

MAINTENANCE AGREEMENT

by and between

CUYAHOGA COUNTY, OHIO

and

TIME LINK INTERNATIONAL CORPORATION

THIS MAINTENANCE AGREEMENT is made and entered into this 30th day of September, 2013 (the "Contract"), by and between Cuyahoga County, Ohio (the "County"), on behalf of the Cuyahoga County Department of Human Resources, and Time Link International Corporation, , a New York corporation ("TimeLink"), having a principal place of business located at 2975 Westchester Avenue, Suite 201, Purchase, NY 10577.

Recitals

WHEREAS, the County has a present need for software maintenance for TimeLink's Synapps System Software as offered by TimeLink pursuant to renewal Invoice INV19170 attached hereto as Schedule A and incorporated by reference herein; and

WHEREAS, TimeLink is a sole supplier and thus sole source of maintenance and support services for TimeLink's Synapps System Software; and

WHEREAS, the County desires to avail itself of maintenance and support services of the Synapps System Software, and TimeLink is willing to provide such maintenance and support to the County all upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, TimeLink and the County agree as follows:

ARTICLE I – AGREEMENT AND TERM

1.1 Scope of Agreement. During the term of this Contract, TimeLink shall provide to the County under this Contract the services detailed in TimeLink's Invoice # INV19170 attached hereto as Schedule A and incorporated by reference herein. In the event that a discrepancy exists between the terms of Schedule A and this Contract, the terms of this Contract will be controlling and binding.

1.2 Term. The term of this Contract shall commence as of October 1, 2013; and, unless earlier terminated in accordance with the provisions of this Contract, shall continue in effect for a period of one year from commencement date (10/1/13 through 9/30/14). The cost of this Contract shall not exceed Eighteen Thousand Nine Hundred Forty-Seven Dollars and Eleven Cents (\$18,947.11).

ARTICLE II - SCOPE OF WORK AND ADDITIONAL MAINTENACE SERVICES

2.1 Rendering of Services. TimeLink hereby agrees to render the services identified in Schedule A at a total price, not to exceed, Eighteen Thousand, Nine Hundred Forty-Seven Dollars and Eleven Cents (\$18,947.11).

ARTICLE III – PAYMENT AND INVOICING

3.1 Payment. During the term of this Contract, the County shall pay TimeLink for the services outlined in Schedule A upon receipt of said invoice and approval of the County Executive.

3.2 Invoicing. TimeLink shall invoice the County for the services outlined in Schedule A upon execution of this Contract. TimeLink shall submit original invoice(s) to the following address:

Cuyahoga County Department of Information Technology
Business Department
1255 Euclid Avenue, 4th floor
Cleveland, Ohio 44115

ARTICLE IV - INDEMNITIES

4.1 TimeLink agrees to indemnify County and to hold it harmless from and against any and all claims, costs, fees and expenses (including reasonable legal fees) relating to actual or alleged infringement of any U.S. patents or copyrights asserted against County by virtue of County's use of the TimeLink software as delivered and maintained by TimeLink pursuant to this Agreement (the "Software"), provided that: i) TimeLink is given prompt written notice of any such claim and has sole control over the investigation, preparation, defense and settlement of such claim; and, ii) County reasonably cooperates with TimeLink in connection with the foregoing and provides TimeLink with all information in Customer's possession related to such claim and any further assistance as reasonably requested by TimeLink. TimeLink will have no obligation to indemnify County to the extent any such claim is based on the use of the Software with software or equipment not supplied by TimeLink. Should any or all of the Software as delivered and maintained by TimeLink become, or in TimeLink's reasonable opinion be likely to become, the subject of any such claim, TimeLink may at its option: i) procure for County the right to continue to use the affected Software as contemplated hereunder; ii) replace or modify the affected Software to make its use non-infringing; or iii) should such options not be available at reasonable expense, terminate this Agreement with respect to the affected Software upon thirty (30) days prior written notice to County. In such event of termination, County shall be entitled to a pro-rata refund of fees paid to TimeLink pursuant to this Agreement.

4.2 TimeLink acknowledges that, as an political subdivision of the State of Ohio, the County does not indemnify any person or entity. TimeLink agrees that no provision of this Agreement or any other contract or agreement between TimeLink and the County may be interpreted to obligate the County to indemnify or defend TimeLink or any other party.

