



## Master Services and Hosting Agreement

This Master Services and Hosting Agreement (this "Agreement") by and between Selectron Technologies, Inc., an Oregon corporation having a principal place of business at 12323 SW 66<sup>th</sup> Avenue, Portland, OR 97223, and its successors and assigns ("Selectron"), and the Village of Wellington, Florida ("Licensee").

### Recitals

Whereas, as between Selectron and Licensee, Selectron is the owner of all rights, titles, and interest in and to certain software and materials, identified more particularly in this Agreement as the "Licensed Software"; and

Whereas, Selectron wishes to grant to Licensee, and Licensee desires to obtain from Selectron, certain rights to access and use, and to permit authorized Licensee employees to access and use the Licensed Software through Selectron's application hosting service, as more particularly described below and in accordance with the terms and conditions of this Agreement.

**Now, Therefore,** in consideration of the mutual promises and covenants contained herein, the parties agree to the following terms and conditions, which set forth the rights, duties and obligations of the parties:

### Agreement

#### 1. Definitions

For purposes of this Agreement, the following terms shall have the following meanings. Any capitalized terms used in this Agreement that are not defined in this Section 1 shall have the meaning given to them elsewhere in this Agreement.

**1.1 "Aggregate Data"** means information, data, and statistics about a group of individuals, organizations, or transactions that cannot be used to identify Licensee or a particular individual, including Licensee Data that has been de-identified and anonymized and combined with data about other individuals and transactions.

**1.2 "Authorized User"** means an Employee that Licensee provides with access to the Licensed Software.

**1.3 "Customer Tools"** means the Licensed Software components and interfaces that, as described in the Documentation, are designed and intended to be accessed by customers of Licensee through an application that is set up and maintained as part of the Services and/or Licensee's website.

**1.4 "Derivative Work"** shall mean a new or modified work that is based on or derived from a preexisting work, including, without limitation, a work that

in the absence of a license, would infringe the Intellectual Property Rights associated with such preexisting work.

**1.5 "Documentation"** shall mean the standard documentation for the Licensed Software, as generally provided by Selectron to its other customers.

**1.6 "Employee"** shall mean a then-current employee of Licensee.

**1.7 "Intellectual Property Rights"** shall mean all rights associated with (a) patents, designs, algorithms, and other industrial property rights; (b) works of authorship, including copyrights, "moral rights", and derivative works thereof; (c) the protection of trade and industrial secrets and confidential information; (d) Trademarks (as defined herein); (e) all other intellectual and industrial property rights (of every kind and nature throughout the world and however designated), whether arising by operation of law, contract, license, or otherwise; and (f) all registrations, initial applications, divisions, continuations, renewals, extensions, divisions, and re-issuances of any of the foregoing, now existing or acquired in the future.

**1.8 "Licensed Software"** shall mean, collectively, (a) the software programs that are listed in Exhibit A and further described in Exhibit C• (b) the Documentation; and (c) any Updates.

1.9 "Licensee Data" means structured data about and identifiable to customers of Licensee, including without limitation data about transactions between such customers and Licensee, (a) that Licensee provides to Selectron to enable Selectron to provide the Licensed Software and the Services, (b) that Selectron collects from Licensee's customers to facilitate payments by those customers to Licensee, or (c) that Selectron otherwise collects or creates, including by automated means, in the course of performing the Services or providing the Licensed Software to Licensee.

1.10 "PCI Data" means Cardholder Data (including, without limitation, Primary Account Number, cardholder name, expiration date, and Service Code) and Sensitive Authentication Data (including without limitation full magnetic stripe data or the equivalent on a chip, CAV2/CVC2/CW2/CID, PINS/PIN block), as such terms are defined by the PCI Security Standards Council.

1.11 "Security Incident" means a breach of security resulting in an unauthorized third party gaining access to Licensee Data if (a) such breach creates a substantial risk of harm to Licensee or any individual(s) and (b) the Licensee Data was accessed in unencrypted, usable, or readable form or it is reasonably likely that the unauthorized third party has acquired or will acquire the decryption key or other means of converting the Licensee Data to readable or usable form.

