



AGENDA REPORT

Meeting Date: February 3, 2015
Item Number: D-11
To: Honorable Mayor & City Council
From: Chad Lynn, Assistant Director of Public Works Services
Mario Inga, Parking Services Manager
Subject: AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND T2 SYSTEMS CANADA INC. FOR EQUIPMENT AND SERVICES ASSOCIATED WITH THE OPERATION AND MAINTENANCE OF MULTI-SPACE PARKING PAY STATIONS
Attachments: 1. Agreement

RECOMMENDATION

Staff recommends that the City Council approve an agreement between the City of Beverly Hills and T2 Systems Canada, Inc. for equipment and services associated with the operation and maintenance of Multi-Space Parking Pay Stations for off-street metered parking facilities in an amount not to exceed \$132,600 for three years.

INTRODUCTION

The City owns and operates 20 Multi-Space Parking Pay Stations in the Santa Monica 5 parking facilities located between Linden Drive and Beverly Drive on Santa Monica Blvd. These Multi-Space Parking Pay Stations are operated and maintained through an agreement with T2 Systems Canada, Inc., ("T2") formerly known as Digital Payment Technologies Corporation that expired on December 31, 2014, and was extended on a short term basis to February 28, 2015 via an amendment. The original agreement with T2, which the City entered into in 2008, replaced individual parking meters with 20 "Luke" model Multi-Space Parking Pay Stations, with the goal of improving customer service and increasing revenue by expanding parking payment options, decreasing meter vandalism, and ensuring operational equipment.

The proposed agreement with T2 will allow the City to continue the use of the existing infrastructure, and maintain the continuity of the existing payment technology which City residents and visitors have grown accustomed.

DISCUSSION

The current services provided under this agreement, which are necessary for the continued operation of the equipment include:

- Network Hosting – Provides the City with network server hosting for online services to configure parking rates, send messages and other user information
- Processing - Real time credit card transaction processing for customers in a PCI compliant managed environment (Payment Credit Card Industry)
- Monitoring - Pay Station equipment monitoring with alarm notification
 - City staff are notified of current machine status including paper, printer, doors, batteries, shock, etc.
- Reporting – Generates Pay Station transaction information reports
- Repairing – Provides diagnostic capabilities to expedite repairs
- Equipment warranty, spare parts, various consumables and technology support services

The proposed agreement includes a planned upgrade for the replacement of pay station modems for more reliable and faster communications, and continued payment processing support, reporting and enforcement activities. In addition, a contingency is included in the proposed agreement to cover ongoing repairs and maintenance services that may be required during the term of the agreement.

The proposed agreement has a term of three (3) years in an amount not to exceed \$132,600. A detail of the anticipated annual costs are listed below:

• Network Hosting Services	\$13,200.00
• Warranty Service	\$15,000.00
• Consumables	\$ 6,000.00
• Modem upgrades	\$ 2,500.00
• Contingency Costs	<u>\$ 7,500.00</u>
Total Annual Costs	\$44,200.00

Renewal of the agreement with T2 is proposed because this proprietary equipment and services are only offered by T2. This agreement will allow the City to extend the life of the existing infrastructure and maintain continuity of service for the existing equipment. Staff estimates the existing T2 pay stations have up to 36 months of useful life remaining with the replacement of upgraded modems for faster and more reliable communications.

If the current Agreement expires on February 28, 2015 without renewal or a new agreement in place, the City will lose connectivity and service to the existing Pay Stations, and the interruption in service will result in a reduction of parking revenues at the Santa Monica 5 facilities.

If the City Council does not wish to continue the operation of this equipment, it is still recommended that the agreement be executed while the City concurrently conducts a procurement process for the purchase and installation of new multi-space parking equipment. A new procurement process will take approximately six months and require the acquisition of new equipment and new agreements for ongoing service and support, adding to the overall cost of the program.

FISCAL IMPACT

Staff estimates an annual cost of approximately \$44,200 and a total cost of \$132,600 over the term of the three (3) year agreement. Funding for this Agreement is available as part of the current operating budget within the Parking Operations Fund, and reflects a similar level of funding (\$44,000) in the current Agreement with T2 (AG# 416-14).



George Chavez

Approved By

Attachment 1

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND T2
SYSTEMS CANADA INC. FOR EQUIPMENT AND SERVICES
ASSOCIATED WITH THE OPERATION AND MAINTENANCE OF MULTI-
SPACE PARKING PAY STATIONS

NAME OF CONTRACTOR: T2 SYSTEMS CANADA INC.

RESPONSIBLE PRINCIPAL OF CONTRACTOR: CHRIS CHETTLE
Executive Vice President/General Manager

CONTRACTOR'S ADDRESS: T2 SYSTEMS CANADA INC.
330-4260 Still Creek Drive
Burnaby, BC, V5C 6C6
Attention: Carmen Sevrens,
Regional Sales Manager

CITY'S ADDRESS: City of Beverly Hills
345 Foothill Road
Beverly Hills, CA 90210
Attention: Chad Lynn,
Assistant Director of Public Works Services

COMMENCEMENT DATE: January 1, 2015

TERMINATION DATE: December 31, 2017

CONSIDERATION: Not to exceed \$ 132,600.00 based on the unit
costs and rates listed in Exhibit B

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND T2 SYSTEMS CANADA INC. FOR EQUIPMENT AND SERVICES ASSOCIATED WITH THE OPERATION AND MAINTENANCE OF MULTI-SPACE PARKING STATIONS

THIS AGREEMENT is made by and between the CITY OF BEVERLY HILLS (hereinafter called "CITY"), and T2 SYSTEMS CANADA INC. (hereinafter called "CONTRACTOR").

RECITALS

A. CITY desires to have certain services and/or goods provided in connection with the operation and maintenance of CITY's multi-space parking stations ("Pay Stations") as set forth in Exhibit A (the "Scope of Work"), attached hereto and incorporated herein.

B. CONTRACTOR represents that it is qualified and able to perform the Scope of Works.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONTRACTOR's Scope of Work.

(a) CONTRACTOR shall perform the Scope of Work described in Exhibit A in a manner satisfactory to CITY and consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. CITY shall have the right to order, in writing, changes in the Scope of Work. Any changes in the Scope of Work by CONTRACTOR must be made in writing and approved by both parties. The cost of any change in the Scope of Work must be agreed to by both parties in writing.

(b) CONTRACTOR shall provide a Pay Station warranty to CITY as described in Attachment 1 to Exhibit A, and CONTRACTOR shall license its T2 Systems Canada Inc. software, CONTRACTOR's online cloud platform, to CITY pursuant to the T2 Systems Canada Inc. Software Customer Agreement, Attachment 2 to Exhibit A.

Section 2. Time of Performance.

CONTRACTOR shall commence its services under this Agreement upon the Commencement Date or upon a receipt of a written notice to proceed from CITY. CONTRACTOR shall complete the performance of services by the Termination Date set forth above and/or in conformance with the project timeline established by the City Manager or his designee.

Section 3. Compensation.

(a) Compensation

CITY agrees to compensate CONTRACTOR for the services and/or goods provides under this Agreement, and CONTRACTOR agrees to accept in full satisfaction for such

services, a sum not to exceed the Consideration set forth above and more particularly described in Exhibit B, attached hereto and incorporated herein, based on the rates and unit costs set forth in Exhibit B.

(b) Expenses

The amount set forth in paragraph (a) shall include reimbursement for all actual and necessary expenditures reasonably incurred in the performance of this Agreement (including, but not limited to, all labor, materials, delivery, tax, assembly, and installation, as applicable). There shall be no claims for additional compensation for reimbursable expenses.

(c) Additional Services. CITY may from time to time require CONTRACTOR to perform additional services not included in the Scope of Services. Such requests for additional services shall be made by CITY in writing and agreed upon by both parties in writing.

Section 4. Method of Payment. CITY shall pay CONTRACTOR said Consideration in accordance with the method and schedule of payment set forth in Exhibit B.