ARTICLE V - DISPUTE RESOLUTION AND TERMINATION

5.1 Termination for Default. Either party may terminate this Contract, in whole or in part, whenever such party determines that the other has failed satisfactorily to fulfill its material obligations and responsibilities hereunder and is unable to cure such failure within a reasonable period of time, not to exceed thirty (30) calendar days or such longer period of time as may be specified in writing by the terminating party, taking into consideration the gravity and nature of the default. Such termination shall be referred to as "Termination for Default". Upon determination by either party hereto that the other has failed to satisfactorily perform its material obligations and responsibilities hereunder, the party seeking termination shall notify the defaulting party in writing of the failure and of the time period that has been established to cure such failure, which time period shall be not less than ten (10) days. If the defaulting party is unable to cure the failure within the specified time period, the party seeking to terminate may, by giving written notice thereof to the defaulting party, terminate this Contract, in full or in part, as of the date specified in the notice of termination. TimeLink, however, shall be paid for all services and/or materials provided on or prior to the date of termination.

5.2 Termination for Financial Instability. In the event that TimeLink becomes financially unstable to the point of (i) ceasing to conduct business in the normal course, (ii) making a general assignment for the benefit of creditors, or (iii) suffering or permitting the appointment of a receiver for its business or its assets, or there is a filing by or against TimeLink of a meritorious petition in bankruptcy under any bankruptcy or debtor's law, the County may, at its option, immediately terminate this Contract under Section 5.2, the "Termination for Default" clause, by giving written notice thereof.

5.3 Dispute Resolution.

(a) In the event of any dispute or disagreement between TimeLink and the County, either with respect to the interpretation of any provision of this Contract or with respect to the performance by TimeLink or the County hereunder, which cannot be resolved in the normal course of business, then upon written notice of either party, each party will appoint a designated officer whose task it will be to meet for the purpose to endeavor in good faith to resolve such dispute or to negotiate for an adjustment to such section or provision of this Contract. The designated officers shall meet as often as the parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. Such officers will discuss the problem and/or negotiate the applicable section or provision without the necessity of any formal proceedings relating thereto. During the course of such negotiation, all reasonable requests made by one party to the other for information will be honored in order that each of the parties may be fully

advised in the negotiations. The specific format for such discussions will be left to the discretion of the designated officers but may include the preparation of agreed upon statements of fact or written statements of position furnished to the other party. No formal proceedings for the binding arbitration of such dispute may be commenced until (i) resolution as contemplated in this clause has been unsuccessful and (ii) either of the parties concludes in good faith that amicable resolution through continued negotiation of the matter in issue does not appear likely and so notifies the other party.

(b) The rights and obligations of the parties under this provision shall not limit either party's right to terminate this Contract as may be otherwise permitted hereunder.

ARTICLE VI – ADHERENCE TO ELECTRONIC SIGNATURE POLICY OF COUNTY

6.1. TIMELINK AGREES ON BEHALF OF THE SUBMITTING BUSINESS ENTITY, ITS OFFICERS, EMPLOYEES, SUBCONTRACTORS, SUBGRANTEES, AGENTS OR ASSIGNS, THAT ALL CONTRACT DOCUMENTS REQUIRING COUNTY SIGNATURES MAY BE EXECUTED BY ELECTRONIC MEANS, AND THAT THE ELECTRONIC SIGNATURES AFFIXED BY THE COUNTY TO SAID DOCUMENTS SHALL HAVE THE SAME LEGAL EFFECT AS IF THAT SIGNATURE WAS MANUALLY AFFIXED TO A PAPER VERSION OF THE DOCUMENT. TIMELINK ALSO AGREES ON BEHALF OF THE AFOREMENTIONED ENTITY AND PERSONS, TO BE BOUND BY THE PROVISIONS OF CHAPTERS 304 AND 1306 OF THE OHIO REVISED CODE AS THEY PERTAIN TO ELECTRONIC TRANSACTIONS, AND TO COMPLY WITH THE ELECTRONIC SIGNATURE POLICY OF CUYAHOGA COUNTY.

ARTICLE VII – Contract Administration

7.1 Insurance.

TimeLink shall procure, maintain and pay premiums for the insurance coverage and limits of liability indicated below with respect to products, services, work and/or operations performed in connection with this Contract.

