled. In the event of a cancellation, Provider will not refund amounts already billed for the current service period in which Client terminates the Agreement.

(b) Provider may terminate this Agreement at any time, for any reason, by providing written or e-mail notice of termination to Client's primary website e-mail contact address no less than 60 days prior to the service termination.

### **5. Termination for Cause**

Client agrees to abide by the terms of this Agreement and by Provider's general use policies as set forth in this Agreement, as those policies may exist from time to time. Provider may change its use policies on 30 day written notice to Customer by e-mail message, mail, or facsimile transmission. Any violation by Client of the terms of this Agreement or of Provider's general use policies shall be grounds for immediate termination of Client's account for cause. If Provider terminates Client's account for a violation of this Agreement, Provider shall not be required to refund any amounts billed for the billing period in which Provider terminates Client's services.

## **6. Payment Terms**

Client agrees to pay Provider a monthly service fee from the following list of services. These charges will be billed on a quarterly basis on or around the 15th prior to the service period.

User Workstation Monitoring and Helpdesk	\$35
User Workstation Gold Support	\$65
MDT (Police Mobile Vehicle)	\$35
On-site Server Gold Support	\$200
Hosted Server Gold Support	\$150

Additional On-Site services provided for \$120 per hour with one-hour minimum per trip. Additional services include vendor meets, working with vendors after trouble is determined not to be the application and/or workstation, or the configuration and/or troubleshooting of third party items. Additional permission will be obtained before work is completed.

Pricing may be adjusted up to 5% per year.

Based on customer information the Provider estimates a Quarterly charge of \$18,975.00 or \$6,325.00 per month plus on-site services.

## **10. Violations of Network Security**

Client is prohibited from violating or attempting to violate the security of the network. Violations of system or network security may result in civil or criminal liability in addition to immediate termination of Client's agreement. Provider will investigate occurrences, which may involve such violations and may involve, and cooperate with, law enforcement authorities in prosecuting Clients who are involved in such violations. These violations include, without limitation:

- (a) Accessing data not intended for the Client or logging into a server or account that the Client is not authorized to access.
- (b) Attempting to probe, scan, or test the vulnerability of a system or network, or to breach security or authentication measures without proper authorization.
- (c) Attempting to interfere with service to any Client, Provider or network, including, without limitation, via means of overloading, "flooding," "mail bombing," or "crashing".
- (d) Forging any TCP/IP packet header or any part of the header information in any e-mail or newsgroup posting.

- (e) Taking any action in order to obtain services to which the Client is not entitled.
- (f) The Provider does not permit 3rd parties access to Provider servers and services. Client agrees not to allow or support any access of 3rd parties into the Provider servers.

### **11. Warranty against Unlawful Use**

Client warrants and represents that Client shall use Services only for lawful purposes and in accordance with all valid federal, state, and local laws and regulations governing use of e-mail and the Internet, whether or not specifically prohibited elsewhere in this Agreement. Failure to abide by the terms of this paragraph shall be grounds for immediate termination of Client's account for cause.

### **12. Liability; No Warranty; Limitation of Damages**

(a) Client expressly agrees that use of Services provided by Provider is at Client's sole risk.

(b) Provider shall have no liability of any kind for any damages or loss arising as a consequence of downtime or unavailability.

(c) Provider, its agents, affiliates, licensors or the like, do not represent or warrant, expressly or impliedly, that their services will not be interrupted or error free; nor do they make any warranty as to the results that may be obtained from the use of their services or as to the accuracy, reliability, or content of any information service or merchandise contained in or provided through their services, unless otherwise expressly stated in this Agreement.

(d) Provider, its officers, agents, or anyone else involved in providing services shall not be liable for any direct, indirect, incidental, special, or consequential damages that result from the use or inability to use services; or for any damages that result from mistakes, omissions, interruptions, deletion of files, errors, defects, delays in operation, or transmission, or any failure of performance, whether or not limited to acts of god, communication failure, theft, destruction, or unauthorized access to Provider's records, programs, or services.

(e) Provider will exercise no control over the content of the information passing through Provider's network except those controls expressly provided herein.

(f) Provider makes no warranties or representations of any kind, express or implied, for the services it is providing. Provider also disclaims any warranty of merchantability or fitness for a particular purpose and will not be responsible for any damages that may be suffered by Client, including loss of data resulting from delays or non-deliveries.

### **13. Patents, Copyrights, Trademarks, and Other Intellectual and Proprietary Rights**

(a) Except for rights expressly granted herein, this Agreement does not transfer any intellectual or other property or proprietary right to Client. Client agrees that all right, title, and interest in any product or service provided to Client belongs to Provider. These products and services are only for Client's use in connection with Services provided to Client as outlined in this Agreement.

(b) Client expressly warrants to the Provider that Client has the right to use any patented, copyrighted, or trademarked material which Client uses, posts, or otherwise transfers to Provider servers.

#### **14. Hardware, Equipment, and Software**

Client is responsible for and must provide all phones, phone services, computers, software, hardware, and other services necessary to access Provider servers. Provider makes no representations, warranties, or assurances that Client's equipment will be compatible with Provider Services.

#### **15. Age**

Client expressly represents and warrants that Client and any person to whom Client grants access to Client's Provider account are at least 18 years of age.

**16. Indemnification** - Removed

**17. Attorneys' Fees** - Removed

#### **18. Notice**

Client agrees to keep Provider informed of all current contact information for Client's account. Changes in Client's account information may be reported to Provider by e-mail at [helpdesk@keytelsystems.com](mailto:helpdesk@keytelsystems.com). Failure to maintain or keep current all contact information shall be a ground for Provider to terminate Client's account for cause.

#### **19. Governing Law**

This Agreement has been entered into in the State of Ohio, and its validity, construction, interpretation and legal effect shall be governed by the laws of that state applicable to contracts entered into and performed entirely within that state.

#### **20. Severability**

In case any one or more of the provisions of this Agreement be held for any reason to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if the invalid provision(s) had never been contained in this Agreement, provided that those provision(s) shall be curtailed, limited, or eliminated only to the extent necessary to remove the invalidity, illegality, or unenforceability.

#### **21. Waiver**

No waiver by Provider of any breach by Client of any provision of this Agreement shall be deemed a waiver of any preceding or succeeding breach of this Agreement. No waiver

shall be effective unless it is in writing, and then only to the extent expressly set forth in such writing.

**22. Entire Agreement**

This Agreement shall constitute the entire agreement between Client and Provider, and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

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Town and Country Technical Services Inc., DBA Keytel Systems  
By Kristopher Haley, its Vice President

CLIENT:

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City of Pataskala  
By \_\_\_\_\_, its City Manager