Section 5. Independent Contractor. CONTRACTOR is and shall at all times remain, as to CITY, a wholly independent contractor. Neither CITY nor any of its agents shall have control over the conduct of CONTRACTOR or any of CONTRACTOR's employees, except as herein set forth. CONTRACTOR shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

Section 6. Assignment. This Agreement shall not be assigned in whole or in part, by CONTRACTOR without the prior written approval of CITY. Any attempt by CONTRACTOR to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect. Notwithstanding the above, in the event CONTRACTOR requests an assignment to T2 Systems Canada Inc, a parent company of CONTRACTOR, the City Manager on behalf of CITY may approve such assignment.

Section 7. Responsible Principal(s)

(a) CONTRACTOR's Responsible Principal set forth above shall be principally responsible for CONTRACTOR's obligations under this Agreement and shall serve as principal liaison between CITY and CONTRACTOR. Designation of another Responsible Principal by CONTRACTOR shall not be made without prior written consent of CITY.

(b) CITY's Responsible Principal shall be the City Manager or his designee set forth above who shall administer the terms of the Agreement on behalf of CITY.

Section 8. Personnel. CONTRACTOR represents that it has, or shall secure at its own expense, all personnel required to perform CONTRACTOR's Scope of Work under this Agreement. All personnel engaged in the work shall be qualified to perform such Scope of Work.

Section 9. Permits and Licenses. CONTRACTOR shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of services under this Agreement, including a business license.

Section 10. Interests of CONTRACTOR. CONTRACTOR affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the Scope of Work contemplated by this Agreement. No person having any such interest shall be employed by or be associated with CONTRACTOR.

Section 11. Insurance.

(a) CONTRACTOR shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

(1) A policy or policies of Comprehensive General Liability Insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence, combined single limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by CONTRACTOR.

(2) A policy or policies of Comprehensive Vehicle Liability Insurance covering personal injury and property damage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit, covering any vehicle utilized by CONTRACTOR in performing the Scope of Work required by this Agreement.

(3) Workers' compensation insurance as required by the State of California.

(b) CONTRACTOR shall require each of its sub-contractors to maintain insurance coverage which meets all of the requirements of this Agreement.

(c) The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least a B+;VII in the latest edition of Best's Insurance Guide.

(d) CONTRACTOR agrees that if it does not keep the aforesaid insurance in full force and effect CITY may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, CITY may take out the necessary insurance and pay, at CONTRACTOR's expense, the premium thereon.

(e) At all times during the term of this Agreement, CONTRACTOR shall maintain on file with the City Clerk a certificate or certificates of insurance on the form set forth in Exhibit C, attached hereto and incorporated herein, showing that the aforesaid policies are in effect in the required amounts. CONTRACTOR shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general and auto liability insurance shall contain an endorsement naming the CITY as an additional insured. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

(f) The insurance provided by CONTRACTOR shall be primary to any coverage available to CITY. The policies of insurance required by this Agreement shall include provisions for waiver of subrogation.

(g) Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, CONTRACTOR shall either reduce or eliminate the deductibles or self-insured retentions with respect to CITY, or CONTRACTOR shall procure a bond guaranteeing payment of losses and expenses.

Section 12. Indemnification. With respect to third party tort claims, CONTRACTOR agrees to indemnify, hold harmless and defend CITY, City Council and each member thereof, and every officer, employee and agent of CITY, from any claim, liability or financial loss (including, without limitation, attorneys fees and costs) arising from any intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONTRACTOR or any person employed by CONTRACTOR in the performance of this Agreement. With respect to claims other than third party tort claims, CONTRACTOR will not be liable in any way for any indirect, special, consequential, incidental, punitive, exemplary or aggravated damages of any kind whatsoever, including, but not limited to, damages for loss of revenue, use, data, income, business, profit, goodwill, anticipated revenue, failure to realize expected savings, or otherwise, howsoever arising.

Section 13. Termination.

(a) CITY shall have the right to terminate this Agreement for any reason or for no reason upon five calendar days' written notice to CONTRACTOR. CONTRACTOR agrees to cease all work under this Agreement on or before the effective date of such notice.

(b) In the event of termination or cancellation of this Agreement by CITY, due to no fault or failure of performance by CONTRACTOR, CONTRACTOR shall be paid based on the percentage of work satisfactorily performed at the time of termination. In no event shall CONTRACTOR be entitled to receive more than the amount that would be paid to CONTRACTOR for the full performance of the services required by this Agreement. CONTRACTOR shall have no other claim against CITY by reason of such termination, including any claim for compensation.

Section 14. CITY's Responsibility. CITY shall provide CONTRACTOR with all pertinent data, documents, and other requested information as is available for the proper performance of CONTRACTOR's Scope of Work.

Section 15. Information and Documents. All data, information, documents and drawings prepared for CITY and required to be furnished to CITY in connection with this Agreement shall become the property of CITY, and CITY may use all or any portion of the work submitted by CONTRACTOR and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 16. Records and Inspections. CONTRACTOR shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of 3 years. CITY shall have access, without charge, during normal business hours to such records, and the right to examine and audit the same and to make copies and transcripts therefrom, and to inspect all program data, documents, proceedings and activities.

Section 17. Changes in the Scope of Work. The CITY shall have the right to order, in writing, changes in the scope of work or the services to be performed. Any changes in the scope of work requested by CONTRACTOR must be made in writing and approved by both parties.

Section 18. Notice. Any notices, bills, invoices, etc. required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during the receiving party's regular business hours or by facsimile before or during the receiving party's regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid to the addresses set forth above, or to such other addresses as the parties may, from time to time, designate in writing pursuant to this section.

Section 19. Attorney's Fees. In the event that either party commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees, costs and necessary disbursements, in addition to such other relief as may be sought and awarded.

Section 20. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONTRACTOR, and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both CITY and CONTRACTOR.

Section 21. Exhibits; Precedence. All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. Notwithstanding the above, the terms of the T2 Systems Canada Inc. Software Customer Agreement, Attachment 2 to Exhibit A, shall govern CITY's use of the T2 Systems Canada Inc. software, CONTRACTOR's online cloud platform.

Section 22. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 23. CITY Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONTRACTOR.

Section 24. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

EXECUTED the ____ day of _____, 20____, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

LILI BOSSE
Mayor of the City of Beverly Hills, California

ATTEST:

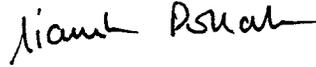
BYRON POPE
City Clerk

(SEAL)

CONTRACTOR: T2 SYSTEMS CANADA INC.



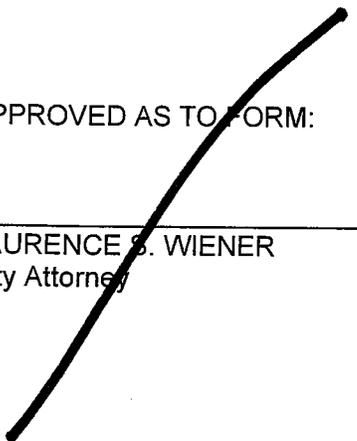
CHRIS CHETTLE
Executive Vice President/General Manager



NIAMH POLLAK
General Counsel/Secretary

[Signatures Continue]

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
Interim City Manager

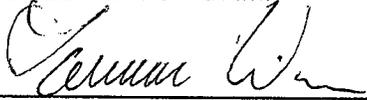


GEORGE CHAVEZ
Director of Public Works Services



KARL KIRKMAN
Risk Manager

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
Interim City Manager

GEORGE CHAYEZ
Director of Public Works Services

KARL KIRKMAN
Risk Manager

EXHIBIT A

SCOPE OF WORK

I. CONTRACTOR shall perform the following services in connection with CITY's twenty (20) multi-space parking pay stations for off street metered parking facilities at CITY's Santa Monica 5 Parking Facilities located between Linden Drive and Beverly Drive on Santa Monica Boulevard ("Parking Pay Station"):

1. Provide network hosting and technology support services through CONTRACTOR's T2 Systems Canada Inc. Software so that CITY can continue to host its own network service for online services to configure parking rates, send messages and other user information.
2. Enable CITY to continue to provide real time credit card transaction processing for customers in a Payment Credit Industry standards ("PCI") compliant managed environment.
3. Monitor Parking Pay Station equipment with alarm notification to CITY staff. This allows CITY staff to be notified of current real time machine status including paper, printer, doors, batteries, shock etc.
4. Generates Parking Pay Station transaction information reports.
5. Provides diagnostic capabilities to expedite repairs of Parking Pay Station equipment.
6. Perform needed repairs and maintenance.
7. Provide and install twenty (20) Parking Pay Station modems, perform needed repairs and maintenance services.
8. Provide Parking Pay Station equipment extended warranty, spare parts, various consumables such as printer paper.
9. Provide warranty service coverage for Parking Pay Station equipment hardware and software, as well as access to CONTRACTOR's telephone support during regular business hours. If parts go bad, CITY shall receive an advance replacement of those parts with no charge, and CITY ships back the malfunctioning parts. With regards to software, CITY shall receive all new software releases and patches during the warranty period, without cost to CITY.