1. Mandatory Insurance Requirements

The following three items (Worker's Compensation Insurance, Commercial General Liability Insurance, and Business Automobile Liability Insurance) are all mandatory requirements unless otherwise specified.

(a) **Worker's Compensation Insurance** as required by the State of Ohio. Such insurance requirement may be met by either purchasing coverage from the Ohio State Insurance Fund or by maintaining Qualified Self-Insurer status as granted by the Ohio Bureau of Workers Compensation (BWC).

For Contractors with employees working outside of Ohio, Worker's Compensation Insurance as required by the various state and Federal laws as applicable including

Employers' Liability coverage with limits of liability not less than:

\$1,000,000 each accident for bodily injury by accident;
\$1,000,000 each employee for bodily injury by disease;
\$1,000,000 policy limit for bodily injury by disease.

Such insurance shall be written on the National Council on Compensation Insurance (NCCI) form or its equivalent.

(b) **Commercial General Liability Insurance** with limits of liability not less than:

\$1,000,000 each occurrence bodily injury & property damage;
\$1,000,000 personal & advertising injury;
\$2,000,000 general aggregate;
\$2,000,000 products/completed operations aggregate.

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

(c) **Business Automobile Liability Insurance** covering all owned, non-owned, hired, and leased vehicles. Such insurance shall provide a limit of not less than \$1,000,000 combined single limit (bodily injury & property damage) each accident;

Such insurance shall be written on an occurrence basis on the Insurance Services Office (ISO) form or its equivalent.

Note: If the services required under this Contract include the repairing, servicing, parking or storing of vehicles, then the following insurance coverage shall also be required:

Garagekeepers Legal Liability Insurance with a limit of not less than \$1,000,000 combined single limit (bodily injury & property damage) each accident.

2. **Insurance Coverage Terms and Conditions**

- a) The insurance required for this contract shall be provided by insurance carrier(s) licensed to transact business and write insurance in the state(s) where operations are performed and shall carry a minimum A.M. Best's rating of A VII or above.
- b) These insurance provisions shall not affect or limit the liability of the TimeLink stated elsewhere in this Contract or as provided by law.
- c) TimeLink shall require any and all of its subcontractors to procure, maintain, and pay premiums for the insurance coverages and limits of liability outlined above with respect to products, services, work and/or operations performed in connection with this Contract.

d) The County reserves the right to require insurance coverages in various amounts or to modify or waive insurance requirements on a case-by-case basis whenever it is determined to be in the best interest of the County.

e) If the Bid/Proposal/RFQ specifies the need for higher limits of liability for any applicable insurance provision, the Bid/Proposal/RFQ specifications shall govern.

f) TimeLink shall furnish a Worker's Compensation Certificate and Certificate of Insurance evidencing the insurance coverages required herein are in full force and effect. Acceptance of a non-conforming certificate of insurance by the County shall not constitute a waiver of any rights of the parties under this Contract.

ARTICLE VIII – MISCELLANEOUS

8.1 Notices. Wherever one party is required or permitted to give notice to the other pursuant to this Contract, such notice shall be deemed given when delivered by hand, via certified mail with return receipt requested, via overnight courier with signature required, and addressed as follows:

In the case of the County: Cuyahoga County Department of Information Technology
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

In the case of TimeLink: Time Link International Corporation
2975 Westchester Avenue, Suite 201
Purchase, NY 10577
Attention: Patricia Bartlett

With a copy to: Kronos Incorporated
297 Billerica Road
Chelmsford MA 01824
Attention: General Counsel

Either party may from time to time change its designated recipient or address for notification purposes by giving the other party written notice of the new designated recipient or address and the date upon which it will become effective.

8.2 Survival of Terms. Termination or expiration of this Contract for any reason shall not release either party from any liabilities or obligations set forth in this Contract which (i) the parties have expressly agreed shall survive any such termination or expiration, or (ii) remain to be performed or by their nature would be intended to be applicable following any such termination or expiration.

8.3 Record Audit Retention. TimeLink agrees to make all pertinent contractual books and records and other documents pertaining to this Contract available to the County and its designated agents for purpose of audit and examination upon reasonable request during the term of this Contract and for a period of two (2) years from the expiration date or final payment under this Contract, whichever is later; provided however, that should TimeLink be notified that an audit has been commenced pursuant to Ohio Revised Code Sec. 117.11 during said period, for which the aforesaid books and records are material, the aforesaid records shall be retained pending the completion of said audit.