1.12 "Services" means the outbound call management, customization, training, set-up, configuration, or other services listed in Exhibit A and further described in Exhibit C hereto, the Technical Support Services, and any other services Selectron provides to Licensee as described herein.

1.13 "Technical Support Services" means the maintenance and technical support services described in Exhibit B hereto.

1.14 "Term" shall have the meaning set forth in Section 11.1.

1.15 "Trademarks" shall mean (a) the trademarks, trade names, and service marks used by a party, whether registered or unregistered; (b) the respective stylistic marks and distinctive logotypes for such trademarks, trade names, and service marks; (c) such other marks and logotypes as either party may designate from time to time in writing; and (d) the goodwill connected with the use of and symbolized by any of the foregoing.

1.16 "Updates" shall mean any modifications, error corrections, bug fixes, new releases, or other updates of or to Licensed Software, including the Documentation, that may be provided or otherwise made available hereunder by Selectron to Licensee during the Term.

1.17 "Work Product" means any and all work product, deliverables, materials, drawings, works of authorship, creative works, designs, inventions, documentation, methods, processes, techniques, software, reports, or data created or developed by Selectron in the course of performing the Services or providing the Licensed Software, excluding Licensee Data.

## 2. Grant of License; Restrictions

2.1 Grant of License to Use Licensed Software. Subject to the terms and conditions of this Agreement, including the End User License Agreement ("EULA") attached hereto as Exhibit D which is incorporated into and made a part hereof, and the timely payment of all fees hereunder, Selectron hereby grants to Licensee a non-exclusive, nontransferable, nonsublicensable, limited license, during the Term, to access and use the Licensed Software solely in accordance with the Documentation and the EULA and solely for Licensee's own internal business use. Except as set forth in this Section 2.1 or the EULA, no other right or license of any kind is granted by Selectron to Licensee hereunder with respect to the Licensed Software.

2.2 Software Restrictions. Licensee hereby acknowledges and agrees that it shall not use the Licensed Software for any purpose other than the purpose for which Selectron has developed the Licensed Software, and that it shall use the Licensed Software in accordance with the EULA and all applicable laws, rules, and regulations. In the event of any violation of this Section 2.2 or the terms of the EULA by Licensee or any person Licensee provides with access to the Licensed Software (whether or not such person is an Authorized User), Selectron may terminate this Agreement in accordance with Section 11.2.

2.3 Data Restrictions. Selectron hereby acknowledges that the Licensee Data may contain sensitive, personally-identifiable information. Selectron will not disclose Licensee Data to any third-party except as required to perform its obligations under this Agreement (e.g., transmittal of PCI Data to Licensee's designated payment gateway) and will maintain and use the Licensee Data only for purposes of performing its obligations under

this Agreement. Except as otherwise expressly provided herein, Selectron will promptly delete any Licensee Data that Licensee requests in writing to be deleted (except for data retention required by law).

#### **2.4 Rights In Aggregate Data.**

Notwithstanding Section 2.3, Selectron may, (a) during the term of this Agreement, use and analyze the Licensee Data to generate Aggregate Data and (b) during and after the term of this Agreement, retain, use, publish, and otherwise disclose Aggregate Data without restriction, so long as the Aggregate Data is disclosed in a form in which it cannot be used to identify Licensee or any particular individual(s). By way of example and without creating any limitation, Selectron may analyze the Licensee Data along with data gathered from other sources to generate statistics and analytics about success rates of municipalities in collecting payments in response to application notification calls.

### **3. Deliverables and Services**

**3.1 Services.** Selectron shall perform the Services described in Exhibit A and Exhibit C and the Technical Support Services described in Exhibit B in accordance with the terms of this Agreement.

**3.2 Delivery, Testing, and Acceptance.** All deliveries of equipment or physical goods required under this Agreement shall be F.C.A. Selectron's facilities. Selectron shall provide Licensee with the Documentation and access to the Licensed Software according to the delivery, testing, and acceptance schedule and terms and conditions set forth in Exhibit A and Exhibit C. Unless a testing period of different duration is set forth in Exhibit A or Exhibit C, Licensee shall have a testing period of thirty (30) days from the date of delivery of any Licensed Software, including any customized Licensed Software, to inspect and test the Licensed Software. If Licensee provides Selectron with written notice during the applicable testing period describing the Licensed Software's failure to substantially comply with the limited warranty set forth in Section 7.2 in sufficient detail to enable Selectron to reproduce such failure, the Service Fees for the non-conforming Licensed Software shall be suspended until Selectron corrects any such substantial non-conformity. If Licensee does not provide such notice during the testing period, the Licensed Software shall be deemed accepted, and Licensee's sole remedy for any non-conformance shall be the Technical Support Services provided hereunder.