II. CONTRACTOR shall upgrade the modems on the existing twenty (20) Pay Stations and such upgrade shall comply with the following technical specifications:

A. HARDWARE

1. Coin Acceptor

- (a) Must accept up to 12 different coins/tokens

- (b) Must return rejected coins, token or slugs immediately
- (c) Must have a coin acceptor release button for clearing of acceptor path
- (d) Must be specifically designed to accept or distinguish between all types of denominations and currencies
- (e) Must be vandal resistant, weather proof and corrosion resistant
- (f) Upgradable for new coins via simple software patch. No new hardware shall be required.

2. Bill Acceptor

- (a) Must accept bills in four directions
- (b) Must accept any combination of \$1, \$2, \$5, \$10, and \$20 bills
- (c) Must return all rejected bills
- (d) Upgradable for new coins via simple software patch. No new hardware shall be required.

3. Credit/Smart Card Reader

- (a) Must read track 1, 2, and 3 of all mag-stripe cards conforming to ISO 7810 and 7811.
- (b) Must not ingest card - user must maintain control of the card at all times.
- (c) Must be modular, unplug easily and be replaced in less than 2 minutes.
- (d) The payment station memory must be able to store a minimum 10,000 bad card numbers.
- (e) The credit card reader must properly operate in real time, online processing mode.
- (f) The credit card reader must properly operate off-line if online processing is unavailable.
- (g) The credit card reader must not have motor or moving parts.
- (h) Must read and write to chip-based smart cards conforming to ISO 7810 and 7816.
- (i) Must be flush-mounted with no part of the reader protruding outside the cabinet.
- (j) Upgradable for new cards via simple software patch. No new hardware shall be required.

4. Receipt Printer Paper

- (a) Paper must be 100% recyclable.
- (b) Must be resistant to heat, fading, curling and must be able to be left on a vehicle dashboard for extended periods of time.
- (c) Must have capability to be pre-printed with customized messages on back of receipt.

5. Alarm

- (a) Must sense shock, vibration, door open and tilt.
- (b) Must send alarm notification in real time.

B. SOFTWARE

1. Pay Mode

- (a) Must be capable of operating in pay-by-space mode.
- (b) Must be capable of operating in pay-and-display mode without removing or adding any hardware. It is a software configuration only.
- (c) Must be capable of operating in both pay-by-space mode and pay-and display mode simultaneously.

2. Networking of Pay Stations

- (a) Parkers must have the ability to pay for any space from any machine.
- (b) When in pay-by-space mode, each pay station must be capable of controlling a minimum of 9,999 parking spaces.

3. Pricing Capabilities

- (a) Must be capable of assigning specific rates to each stall or any combination of stalls.
- (b) Must have the ability to charge rates by the minute, hour, day, week, and month.
- (c) Must be capable of varying rates by time of day (i.e.: 9 am to noon = \$0.25 per hour, noon to 4 pm = \$0.50 per hour, 4 pm to 8 pm = \$1 per hour).
- (d) Must be capable of varying rate based on duration of stay (i.e.: 1st hour = \$1.00, 2nd hour = \$2.00, 3rd hour = \$3.00).
- (e) Must be capable of special event pricing.
- (f) Must allow programming of minimum and maximum time periods.
- (g) Eligible pay station model and software package must be capable of on-street, parking lot, or garage applications.

4. Payment Options

- (a) Parkers must be able to pay with any major credit card: (Visa/MasterCard, American Express/Discover Card). Vendor shall provide access and configuration for any and all third party services needed to integrate with CITY's merchant services provider.
- (b) Parker must be able to pay with any valid US coins.
- (c) Pay station must be capable of providing an integrated cell phone payment system which allows parkers to pay for any space by cell phone and add time by cell phone.

5. Customer Convenience Features

- (a) Must be capable of programming in a grace period before enforcement personnel are notified of violation.

- (b) Must have multi-lingual capability in Roman letter languages (English, Spanish, French, etc.) with upgrade capability to non-Roman letter languages (Cantonese, Arabic, Russian, etc.).
- (c) If cell phone features are added, the system must be capable of sending reminder calls to cell phones of cell phone payment customers alerting them to pending expiration of parking time.
- (d) Future application must be capable of accepting payment for parking citations from pay stations.
- (e) Average total transaction time must be less than 15 seconds.
- (f) CITY shall determine if receipt is printed automatically, on demand or not at all. Inability to print receipt shall not disable equipment.

Spares list

- Confirm NOVA and change ramifications
- Confirm fiber
- Confirm communications monthly (T-Mobile \$40)

ATTACHMENT 1 TO EXHIBIT A
PRODUCT WARRANTY



T2 SYSTEMS CANADA INC.

PRODUCT WARRANTY

This document describes the warranty services purchased by you ("Customer") from T2 Systems Canada Inc. ("T2") for hardware, software and firmware services for pay station products.

- All T2 products are covered under an initial one year limited warranty from defects in materials or workmanship.
- Continued warranty coverage may be purchased at the end of the first year through the extended warranty program.

If a product proves defective under normal use during the warranty period, T2 at its option will either repair or replace the product as described below. Spare, repaired or replacement parts will be covered under warranty for 90 days or to the end of the warranty period of the unit to which they are attached, whichever comes last.

EXCEPT AS OTHERWISE CONFIRMED IN WRITING BY T2, THERE ARE NO OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. T2 reserves the right to change the terms and conditions of warranty coverage upon notice from time to time. Warranty coverage will be suspended if Customer fails to pay for equipment and/or services under the terms listed on the quotation or Customer contract. T2 WILL NOT BE LIABLE FOR INCIDENTAL, INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES, LABOR COSTS, LOSS OF DATA OR LOSS OF REVENUE ARISING OUT OF OR IN CONNECTION WITH PRODUCT USE OR PERFORMANCE. T2'S RESPONSIBILITY TO REPAIR OR REPLACE THE DEFECTIVE PRODUCT IS THE SOLE AND EXCLUSIVE REMEDY PROVIDED TO CUSTOMER FOR BREACH OF THESE WARRANTIES.

Some provinces, states or countries do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation may not apply to you.

OVERVIEW OF WARRANTY SERVICES

T2's standard one-year limited warranty and extended warranty services include support and maintenance for hardware, software and firmware products as follows:

- access to 24 x 7 telephone and email support including free telephone support during business hours for setup, installation and support matters and discounted telephone support outside business hours.
- repair or replacement of defective parts, including free one way shipping.
- free software maintenance releases and upgrades (for the first year).

The one-year limited warranty commences seven days from the date the products are shipped to Customer. The warranty services also include the following specific hardware, software and firmware services listed below.



HARDWARE WARRANTY SERVICES

1. T2 may repair or replace defective parts with new parts or with reworked parts equivalent to new parts in performance.
2. If certain parts that T2 designates as "Customer replaceable" fail; T2 will provide the Customer with a replacement part. It will be the Customer's obligation to install the replacement part(s) and return the replaced part(s) in unaltered form to T2 as instructed.
3. Changing or tampering with electrical equipment bearing the Canadian Standards Association ("CSA") mark may result in loss of certification. Customers may re-certify at their own expense by contacting CSA International directly. This does not apply to out of box failures immediately following installation.