8.4 Governing Law. This Contract shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of Ohio. The parties agree that the state and federal courts sitting in Ohio will have exclusive jurisdiction over any claim arising out of this Contract, and each party consents to the exclusive jurisdiction of such courts. TimeLink hereby agrees not to challenge this Governing Law and Jurisdiction provision, and further agrees not to attempt to remove any legal action outside of Ohio for any reason.

8.5 Social Security Act. TimeLink shall be and remain an independent TimeLink with respect to all services performed hereunder and agrees to and does hereby accept full and exclusive liability for payment of any and all contributions or taxes for social security, unemployment insurance, or old age retirement benefits, pensions, or annuities now or hereafter imposed under any Local, State or Federal Law which are measured by the wages, salaries, or other remuneration paid to persons employed by TimeLink for work performed under the terms of this contract and further agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under said respective laws by and duly authorized State or Federal officials; and said TimeLink also agrees to indemnify and save harmless Cuyahoga County from such contributions or taxes or liability.

8.6 Assignment. TimeLink shall not assign, transfer, convey or otherwise dispose of this Contract, or its right to execute it, or its right, title or interest in or to it or any part thereof, or assign, by power of attorney or otherwise, any of the monies due or to become due under this Contract without approval of the County Executive.

8.7 Contract Processing. TimeLink shall submit one (1) original contractual agreement with original signature to the following:

Cuyahoga County Department of Information Technology
ATTN: Business Department
1255 Euclid Avenue, 4th Floor
Cleveland, Ohio 44115

8.8 Commencement of Contract Performance. In order to protect the interest of Cuyahoga County this contract must be executed by the County Executive before

compensation for the services or products set forth in this contract can be provided. In the event that services are provided by TimeLink prior to the execution of this Contract by the County Executive, the same will be provided at TimeLink's risk, and payment therefore cannot, and will not, be made unless and until this Contract is approved by the County Executive. Upon approval by the County Executive of this contract, however, any and all prior performance under this contract shall be deemed ratified and said performance shall be deemed to be included in this contract. Payment(s) for said prior performance shall not increase the amount of the contract limit.

8.9 Schedule Incorporated by Reference. Schedule A is attached hereto and is incorporated herein.

[Remainder of page intentionally left blank -- signature page follows]

THIS AGREEMENT shall be subject to interpretation under the laws of the State of Ohio, and is subject to the review of the County Prosecutor's Office as to legal form and correctness.

IN WITNESS WHEREOF, the County and TimeLink have each caused this Contract to be signed and delivered by its duly authorized representative as of the date first written.

TIME LINK INTERNATIONAL CORP.

CUYAHOGA COUNTY, OHIO

By: Patricia Bartlett
Name: Patricia Bartlett
Title: Accounting Manager

Edward FitzGerald, County Executive
By: Ed FitzGerald
Name: ~~Edward FitzGerald~~
Title: County Executive



Schedule A

Invoice

TimeLink
2975 Westchester Avenue
2nd Floor
Purchase NY 10577
Phone: (914) 834-9301
Facsimile: (914) 834-9414
Email: accounting@timelink.com

Date 8/1/2013
Invoice # INV19170
Terms Net 30
Due Date 8/31/2013
PO # Annual Maintenance
Sales Rep Colleen Salley
Ship Date 7/5/2013
Shipping Code (2)

Bill To
Cuyahoga County - Human Resources
ATT: Terri Harnegie
1255 Euclid Avenue - Suite 310
Cleveland OH 44115

Quantity	Description	Start Date	End Date	Amount
1	TimeLink's Premium Software Support Program ** Toll Free 24/7 Support Line Access ** Call Priority ** Online Issue Management Portal ** All Software Upgrades and Patches	10/1/2013	9/30/2014	2,983.34
1	TimeLink's Exchange Support Program ** Next Business Day Cross Shipping ** Repair/Replace ** All Software Upgrades and Patches	10/1/2013	9/30/2014	15,963.77

Thank you for your business.

Total \$18,947.11

TimeLink

Remittance Slip

Customer Cuyahoga County ISC
Invoice # INV19170
Amount Due \$18,947.11
Amount Paid _____

Make Checks Payable To

TimeLink
Dept 2182
PO Box 122182
Dallas, TX 75312-2182