**3.3 Authorized Users; Licensee Identification and Passwords.** Except as provided in

Section 3.4, Licensee shall not permit any person to access the Licensed Software other than Employees whom Licensee has designated as Authorized Users. Each individual natural person shall be a separate Authorized User for purposes of this Agreement. Licensee shall create or request that Selectron create unique log-in credentials, consisting of a "User Identification" and "User Password", for each individual Authorized User who shall be accessing the Licensed Software. Licensee hereby acknowledges that Licensee and its Authorized Users bear sole responsibility for protecting the confidentiality of all User Passwords and shall remain fully responsible and liable for (and Selectron shall not be responsible or liable for) any unauthorized use of any User Identifications or User Passwords. Licensee shall not share or disclose, and shall not permit any Authorized User to share or disclose, such Authorized Users log-in credentials with or to any other individual or entity, even if such other individual is also an Authorized User. A User Identification may not be transferred from one Authorized User to another Authorized User. Licensee shall promptly terminate (or cause to be terminated by requesting that Selectron terminate) the User Identification for any individual who ceases to be an Authorized User for any reason, including without limitation due to termination of such individual's employment with Licensee. Licensee shall promptly notify Selectron if It discovers or suspects that any log-in credentials have *been* accessed or used by any person other than the Authorized User to which such log-in credentials were granted, in which case Selectron shall promptly reset or provide Licensee with a means of resetting the password associated with such log-in credentials.

**3.4 Customer Tools.** Licensee may permit its customers to access and use the Customer Tools solely through Licensee's website and/or an application that is set up and maintained as part of the Services, and solely for the purpose of enabling such customers to (a) receive notifications sent by or on behalf of Licensee, (b) make payments to Licensee, (c) view their invoices from Licensee and history of payments to Licensee, and (d) update their contact information with Licensee.

**3.5 Hosting.** During the Term, Selectron and/or its designees shall host and maintain the Licensed Software, and provide access thereto, subject to the terms and conditions of this Agreement and the EULA.

**3.6 Updates, Maintenance, and Technical Support.** During the Term, Selectron shall provide Licensee with Updates as they are made generally available by Selectron to its other customers, as well as

maintenance and technical support, in accordance with the terms and conditions set forth in Exhibit B. Any Update provided or made available by Selectron hereunder shall be deemed part of the Licensed Software and shall be subject to the terms and conditions of this Agreement.

**3.7 Other Modifications to the Licensed Software.** Licensee understands and agrees that Selectron may make modifications and updates to the Licensed Software from time to time. Selectron may determine in its sole discretion whether to provide such modifications and updates to Licensee and its other customers as an Update hereunder, or whether such modifications and updates will be issued as a separate or new product or premium version of the Licensed Software that is available only at an additional charge.

**3.8 Further Licensee Obligations.** Licensee shall be solely responsible for acquiring and maintaining, at its own expense, the necessary equipment and Internet and telecommunication services required to access the Licensed Software and the Services. Licensee acknowledges that Selectron shall have no obligation to assist Licensee in using or accessing the Licensed Software or the Service except as expressly set forth in this Agreement.

#### 4. Fees and Payment

**4.1 Service Fees.** Licensee shall pay to Selectron service fees ("Service Fees") in the amounts and according to the terms and conditions set forth in Exhibit A. In addition to the payment of Service Fees, unless different terms are provided for in Exhibit A Licensee agrees to reimburse Selectron for all actual, documented and reasonable travel and out-of-pocket expenses incurred by Selectron in connection with the performance of any Services.