FIRMWARE WARRANTY SERVICES

1. **Firmware Updates.** Firmware support is available for device level software including printers, bill acceptors and coin acceptors. Firmware updates will be available via a download utility for installation by Customer. T2 will provide remote installation assistance where required.

Spare parts replacements can include installed firmware and where possible, the firmware version in the installed parts will be set at the same version level as the parts replaced. Otherwise, the firmware will be set to the most current version.

2. **Chargeable Firmware Upgrades.** Chargeable firmware upgrades, together with installation support, include:
 - firmware upgrades for new currency releases issued by governments.
 - firmware releases which add optional improvements to the product.
 - on-site assistance required by the Customer to install downloadable firmware upgrades.

SOFTWARE WARRANTY SERVICES

T2's software maintenance and support services include:

1. Replacement of defective media upon e-mail notification to T2. Emergency software may be provided in the course of troubleshooting and problem resolution.
2. Free software upgrades.
3. The services below are not covered under software warranty and will be charged separately:
 - Installation / update services.
 - Backup and recovery of software, other computer programs, or data.
 - On-site services.
 - System restoration (i.e. reloading of software, and data).
 - Additional copies of software media.
 - Training queries and consulting services.



CUSTOMER RESPONSIBILITIES

1. **Proper Maintenance.** Before contacting T2 for warranty services, Customer should ensure it is following proper operation and maintenance of the hardware, firmware and software in accordance with T2's recommendations and requirements in the product documentation and user manuals. Products must also be in compliance with IEEE standards for electrical power and grounding quality. Customers should inform T2 of changes in product locations.
2. **Customer Efforts.** Use reasonable efforts to assist T2 in diagnosing and performing repairs, including but not limited to: making Customer personnel available on site to perform reasonable troubleshooting and remedial corrective maintenance activity; providing direct phone or electronic contact between T2's phone agent and Customer personnel; providing remote access to the defective equipment.
3. **Computer Requirements.** Ensure that the software is installed on a computer that meets or exceeds the minimum requirements as outlined in the BOSS and EMS User Guides. The Customer acknowledges that upgrades to the software and increases in the size of databases may require upgrades to the computer hardware. Customer is responsible for any computer upgrades that may be required.
4. **Software Responsibilities.** For software issues, Customer is responsible for installation, testing and operation of software and all upgrades. For all T2 software, the customer is responsible for operating its equipment, providing back-up equipment and services upon product failure, isolating and documenting software problems, safeguarding all programs' data and removable storage media and reloading programs and data.
5. **Replication of Problems.** Customer may be asked to (i) replicate software problems at the Customer's site utilizing the unaltered version of the software experiencing the problem, and (ii) provide a copy of an unaltered version of the defective software to T2.
6. **Isolating Problems.** Remove all features, parts, options, alterations and attachments not supplied by T2 as part of the products to help diagnose where the problem is occurring.
7. **On Site Assistance.** If on site assistance is required, Customer should not permit anyone other than T2 or a T2 certified reseller to perform service on products under warranty, unless directed by T2.

EXCLUSIONS

Items not covered under warranty. Certain service activities and materials are not covered by T2's warranty and will be charged to the Customer at the prevailing hourly rate for the service requested. These include, but are not limited to, warranty claims in connection with:

- Alterations or attachments not provided by T2, approved by T2 in writing, or compatible with T2's standard interfaces.
- Third party delivered services or attachments (other than Digital Connect) that could include electrical and networking interfaces (GSM, CDMA, Wi-Fi and Ethernet).
- Any negligence, misuse, or abuse by Customer or a third party including theft or vandalism.
- Failure to perform regular cleaning, inspection, adjustment or preventive maintenance activities or to follow proper procedures for operation in accordance with T2 recommendations as set out in the user manuals and documentation
- Movement of products by anyone other than T2 or a certified T2 reseller.
- Failure to adhere to T2 installation or site preparation standards.



- Damage resulting from extreme weather conditions, such as flooding, lightning, fires or any act of force majeure.
- Hardware upgrades as a result of changes in rules or regulations outside of T2's control (for example, changes to PCI Data Security Council requirements).
- Training issues not covered in the user manuals which are charged on an hourly basis. Arrangements for training can be made through your Regional Sales Manager or local authorised Reseller.
- Unless otherwise agreed in writing, T2 shall not assume the warranty obligations of any other party.
- Batteries, locks and keys are limited to a 30-day replacement warranty. USB keys may be replaced within 90 days of purchase. Any services requested in connection with locks or lock components are charged on an hourly basis. All other consumable items are excluded from warranty coverage.

OBTAINING WARRANTY SERVICES

1. **Obtaining warranty service.** To obtain warranty service for T2 products located in North America, please contact T2 Customer Service using one of the following options:

Phone: 888.687.6822

E-mail: support@digitalpaytech.com

Web: support.digitalpaytech.com

A T2 support specialist will determine if the product is experiencing a problem covered under warranty. T2 will repair or, at its discretion, exchange defective products or parts.

2. **Software warranty service.** Customers must provide the hardware configuration and serial number of the system running the software with the problem, its physical location, the name, release and version number of the operating system software and a description of the problem.
3. **Returning parts or products.** Parts or products under warranty which T2 deems to be defective should immediately be returned for replacement, together with the Return Merchandise Authorization ("RMA") number issued to you. Parts or products must be packaged in accordance with T2 instructions with the RMA number clearly visible. All return shipping costs are the responsibility of the Customer. T2 will notify you when we ship the replacement part or product and all defective parts or products must be returned to us within 30 days of such notice to avoid any charges. Late return of defective parts will result in you being invoiced for the full amount of the replacement part issued to you. T2 will repair all defective parts received outside of the 30 day time period and will return them to you. Returned defective parts or products which do not require immediate replacement will be repaired and returned to you at no charge. If returned parts are defective due to any of the exclusions outlined above, you will be charged for the full value of the replacement part issued.

ATTACHMENT 2 TO EXHIBIT A
T2 SYSTEMS CANADA INC. SOFTWARE CUSTOMER AGREEMENT

T2 SYSTEMS CANADA INC. Software Customer Agreement

THIS T2 SYSTEMS CANADA INC. SOFTWARE CUSTOMER AGREEMENT GOVERNS THE PROVISION AND USE OF THE T2 SYSTEMS CANADA INC. SERVICES, WIRELESS DATA SERVICES AND T2 SYSTEMS CANADA INC.-RELATED SUPPORT SERVICES PURCHASED BY YOU ("CUSTOMER") FROM T2 SYSTEMS CANADA INC. ("T2").

BY SIGNING THIS AGREEMENT, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND AND AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT.

IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A CORPORATE OR OTHER LEGAL ENTITY YOU HEREBY REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, AND "CUSTOMER" SHALL MEAN SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY OR YOU OR SUCH ENTITY DO NOT AGREE TO THE TERMS AND CONDITIONS SET OUT IN THIS AGREEMENT, YOU MUST NOT ACCEPT THIS AGREEMENT AND NEITHER YOU NOR SUCH ENTITY MAY USE THE SERVICES.

1. **DEFINITIONS.** In this Agreement:

- (a) **"Activation Date"** means the first date that each pay station unit is enabled by T2 to connect to the Services.
- (b) **"Affiliate"** means, in respect of an entity, any entity which directly or indirectly controls, is controlled by, or is under common control with such entity. "Control" for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of an entity.
- (c) **"Agreement"** means this T2 Systems Canada Inc. Customer Agreement, including all Sales Quotes.
- (d) **"Confidential Information"** means and includes any written or orally or visually disclosed information relating to the disclosing party's business identified as "confidential" or which the receiving party should reasonably know is confidential or not generally known to the public, including, without limitation:
 - (i) all know-how, technology and other proprietary information owned, licensed, used or developed by the disclosing party, including proprietary rights protected by trade secret and other intellectual property rights, and
 - (ii) All information relating to the disclosing party's business, the Services, and to all other aspects of the disclosing party's structure, personnel, operations, financial matters, marketing, commercial strategies, customer lists, customer data, contractual records, correspondence, products, programs, devices, concepts, inventions, designs, methods, data, and items provided to the disclosing party by third parties subject to restrictions on use or disclosure.
- (e) **"Documentation"** means the documentation, help files, user manuals, handbooks and any other written or electronic material relating to the Digital Iris Services provided by T2 to its customers from time to time.
- (f) **"T2 System"** means, in respect of the Digital Iris Services, the entire physical operation(s), located at the T2 facilities designated by T2 from time to time to host the Digital Iris Services, including all networks and servers, hardware and software utilized in the provision of the Digital Iris Services located behind the Point of Access.
- (g) **"Effective Date"** means the date on which Customer first accepts this Agreement.

- (h) **"Digital Iris Services"** means the Digital Iris services subscribed to by Customer as set out in the Sales Quote(s).
- (i) **"Fees"** means the fees for the Services as set out in the Sales Quote(s), and any other amounts payable under this Agreement, as calculated from the Activation Date.
- (j) **"Non-Conformity"** means the failure of the Digital Iris Services software to perform according to the Documentation.
- (k) **"Point of Access"** means T2's border router(s) which is (are) used to establish connectivity from the T2 System to T2's Internet service provider and the public Internet.
- (l) **"Representatives"** means, in respect of a party, the directors, officers, employees, agents and contractors of such party.
- (m) **"Sales Quote(s)"** means the sales quote forms executed by Customer from time to time setting out the details of the Services subscribed to by Customer, including applicable fees, which upon execution by Customer will be incorporated by reference into and form an integral part of this Agreement.
- (n) **"Services"** means the Digital Iris Services, Wireless Data Services, Support Services and/or any additional services.
- (o) **"Support Services"** means Digital Iris technical support services purchased by Customer, as described in the pay station warranty description, as amended from time to time.
- (p) **"System Availability Period"** means, in respect of the Digital Iris Services, twenty-four (24) hours per day, seven (7) days per week excluding the System Maintenance Period.
- (q) **"System Maintenance Period"** means, in respect of the Digital Iris Services, scheduled maintenance periods during which Digital Iris Services access will not be available to Customer due to required system maintenance, upgrades, and other hosting requirements for the T2 System.
- (r) **"Wireless Data Services"** means the third party wireless data services, if any, purchased by Customer from T2 for the purpose of enabling communications between the T2 System and Customer's parking pay stations.

All other terms defined in this Agreement shall have the meanings ascribed thereto.

2. **TERM.** This Agreement shall commence on the Effective Date and remain in full force and effect until terminated in accordance with its terms.

3. **DIGITAL IRIS SERVICES.**

- (a) Subject to the terms of this Agreement, T2 will supply the Digital Iris Services subscribed to by Customer, and Customer is granted a limited, non-exclusive, non-transferable right to access and use Digital Iris Services software, solely as necessary for Customer's use of the Digital Iris Services for its internal business purposes.
- (b) T2 will provide Customer with one (1) administration account (login and password) to access the Digital Iris Services on the T2 System.
- (c) T2 will provide the Digital Iris Services in accordance with the following standards:
 - (i) T2 is classified under the PCI Security Standards as a Level 1 Service Provider. The Digital Iris Services will remain in compliance with current PCI security standards at all times;
 - (ii) T2 will be responsible for delivery of access to the Digital Iris Services on the T2 System only up to and including the Point of Access, and is not responsible for any failure due to Customer's telecommunications connections, facilities (including internal local area networks (LAN)) or local infrastructure;

- (iii) T2 will use all reasonable efforts to ensure the Digital Iris Services will be available during the System Availability Period;
- (iv) T2 will provide Customer with at least 48 hours prior electronic notice of any scheduled System Maintenance Period;
- (v) T2 shall have the right to implement updates and upgrades to any software used in providing the Digital Iris Services, in its sole discretion;
- (vi) T2 will respond to incidents that have been reported by Customer within the response times set out in the T2 Support Services description; and
- (vii) in the event of a T2 System failure, T2 will use commercially reasonable efforts to complete data recovery requests using the most recent version of the backup data, databases, applications and configuration pieces required to restore Customer data.

4. RESTRICTIONS ON USE OF DIGITAL IRIS SERVICES.

- (a) Customer shall use the Digital Iris Services only for the parking pay stations identified in the Sales Quote(s), and only in accordance with the Documentation and any other instructions issued by T2 from time to time. Failure to use the Services in accordance with instructions provided by T2 may result in failure of all or any part of the Services, and/or accidental loss of data or data integrity. If Customer does not understand the requirements for the proper use of the Digital Iris Services, Customer must contact T2 for additional information.
- (b) Customer may make copies of the Documentation solely for its own internal purposes in conjunction with its use of the Digital Iris Services. Copyright and other proprietary rights in the Documentation shall remain vested in T2. Customer may not remove any title, trademark, copyright and/or restricted rights or proprietary notices or labels from, or otherwise modify the Documentation, and all copies of the Documentation must include all such notices and labels.
- (c) Customer shall restrict access to the Digital Iris Services to its employees or contractors, solely as required for its internal business purposes. Without limiting the generality of the foregoing, Customer may not sell, rent, loan or otherwise grant any rights in or to the Digital Iris Services, or permit any other party to do so.
- (d) Customer agrees not to:
 - (i) introduce any kind of malware, including but not limited to viruses, worms, Trojan horses or other harmful code that may damage the operation of the Digital Iris Services or the T2 System;
 - (ii) use the Digital Iris Services in any manner which could damage, disable, overburden or impair any part of the T2 System, or interfere with any other customer's ability to use the Digital Iris Services or the T2 System;
 - (iii) attempt to gain access to other customers' accounts through any manner of hacking or password mining or other means;
 - (iv) attempt to embed the Digital Iris Services within another website;
 - (v) attempt to use such methods as SQL Injection, Cross Site Scripting, Remote File Inclusion, Cross Site Request Forgery and any other methods not authorised by T2 to gain access to the T2 System or the Digital Iris Services;
 - (vi) attempt a Denial of Service (DOS) attack of any kind;
 - (vii) use the Digital Iris Services or the T2 System to transmit SPAM, junk email or other unsolicited email of any kind; or

- (viii) in connection with the Services, engage in conduct that would constitute a criminal or quasi-criminal offence, that could give rise to civil liability, intellectual property rights infringement, or privacy rights violations, or that would otherwise violate any applicable local, provincial, state, federal or international law, or accepted Internet protocol.

5. WIRELESS DATA SERVICES.

- (a) If purchased by Customer, T2 will provide the Wireless Data Services, supplied by T2's underlying third party wireless data services carrier, to Customer. Customer acknowledges and agrees that (i) Customer has no contractual relationship with the third party wireless data services carrier, (ii) Customer is not a third party beneficiary of any agreement between T2 and the carrier, and (iii) that the wireless data services carrier shall have no liability of any kind whatsoever to Customer, or any party deriving rights through Customer, whether for breach of contract, warranty, negligence, strict liability, tort, or otherwise.
- (b) Customer shall use the Wireless Data Services only in connection with the Digital Iris Services and parking pay stations identified in the Sales Quote(s).
- (c) Customer agrees that it will at all times comply with and abide by all terms and conditions established by T2 from time to time for the use of and access to the Wireless Data Services, and acknowledges that the Wireless Data Services may be restricted or cancelled by T2 or the underlying data services carrier if there is a reasonable suspicion of abuse or fraudulent use of the services.
- (d) Customer may not resell the Wireless Data Services to any other person.
- (e) Customer has no property right in any wireless number assigned to it in connection with the Wireless Data Services, and understands that such number can be changed.
- (f) Customer will provide T2 with prompt notice of any suspected abuse or fraudulent use of the Wireless Data Services of which it becomes aware.