**4.2 Payment Terms.** Unless different payment terms are set forth in Exhibit A, all fees and expenses payable hereunder shall be due thirty (30) days from the date of invoice, and any amounts not paid when due will incur late fee charges at the rate of 1.5% per month, or the maximum rate permitted by applicable law, whichever is lower, calculated on a daily basis. If any amounts are past due and outstanding, Selectron reserves the right to suspend the licenses granted hereunder, suspend access to the Licensed Software, and discontinue the Services until all outstanding amounts are paid. Selectron is entitled to recover all costs of collection, including attorney's fees and related expenses.

**4.3 Disputed Amounts.** Any disputed charges must be presented by Licensee to Selectron in writing within sixty (60) days of the date of invoice, and the parties agree to cooperate in good faith to promptly resolve any disputed invoice within sixty (60) days of Selectron's receipt of Licensee's written notice of dispute. In the event Licensee disputes any amounts invoiced by Selectron in good faith, the undisputed amount shall be paid when due, and only disputed amounts shall be withheld pending resolution of the dispute. If payment of a disputed amount has already been made and later resolution of the dispute is in Licensee's favor, a credit will be issued by Selectron to Licensee on the next invoice.

**4.4 Fee increases.** During the Initial Term, the Service Fees set forth in Exhibit A shall apply. After the Initial Term (as defined in Section 11.1 below), Selectron may increase or change Its fees by providing Licensee with notice of such increase or change at least ninety (90) days prior to the effective date of such increase or change. Licensee's sole alternative to such fee increase or change shall be to terminate this Agreement by providing notice of termination to Selectron within twenty (20) days after receipt of the notice of price increase or change, which termination will become effective thirty (30) days after such written notice of termination.

**4.5 Taxes.** All prices set forth in this Agreement are in U.S. Dollars and are exclusive of any applicable taxes. Licensee is tax exempt and will provide Selectron with documentation of same on Selectron's written request. If and to the extent Licensee ever loses its tax exempt status, Licensee shall pay all import and export duties, customs fees, levies, or imposts, and all sales, use, value added, or other taxes or governmental charges of any nature, including penalties and interest, and all government permit or license fees assessed upon or with respect to any products sold, leased, or licensed to Licensee and any services rendered to Licensee; provided, however, that Licensee shall not be responsible for paying any taxes imposed on, or with respect to, Selectron's income, revenues, gross receipts, personnel, or real or personal property or other assets.

#### 5. Proprietary Rights

As between Selectron and Licensee, Selectron and/or its licensors own and shall retain all right, title and interest, including, without limitation, all Intellectual Property Rights in and to the Licensed Software and any Work Product resulting from performance of the Services and any portions thereof, including without limitation any copy or Derivative Work of the Licensed Software (or any portion thereof) and any Updates and upgrades thereto. Licensee

agrees to take any action reasonably requested by Selectron to evidence, maintain, enforce, or defend the foregoing. Licensee shall not take any action to jeopardize, encumber, limit, or interfere in any manner with Selectron's or its licensors' ownership of and rights with respect to the Licensed Software or Service, or any Derivative Work or Update or upgrade thereto. The Licensed Software and any Work Product are licensed, not sold, and Licensee shall have only those rights in and to the Licensed Software and Work Product and any Derivative Work or Update or upgrade thereto as are expressly granted to it under this Agreement, including the EULA.

## **6. Proprietary Information**

During the Term of this Agreement and after the termination of this Agreement, and except as otherwise provided by applicable law, the parties will take all steps reasonably necessary to hold the other party's Proprietary Information in confidence, will not use the disclosing party's Proprietary Information in any manner or for any purpose not expressly set forth in this Agreement, and will not disclose any such Proprietary Information to any third party without the disclosing party's express prior written consent; provided, however, that each party (the "**receiving party**") may disclose Proprietary Information of the other party (the "**disclosing party**") (a) to such receiving party's employees, directors, officers, contractors, and agents (collectively, "Representatives") who have a need to know such information and who have been advised of and have agreed to comply with the confidentiality restrictions contained in this Section 6 and (b) to such third parties as are authorized or directed by the disclosing party in writing. Each party shall be responsible and liable for the actions and omissions of its Representatives. "**Proprietary Information**" belonging to a disclosing party includes, but is not limited to, such disclosing party's (a) trade secrets, inventions, ideas, processes, formulas, source and object codes, data, other works of authorship, know-how, improvements, discoveries, developments, designs, and techniques; (b) information regarding its plans for research, development, new products, marketing and selling, budgets and unpublished financial statements, licenses, prices and costs, suppliers and customers; (c) information regarding the skills and compensation of employees, and (d) other information about or belonging to such disclosing party that the receiving party should reasonably know, due to the nature of the information or the circumstances surrounding its disclosure, is regarded by the disclosing party as confidential. Proprietary Information includes reports, analyses, notes, and other information or materials that contain or are derived using the disclosing party's Proprietary Information, even if developed in whole or in part by the receiving party.