6. SUPPORT SERVICES.

T2 will provide the Support Services in accordance with the Digital Iris technical services description, as amended from time to time. Support Services are limited to those set out in the services description, and expressly exclude any additional services required to correct any Non-Conformities resulting from the causes described in Subsection 11(b). Any additional technical support may be agreed by T2 on a case-by-case basis, and shall be charged on a time and materials basis at T2's then-standard rates therefor.

7. FEES AND PAYMENT.

- (a) Customer agrees to pay to T2 the Fees plus all applicable taxes in accordance with this section.
- (b) The initial invoice will be issued on or about the Activation Date and the first month's Fees will be prorated to reflect such date. Except as otherwise set out in the Sales Quote(s), T2 will issue monthly invoices for Fees thirty (30) days in advance of each month of the calendar year. Payment terms are net thirty (30) days from the date of invoice and payable to T2 as set out in the invoice.
- (c) Customer shall pay interest on any invoiced amounts which are unpaid after 30 days at a rate of 1.5% per month (18% per annum, effective rate) or the maximum amount allowed by law (whichever is less), from the date such amounts become due and payable. Customer also agrees to pay all costs incurred by T2 to collect any overdue amounts.
- (d) Without limiting any other rights and remedies which T2 may have, T2 shall also have the right to suspend or terminate any or all of the Services upon notice but without any liability

to Customer or any other party, if any Fees or other amounts owing by Customer to T2 remain unpaid after 60 days, including any charge backs for NSF checks.

- (e) All Fees are exclusive of all taxes, duties and levies of any kind, including any sales, use, excise, value-added and other applicable taxes, withholdings, and governmental charges (collectively, "Taxes"). Customer shall pay all applicable Taxes, other than taxes on T2's income. If T2 pays any such amounts on behalf of Customer, Customer shall reimburse T2 upon presentation of proof of payment.

8. OWNERSHIP.

- (a) Customer acknowledges that T2 has developed and uses valuable technical and non-technical information, trade secrets, know-how and the like in the supply of the Services. Customer agrees that, except for the limited right to use the Services as set out in this Agreement, all rights, title and interest in and to the Services, the Digital Iris software, the T2 System, Documentation, and any other hardware, software, equipment and materials used by T2 in conjunction with the delivery of the Services, shall remain vested in T2 or its third party suppliers.
- (b) Each party recognizes and acknowledges the great value of the goodwill associated with the name and trademarks of the other party, and the identification of the proprietary party's goods or services therewith. Each party agrees that it obtains no rights, title or interest of any kind in or to any of the trademarks, tradenames, logos, service marks or other markings belonging to the other party or its suppliers.
- (c) The parties acknowledge that at all times Customer will remain the owner of its transaction data. T2 shall not at any time use Customer's data or disclose Customer's data to any third parties, except that T2 may store, back-up and archive Customer's data.

9. CONFIDENTIALITY.

- (a) Each party agrees to hold all Confidential Information of the other party in strictest confidence, not to make use thereof other than for the performance of this Agreement, to disclose such Confidential Information only to its Representatives who are under an obligation of confidentiality with respect thereto and who require such information for the performance of their duties, and not to disclose such Confidential Information to any third parties, except with the disclosing party's prior written consent; provided, however, that the foregoing restrictions shall not apply to Confidential Information of the other party:
 - (i) that is now or hereafter in the public domain through no action or failure to act on the part of the receiving party or its Representatives;
 - (ii) that was received by or was available to the receiving party from a third party without any obligation of confidentiality to the disclosing party;
 - (iii) that is independently developed by or for the receiving party by persons who have not had access to the Confidential Information of the disclosing party;
 - (iv) that is disclosed with the written consent of the disclosing party; or
 - (v) that is disclosed pursuant to the requirement of a governmental agency or is required by operation of law, regulation or court order, provided that whenever possible prompt notice is given by the receiving party to the disclosing party prior to such disclosure so that the disclosing party may seek a protective order or other remedy.
- (b) Each party agrees to protect and safeguard Confidential Information of the other party from loss, theft, destruction and inadvertent disclosure using the same degree of care as it uses to protect its own confidential information of a like nature, but in no event less than a reasonable standard of care.

- (c) Each party shall hold the other party's Confidential Information in trust for the other party and all right, title and interest in and to such Confidential Information shall remain with the disclosing party.
- (d) Upon termination of the Services, or otherwise upon the request of a disclosing party, the receiving party will promptly destroy all full and partial copies of the disclosing party's Confidential Information in its possession or control, and certify such destruction in writing; provided, however, that the receiving party may retain one (1) copy for its internal archival purposes only, which copy shall remain subject to the obligations of confidentiality set out in this Section 9.

10. CUSTOMER LIABILITY.

- (a) Customer shall be solely responsible for, and shall hold T2, its third party suppliers, and their respective Representatives harmless from any loss, damage or liability arising in connection with:
 - (i) Customer's inputs, selection and use of the Services, and all data, reports, statements and other content transmitted, posted, received or created on the T2 System through Customer's account, even if transmitted, posted, received or created by a third party;
 - (ii) Customer's or its Representative's use, misuse, failure to use, or inability to use the Wireless Data Services or any other data services required for the use of the Digital Iris Services, including any abuse, fraudulent use or unauthorized access thereto; and
 - (iii) Any breach by Customer and/or its Representatives of any of the terms and conditions of this Agreement.

11. LIMITED WARRANTY.

- (a) T2 warrants to Customer that, for the duration of this Agreement, the Digital Iris RIS Services will substantially conform to the specifications set out in the Documentation, as revised by T2 from time to time.
- (b) The foregoing warranty shall not apply to Non-Conformities that result from any cause beyond the reasonable control of T2 including, but not limited to:
 - (i) Customer's failure to:
 - (A) prepare and maintain a technical environment that meets the specifications provided by T2 from time to time,
 - (B) provide necessary communications mechanisms (including connections to pay station units) as specified by T2 from time to time, or
 - (C) maintain pay station units in good repair in accordance with T2's recommendations and requirements for operation, maintenance and repair;
 - (ii) the use of the Digital Iris Services in combination with apparatus, systems, products or services where such combination was not provided, proposed, recommended or approved by T2, or contemplated in the Documentation;
 - (iii) unauthorized modifications or repairs to any equipment supplied by T2 (including pay station units) by Customer or any person not approved by T2; or
 - (iv) failures relating to Customer's computing environment including, without limitation, electrical failure, Internet connection problems, communications problems, or data or data input, output, integrity, storage, back-up, and other external and/or infrastructure problems, which, as between Customer and T2,

shall be deemed to be under Customer's exclusive control and sole responsibility.

- (c) T2 shall have no responsibility and provides no representations or warranties with respect to any third party hardware, software or services, whether supplied in connection with this Agreement or otherwise.
- (d) If Customer notifies T2 in writing of a breach of the foregoing limited warranty, T2 shall, at its cost and expense, promptly, diligently and in good faith continue to completion, using commercially reasonable efforts accounting for the circumstances, the correction or bypassing, in T2's reasonable discretion, of the Non-conformity within the period required under the Support Services or such other period as may be mutually agreed by both parties depending on the nature and severity of the Non-conformity.

12. EXCLUSION OF WARRANTIES.

- (a) EXCEPT AS EXPRESSLY PROVIDED IN SECTION 11, THE SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OR REPRESENTATION OF ANY KIND. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, T2 AND ITS THIRD PARTY SUPPLIERS HEREBY DISCLAIM ALL OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, WHETHER ARISING UNDER STATUTE, FROM A COURSE OF DEALING, USAGE, CUSTOM OF THE TRADE OR OTHERWISE, REGARDING THE SERVICES, THE DOCUMENTATION, OR ANY OTHER PRODUCTS OR SERVICES PROVIDED OR FAILED TO BE PROVIDED UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, DURABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCESSIBILITY, PRIVACY OF FILES OR SECURITY.
- (b) T2 DOES NOT WARRANT THAT THE SERVICES OR ANY OTHER PRODUCTS OR SERVICES PROVIDED HEREUNDER WILL BE UNAFFECTED BY BUGS, VIRUSES, ERRORS OR OTHER PROGRAM LIMITATIONS, NOR DOES T2 WARRANT THAT CUSTOMER'S USE THEREOF WILL BE UNINTERRUPTED, ERROR-FREE OR WILL MEET ALL OF THE CUSTOMER'S REQUIREMENTS. IN ADDITION, THE WIRELESS DATA SERVICES ARE NOT GUARANTEED AGAINST EAVESDROPPERS, HACKERS, DENIAL OF SERVICE ATTACKS OR INTERCEPTORS AND NEITHER T2 NOR THE UNDERLYING WIRELESS DATA SERVICES CARRIER CAN GUARANTEE THE PRIVACY OR SECURITY OF WIRELESS TRANSMISSIONS.
- (c) THIS LIMITED WARRANTY GIVES THE CUSTOMER SPECIFIC LEGAL RIGHTS. THE CUSTOMER MAY HAVE OTHER RIGHTS, WHICH VARY FROM LOCATION TO LOCATION, DEPENDING UPON THE APPLICABLE LAW OF SUCH LOCATION.