For clarity, information about the Licensed Software, including information about its features, functionality, and pricing, are and shall remain the Proprietary Information of Selectron. For further clarity, Licensee Data is and shall remain the Proprietary Information of Licensee.

Notwithstanding the foregoing, information will not be considered to be Proprietary Information if (a) it is readily available to the public other than by a breach of this Agreement; (b) it has been rightfully received by the receiving party from a third party without confidentiality limitations; (c) it has been independently developed by the receiving party without reference to or use of the disclosing party's Proprietary Information; or (d) it was rightfully known to the receiving party prior to its first receipt from the disclosing party. The receiving party shall be entitled to disclose the disclosing party's Proprietary Information if required by law or a judicial order; provided that, unless otherwise required by applicable law, the receiving party first provides prompt notice of the required disclosure to the disclosing party, and complies with any protective or similar order obtained by the disclosing party limiting the required disclosure.

## **7. Representations and Warranties; Warranty Disclaimer.**

**7.1 Mutual Representations.** Each party represents and warrants to the other party that the execution, delivery and performance of this Agreement (a) is within its corporate, municipal, or governmental powers, as the case may be (b) has been duly authorized by all necessary corporate, municipal, or governmental action on such party's part, and (c) does not and shall not contravene or constitute a default under, and is not and shall not be inconsistent with, any law, regulation, judgment, decree or order, or any contract, agreement, or other undertaking, applicable to such party.

**7.2 Limited Software Warranty and Exclusive Remedy.** Subject to the limitations set forth in this Agreement, Selectron represents and warrants to Licensee that the Licensed Software, when used in accordance with the Documentation, shall throughout the Term substantially conform to the functional specifications in such Documentation. If Licensee finds what it reasonably believes to be a failure of the Licensed Software to substantially conform to the functional specifications in the Documentation, and provides Selectron with a written report that describes such failure in sufficient detail to enable Selectron to reproduce such failure, Selectron shall use commercially reasonable efforts to correct or provide a workaround for such failure at no additional charge to

Licensee in accordance with Exhibit B hereto. Outside the United States, this limited warranty is only available with proof of purchase from an authorized source. EXCEPT FOR THE EXPRESS WARRANTIES IN THIS AGREEMENT, SELECTRON PROVIDES THE LICENSED SOFTWARE TO LICENSEE "AS IS" AND "AS AVAILABLE." SELECTRON MAKES NO WARRANTY THAT ALL ERRORS, FAILURES, OR DEFECTS SHALL BE CORRECTED, OR THAT ACCESS TO OR USE OF THE LICENSED SOFTWARE SHALL BE UNINTERRUPTED, ERROR-FREE, OR SECURE. NO ORAL OR WRITTEN INFORMATION OR ADVICE PROVIDED BY SELECTRON, ITS AGENTS, OR ITS EMPLOYEES, SHALL CREATE ANY WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THE WARRANTIES EXPRESSLY PROVIDED IN THIS AGREEMENT. This Section states the entire liability of Selectron and the sole and exclusive remedy of Licensee with respect to any breach of the foregoing express warranty.

**7.3 Limited Services Warranty and Exclusive Remedy.** Subject to the limitations set forth in this Agreement, Selectron warrants that the Services shall be performed in a professional and workmanlike manner. Selectron's sole obligation, and Licensee's exclusive remedy for breach of the foregoing warranty, is that Selectron shall use its commercially reasonable efforts to re-perform the Services or otherwise cure such breach. If, in Selectron's sole judgement, curing the breach is not commercially feasible, Selectron shall credit Licensee for a portion of the fees allocable to the affected period of time that is proportionate to the period the Services or Licensee's ability to access or use the Licensed Software was impaired.

**7.4 Disclaimer of Other Warranties.** THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION 7 AND SECTION 8.5 CONSTITUTE THE ONLY WARRANTIES MADE BY SELECTRON WITH RESPECT TO THE LICENSED SOFTWARE AND THE SERVICES AND ANY OTHER SUBJECT MATTER OF THIS AGREEMENT. SELECTRON MAKES NO OTHER, AND HEREBY DISCLAIMS ALL OTHER, REPRESENTATIONS, WARRANTIES, OR CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, WITH RESPECT TO THE LICENSED SOFTWARE, THE SERVICES, OR ANY OTHER SUBJECT MATTER OF THIS AGREEMENT. EXCEPT FOR THE EXPRESS WARRANTIES IN THIS AGREEMENT, SELECTRON EXPRESSLY DISCLAIMS ALL WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NONINFRINGEMENT, AND ALL WARRANTIES THAT MAY ARISE FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. SELECTRON DOES NOT WARRANT THAT ANY USE OF OR ACCESS TO THE

LICENSED SOFTWARE SHALL BE ERROR-FREE OR SECURE, OR THAT OPERATION OF THE LICENSED SOFTWARE SHALL BE UNINTERRUPTED, AND HEREBY DISCLAIMS ANY AND ALL LIABILITY IN CONNECTION THEREWITH. LICENSEE ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES IN SECTION 7 AND SECTION 8.5 OF THIS AGREEMENT.

**7.5 Defects Not Covered by Warranties.**

Selectron shall have no obligations under Section 7.2 to the extent any nonconformance or failure of, or error in, the Licensed Software is caused by (a) use of any attachment, feature, hardware, software, or device in connection with the Licensed Software, or combination of the Licensed Software with any other materials or service, unless the combination is performed by Selectron including, but not limited to integration with Tyler Technologies; (b) transportation, neglect, misuse, or misapplication of the Licensed Software, or any use of the Licensed Software that is not in accordance with this Agreement, the EULA, and/or the Documentation; (c) alteration, modification, or enhancement of the Licensed Software, except as may be performed by Selectron; (d) failure to provide a suitable use environment for all or any part of the Licensed Software; or (e) failure to maintain systems and environments that are compatible with Updates.

**8. Security**

**8.1 Internet Security.** Selectron's Licensed Software is made available through the Internet and may be used to access and transfer information over the Internet. Licensee is solely responsible for the security and integrity of information it transfers from the Licensed Software, if any. Selectron makes no representations or warranties to Licensee regarding (a) the security or privacy of Licensee's network environment, or (b) any third-party technologies' or services' ability to meet Licensee's security and privacy needs. These third-party technologies and services may include, but are not limited to, operating systems, database management systems, web servers, and payment processing services. Licensee is solely responsible for ensuring a secure environment for information it transfers from the Licensed Software, if any. Further, Licensee acknowledges and agrees that Selectron does not operate or control the Internet and that Selectron shall have no responsibility or liability in connection with a breach of security or privacy regarding the Licensed Software or information contained therein that is caused by (a) viruses, worms, Trojan horses, or other undesirable data or software; (b) unauthorized users, e.g., hackers; or any other third party or activity beyond Selectron's reasonable control; in each of the foregoing cases, except to the extent caused by Selectron's breach of Section 8.4, 8.5, or 12.19.

**8.2 Remote Access Security.** In order to enable code development and support and maintenance of the software, Selectron may require remote access capability. Remote access is normally provided by Installing PC-Anywhere, ControllIT, or other industry standard remote access software. It may also be provided through a Licensee solution such as VPN access. Regardless of what method is used to provide remote access, or which party provides remote access software, it is Licensee's responsibility to ensure that the remote access method meets Licensee's security requirements. Selectron makes no representations or warranties to Licensee regarding the remote access software's ability to meet Licensee's security or privacy needs. Selectron also makes no recommendation for any specific package or approach with regard to security. Licensee is solely responsible for ensuring a secure network environment.