13. LIMITATION OF LIABILITY AND DAMAGES.

- (a) TO THE MAXIMUM EXTENT PERMITTED BY LAW: T2'S, ITS THIRD PARTY SUPPLIERS' AND THEIR RESPECTIVE REPRESENTATIVES' TOTAL COLLECTIVE LIABILITY ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, AND/OR ANY PRODUCTS OR SERVICES DELIVERED OR FAILED TO BE DELIVERED UNDER THIS AGREEMENT, SHALL BE LIMITED TO THE ACTUAL DIRECT DAMAGES SUFFERED BY CUSTOMER, NOT TO EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER FOR THE PRODUCT OR SERVICE GIVING RISE TO THE CLAIM. TOTAL AGGREGATE LIABILITY FOR ALL CLAIMS SHALL BE LIMITED TO AN AMOUNT EQUAL TO THE TOTAL FEES ACTUALLY PAID BY CUSTOMER TO T2 FOR THE SERVICES DURING THE SIX MONTHS IMMEDIATELY PRECEDING THE MOST RECENT CLAIM. IN NO EVENT WILL T2 OR ITS THIRD PARTY SUPPLIERS BE LIABLE IN ANY WAY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR AGGRAVATED DAMAGES OF ANY KIND WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF USE, DATA, INCOME,

BUSINESS, PROFIT, GOODWILL, ANTICIPATED REVENUE, FAILURE TO REALIZE EXPECTED SAVINGS, OR OTHERWISE.

- (b) WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, DUE TO THE NATURE OF INTERNET AND WIRELESS TRANSMISSIONS, CUSTOMER AGREES THAT NEITHER T2 NOR THE UNDERLYING WIRELESS DATA SERVICES CARRIER SHALL BE LIABLE FOR ANY LOSS, COSTS OR DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH: ANY LACK OF PRIVACY OR SECURITY OF WIRELESS TRANSMISSIONS; WIRELESS DATA SERVICES INTEROPERABILITY, ACCESS OR INTERCONNECTIONS WITH THE T2 SYSTEM OR THE DIGITAL IRIS SERVICES; WIRELESS DATA SERVICE DEFECTS, SERVICE LEVELS, DELAYS OR INTERRUPTIONS; ANY INTERRUPTION OR ERROR IN ROUTING OR COMPLETING CALLS OR OTHER TRANSMISSIONS; LOST OR ALTERED MESSAGES OR TRANSMISSIONS; OR UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF CUSTOMER'S CONTENT, DATA, PROGRAMS CONFIDENTIAL INFORMATION OR SYSTEMS.
- (c) NO ACTION, REGARDLESS OF FORM, ARISING OUT OF THIS AGREEMENT MAY BE BROUGHT BY CUSTOMER MORE THAN TWELVE (12) MONTHS AFTER THE FACTS GIVING RISE TO THE CAUSE OF ACTION HAVE OCCURRED, REGARDLESS OF WHETHER THOSE FACTS BY THAT TIME ARE KNOWN TO, OR OUGHT REASONABLY TO HAVE BEEN DISCOVERED BY, CUSTOMER.
- (d) THE FOREGOING LIMITATIONS SHALL APPLY REGARDLESS OF THE CAUSE OF ACTION, WHETHER ARISING UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, AND REGARDLESS OF WHETHER T2, ITS THIRD PARTY SUPPLIERS AND/OR THEIR REPRESENTATIVES KNEW, OR SHOULD HAVE KNOWN ABOUT THE POSSIBILITY OF SUCH DAMAGES.
- (e) CUSTOMER AGREES THAT THE LIMITATIONS OF LIABILITY SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THIS AGREEMENT, WITHOUT WHICH T2 WOULD NOT HAVE ENTERED INTO THIS AGREEMENT AND/OR AGREED TO PROVIDE THE SERVICES UNDER THE CURRENT TERMS (INCLUDING FEES).
- (f) BECAUSE THE LAWS OF SOME LOCATIONS DO NOT ALLOW THE LIMITATION AND/OR EXCLUSION OF LIABILITY, THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO ALL CUSTOMERS.

14. TERMINATION.

- (a) Either party may terminate this Agreement without cause by written notice to the other party, which termination shall be effective as of the last day of the calendar month following the month in which notice of termination is received.
- (b) Either party may terminate this Agreement if the other party breaches any of its representations or warranties, or any other material obligation under this Agreement, and fails to remedy such breach with thirty (30) days of receipt of notice from the non-breaching party. T2 shall also have the right to suspend performance of all or any of the Services, without liability, pending the rectification of any breach by Customer.
- (c) Either party may terminate this Agreement, immediately upon written notice, if the other party makes an assignment for the benefit of its creditors or becomes bankrupt or makes an application for relief under the provisions of any statute now or hereafter in force concerning bankrupt or insolvent debtors, or if a receiving order or receivership order is made against the other party, or any action whatsoever, legislative or otherwise be taken to effect the winding up, dissolution, suspension of operations or liquidation of the other party.

- (d) In addition, Customer may, upon written notice to T2 terminate (i) the Wireless Data Services and/or (ii) any of the individual Digital Iris Services, if T2 breaches any of its obligations in respect of the terminated Services and fails to cure such breach within 30 days after receipt of a written request from Customer to do so.
- (e) Without limiting any other remedies available under this Agreement, at law or in equity, in the event of the termination of this Agreement or any of the Services for any reason:
 - (i) T2's obligation to provide the affected Services will terminate;
 - (ii) All unpaid amounts due in respect of the terminated Services up to and including the effective date of termination shall, at T2's option, become immediately due and payable;
 - (iii) Subject to T2's right to set-off any amounts owing by Customer to T2 pursuant to (ii), above, T2 will refund to Customer any Fees which have been prepaid by Customer for any unused portion of the terminated Services;
 - (iv) Customer must destroy any copies of the Documentation in Customer's possession in any form and on any media, and certify to T2 in writing that it has done so;
 - (v) Customer may request T2 to provide a copy of all of Customer's data in a CSV file format at T2's standard fee therefor, as established by T2 from time to time; and
 - (vi) T2 may destroy, in its sole discretion, Customer's data remaining on the T2 System after either:
 - (A) receiving confirmation that Customer has a copy of any remaining data;
 - (B) providing Customer with a copy of any remaining data pursuant to Subsection 14 (e) (v) ; or
 - (C) 60 days after the expiration or termination of this Agreement, and
 - (vii) Sections 1, 4, 7, 8, 9, 10, 11, 12, 13, 14(e), 15, 16(c) and 16(i) shall survive the expiration or termination of this Agreement until such time as the parties may agree to the release of the obligations contained therein.