**8.3 Outbound Services Disclaimer.** Outbound services are intended to create additional methods of communication for Licensee's employees who use the Licensed Software in support of existing processes. These services are not intended to replace all interaction with Licensee's end users or employees. In providing the Software, Selectron commits to provide commercially reasonable redundancies in the Services to attempt to minimize disruptions and facilitate reliable communication insofar as such disruptions and reliability of the Services are within Selectron's control. While *the* outbound services have been created with the best available tools and practices, they are dependent on infrastructure that is inherently not fail-proof, including but not limited to infrastructure such as software, computer hardware, network services, telephone services, and e-mail. Examples of situations that could cause failure include but are not limited to: down phone lines, all lines busy, equipment failure, email address changes, and Internet service disruptions.

For this reason, while outbound services are valuable in providing enhanced communication, they are specifically not designed to be used as the sole method to deliver critical messages. Licensee acknowledges that it is aware of the potential hazards associated with relying on an automated outbound service feature, when using the Licensed Software, and Licensee acknowledges and agrees that it is giving up in advance any right to sue or make any claim against Selectron arising from (a) any failed call attempts (including excess of calls over and

above network or system capacity), incomplete calls, or any busy-outs; (b) any failure to transmit, obtain or collect data from callers or for human and machine errors, faulty or erroneous Input, inarticulate caller communication, caller delays or call lengths exceeding estimated call lengths or omissions, delays and losses in connection with the Services provided hereunder; or (c) if Licensee, Licensee's employees, or Licensee's end user suffer injury or damage due to the failure of outbound services to operate, even though Licensee does not know what or how extensive those injuries or damages might be, unless such losses were directly attributable to Selectron's own negligence or breach of its obligations under this Agreement.

**8.4 Privacy and Security Standards.** Selectron agrees that it will gather, collect, receive, generate, store, use, maintain, transmit, process, import, export, transfer and disclose the Licensee Data substantially in compliance with applicable data protection, security, breach notification and privacy laws, rules, regulations and industry standards to which Selectron is subject. Selectron shall, at all times, use reasonable measures to protect the confidentiality of the Licensee Data in its possession or care, including technical, administrative, and physical safeguards that are appropriate given the nature of the Licensee Data.

**8.5 PCI Compliance.** Selectron warrants that, during the Term of this Agreement, (a) all system components, people, processes, and the cardholder data environment that are used in Selectron's collection, transmittal, or other processing of PCI Data on behalf of Licensee are and shall remain compliant with the applicable provisions of PCI DSS; and (b) Selectron PayEngine", Selectron's proprietary payment application, is and shall remain compliant with PA-DSS. On an annual basis or upon Licensee's request, Selectron shall provide Licensee with an Attestation of Compliance or Attestation of Validation confirming such compliance.

**8.6 Incident Response.** In the event Selectron becomes aware of a confirmed or suspected Security Incident involving the unauthorized disclosure or theft of PCI Data, Selectron shall (a) notify Licensee within 48 hours of Selectron becoming aware of the incident, (b) cooperate in any investigation, (c) promptly take reasonable measures to prevent further

unauthorized access or use of the Licensee Data, (d) cooperate with Licensee's notification to affected individuals if such notification is required by applicable law or regulation, and (e) perform all such other acts, or cooperate with Licensee's performance of all such other acts, that are required with respect to such Security Incident by applicable law or regulation.

#### **8.7 Limited Scope of PCI Data Processing.**

The parties acknowledge that Selectron's sole processing of PCI Data on behalf of Licensee shall consist of (a) collecting PCI Data needed to facilitate payments to Licensee, (b) transmitting such PCI Data to a third party payment gateway designated by Licensee, and (c) receiving confirmation via the payment gateway that the payment transaction has been completed. After transmittal of PCI Data to the payment gateway, Selectron will not retain, store, or continue to use or process such PCI Data.

**8.8 Data Transfers Between Licensee and Selectron.** The parties acknowledge that, to facilitate providing the Services and the Licensed Software, Selectron and Licensee shall regularly transfer Licensee Data to each other. Licensee, not Selectron, is responsible for providing and maintaining a secure file transfer protocol for such transfer of Licensee Data, and shall be responsible for maintaining the security of the system components, environment, and procedures of such file transfer protocol. However, Selectron, not Licensee, is responsible for using commercially reasonable measures to provide a safe and secure file transfer protocol for the transfer of Licensee Data between Selectron and Tyler Technologies' API.