15. DISPUTE RESOLUTION.

Dispute Resolution. In the event of any dispute arising out of this Agreement, the parties shall use commercially reasonable efforts to negotiate a settlement in good faith satisfactory to both parties. If they do not reach a solution within a period of 60 days (or such other longer period as the parties may agree), then either party may, on written notice to the other party, refer the dispute for settlement by arbitration before a single arbitrator in accordance with the rules of the American Arbitration Association. The costs of the arbitrator will be borne equally by the parties, but they will otherwise bear their respective costs incurred in connection with the arbitration. The parties shall select the arbitrator promptly and use commercially reasonable efforts to conduct the arbitration hearing no later than three (3) months after the arbitrator is selected. The arbitrator may not award punitive or exemplary damages against either party or any other relief in excess of the limitations set forth herein. The judgment and award of the arbitrator will be final and binding on each party. Judgment upon the award may be entered in any court having jurisdiction, or application may be made to such court for judicial acceptance of the award and/or an order of enforcement as the case may be. No action, regardless of form, arising out of or in connection with this Agreement may be brought by Customer more than twelve

(12) months after the occurrence of the event giving rise to the cause of action, regardless of whether the Customer was aware or ought reasonably to have been aware of the event.

16. **GENERAL PROVISIONS.**

- (a) Assignment. Customer may not assign or transfer any of its rights or obligations under this Agreement to any person without the express prior written consent of T2.
- (b) Entire Agreement. Customer acknowledges that this Agreement (including the Sales Quote(s)) comprises the entire understanding and agreement between parties regarding the Services and supersedes all prior written and oral agreements, purchase orders, representations, understandings, promises, descriptions or other communications between the parties regarding the Services. T2 may change, modify, add or remove portions of this Agreement at any time. T2 will notify Customer of any changes to this Agreement by posting notice of such changes on the T2 web site (www.digitalpaytech.com), by email, or by sending notice to Customer in accordance with subsection 16(g), below. Customer's continued use of the Services following notice of such change means that Customer agrees to and accepts the Agreement as amended. If Customer does not agree to any modification of this Agreement, Customer must immediately stop using the Services and notify T2 that it is terminating this Agreement.
- (c) Injunctive Relief. Each party acknowledges and agrees that a breach of the obligations under Section 8 ("Ownership") and Section 9 ("Confidentiality") would cause irreparable harm and significant injury to the affected party that would not be adequately compensated by an award of money damages and, in addition to any other remedy available at law or in equity, and notwithstanding the provisions of Section 15, the affected party will be entitled to seek and obtain temporary and permanent injunctive relief from any court of competent jurisdiction to prevent breaches hereunder, without showing or proving any actual or threatened damage
- (d) Enurement. This Agreement shall be binding upon and enure to the benefit of T2, Customer and their respective successors and permitted assigns.
- (e) Force Majeure. Neither party shall be liable for delay or failure in performance (other than the making of payments) resulting from acts beyond the control of such party, including, but not limited to acts of God, acts of war, riot, fire, flood, or other disaster, acts of government, strike lockout, power failures, or the inability to use or the failure of any third party telecommunications carrier or other services, which events or conditions prevent in whole or in part the performance by such party of its obligations hereunder or which renders the performance of such obligations so difficult or costly as to make performance commercially unreasonable. In such event, the party affected shall be excused from performance on a day-to-day basis to the extent of the delay, and the other party shall likewise be excused from the performance of its obligations on a day-to-day basis to the extent such party's obligations related to the performance are so delayed.
- (f) Independent Contractors. The parties are independent contractors. Nothing herein shall be construed to create any legal partnership, joint venture, agency or any other relationship between the parties.
- (g) Notices. All communications and notices provided for herein shall be in writing and shall be deemed to have been given when delivered personally to the recipient, by email, or by registered or certified mail with return receipt requested, postage prepaid, and addressed to the applicable signatory at the address appearing on the Sales Quote(s) or at such other address as either party may designate by notice to the other.
- (h) No Waiver. No delay or failure to take any action or exercise any rights under this Agreement shall constitute a waiver or consent unless expressly waived or consented to in writing. A waiver of any event does not apply to any other or subsequent event, even if in relation to the same subject-matter.

- (i) Publicity. Except as expressly permitted in Section 9 ("Confidentiality"), neither party shall issue any press release, or otherwise publicly identify the other as a customer or supplier, in any marketing materials or otherwise, without the express prior authorization of the other party.
- (j) Severability. If any provision contained in this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, it shall be deemed severed from this Agreement and the remaining provisions of this Agreement shall not be in any way affected or impaired thereby and shall continue in full force and effect.

In witness hereof the parties have executed this Agreement the ____ day of _____ 2015.

T2 SYSTEMS CANADA, INC.

CITY OF BEVERLY HILLS

Per: _____
Name: _____
Title: _____

Per: _____
Name: _____
Title: _____

EXHIBIT B

RATES, UNIT COSTS AND SCHEDULE OF PAYMENT

CITY shall pay CONTRACTOR at the following rates and unit costs:

SERVICES ITEMS 1 THROUGH 6 IN EXHIBIT A

For the services described in items 1 through 6 in Exhibit A including network hosting, credit card processing, monitoring, and reporting

\$13,200 Annual (\$55 per machine x 20 machines), \$39,600 for three year term;

\$55 per month, per machine

MODEMS

Provide twenty (20) modems for Parking Pay Stations:

\$375 each, \$7,500 for twenty.

SUPPLIES/CONSUMABLES

Not to exceed \$6,000 Annual, Not to exceed \$18,000 for three year term.

Supplies/Consumables shall include the following:

- Ticket Paper
- Machine Parts
- Equipment

EXTENDED WARRANTY SERVICE

\$15,000 Annual, (\$750 per machine x 20 machines) \$45,000 for three year term;

CONTINGENCY FOR UNANTICIPATED REPAIRS AND MAINTENANCE SERVICES

Not to exceed \$7,500 annual, Not to exceed \$22,500 for the three year term;

TOTAL PER YEAR: Not to exceed \$44,200

TOTAL FOR THREE YEAR TERM: Not to exceed \$132,600

EXHIBIT B

SCHEDULE OF PAYMENT

CONTRACTOR shall submit an itemized statement to CITY for its services performed in a form approved by CITY, which shall include documentation setting forth in detail a description of the services rendered, and products purchased. CITY shall pay VENDOR the amount of such billing in accordance with the following schedule within thirty (30) days of receipt of same.

Services described in items 1 through 6 of Exhibit A shall be paid on an annual/quarterly/monthly basis, as determined by CITY for future dates of service.

Extended Warranty Service shall be paid on an annual/quarterly/monthly basis, as determined by CITY for future dates of service.

EXHIBIT C

CERTIFICATE OF INSURANCE

This is to certify that the following endorsement is part of the policy(ies) described below :

NAMED INSURED

COMPANIES AFFORDING COVERAGE

ADDRESS

- A.
- B.
- C.

COMPANY (A.B.C.)	COVERAGE	POLICY NUMBER	EXPIRATION DATE	B.I.	LIMITS P.D.	AGGREGATE
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> PRODUCTS/COMPLETED OPERATIONS <input type="checkbox"/> BLANKET CONTRACTUAL <input type="checkbox"/> CONTRACTOR'S PROTECTIVE <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> WORKER'S COMPENSATION					

It is hereby understood and agreed that the City of Beverly Hills, its City Council and each member thereof and every officer and employee of the City shall be named as joint and several assureds with respect to claims arising out of the following project or agreement:

It is further agreed that the following indemnity agreement between the City of Beverly Hills and the named insured is covered under the policy: Contractor agrees to indemnify, hold harmless and defend City, its City Council and each member thereof and every officer and employee of City from any and all liability or financial loss resulting from any suits, claims, losses or actions brought against and from all costs and expenses of litigation brought against City, its City Council and each member thereof and any officer or employee of City which results directly or indirectly from the wrongful or negligent actions of contractor's officers, employees, agents or others employed by Contractor while engaged by Contractor in the (performance of this agreement) construction of this project.

It is further agreed that the inclusion of more than one assured shall not operate to increase the limit of the company's liability and that insurer waives any right of contribution with insurance which may be available to the City of Beverly Hills.

In the event of cancellation or material change in the above coverage, the company will give 30 days' written notice of cancellation or material change to the certificate holder.

Except to certify that the policy(ies) described above have the above endorsement attached, this certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

DATE : _____

BY : _____

Authorized Insurance Representative

TITLE : _____

AGENCY : _____

Address : _____