**8.9 Licensee's Privacy Practices.** Licensee acknowledges that the Licensee Data includes information about individuals with whom Licensee, rather than Selectron, has direct relationships. Therefore, it is Licensee's obligation, and not Selectron's obligation, to provide any privacy notices or disclosures to, and obtain any consent from, such individuals as may be required by applicable law with respect to processing of the Licensee Data by Selectron on Licensee's behalf. Licensee represents, warrants, and covenants to Selectron that (a) Licensee has the authority to transmit the Licensee Data to Selectron; and (b) Selectron's collection, storage,

transmittal, and other processing of the Licensee Data on behalf of Licensee, as described in the Documentation and this Agreement, does not and will not violate any applicable laws, regulations, ordinances, contracts, policies, orders, or decrees to which Licensee is subject. Selectron acknowledges and agrees that it, and not Licensee, is responsible for complying with all applicable laws, rules, and regulations governing phone calls and text messages, including but not limited to the Telephone Consumer Protection Act, 47 USC § 227.

## **9. Indemnification**

**9.1 Infringement Indemnity Obligations of Selectron.** Selectron shall defend any action brought against Licensee to the extent it is based on a third party claim that use by Licensee of the Licensed Software as furnished hereunder, which use is in accordance with the terms and conditions of this Agreement, directly infringes or misappropriates any valid United States patent, copyright, or trade secret. Selectron shall pay any liabilities, costs, damages, and expenses (including reasonable attorney's fees) finally awarded against Licensee in such action that are attributable to such claim. Licensee agrees to promptly notify Selectron of any known or suspected infringement or misappropriation of Selectron's proprietary rights of which Licensee becomes aware. Should the Licensed Software become, or be likely to become in Selectron's opinion, the subject of any claim of infringement, Selectron may, at its option (a) procure for Licensee the right to continue using the potentially infringing materials; (b) replace or modify the potentially infringing materials to make them non-infringing; or (c) terminate this Agreement and provide Licensee with a refund equal to the set-up fees paid by Licensee, less an amount equal to the depreciated portion of such fees calculated on a five (5) year straight-line basis. This Section 9.1 states the entire liability of Selectron and the exclusive remedy of Licensee with respect to infringement of any third-party intellectual property or other rights, whether under theory of warranty, indemnity, or otherwise.

**9.2 Infringement Indemnity Obligations of Licensee.** Selectron shall have no liability to Licensee for any claim based upon (a) Licensee's, or Authorized Users', use, operation, or combination of the



Licensed Software with non-Selectron programs, data, equipment, or documentation if liability would have been avoided but for such use, operation, or combination; (b) Licensee's, or Authorized Users', use of other than the then-current, unaltered version of the Licensed Software that incorporates all Updates; (c) Licensee's or its agents' or Employees' activities after Selectron has notified Licensee that Selectron believes such activities may result in infringement; (d) any modifications to or markings of the Licensed Software that are not specifically authorized in writing by Selectron; (e) any Licensee Data; or (f) Licensee's breach or alleged breach of this Agreement. Subject to the limits set forth in section 768.28, Florida Statutes, Licensee shall indemnify, defend, and hold Selectron harmless for, from and against all liabilities, costs, damages, and expenses (including reasonable attorney's fees) awarded against or incurred by Selectron for such claim to the extent they are caused by Licensee. Nothing herein shall be construed as a waiver of Licensee's sovereign immunity nor as its consent to be sued by third parties.

**9.3 Security Related Indemnity Obligations of Selectron.** If an investigation performed by a qualified third party forensic investigator confirms that a Security Incident was caused solely by an act or omission of Selectron, including any security vulnerability in system components, procedures, or environments owned or controlled by Selectron, then Selectron shall defend, indemnify, and hold harmless Licensee for, from and against all liabilities, costs, damages, fines, penalties, and expenses (including reasonable attorney's fees) incurred by Licensee as a result of such Security Incident, including the reasonable costs of investigation and reasonable costs of notification to affected individuals and providing credit monitoring or other fraud prevention services, but only to the extent such notification, credit monitoring, or other fraud prevention services are required by applicable laws, regulations, a court order or consent decree, or the terms of a settlement and release of claims arising from such Security Incident that Selectron has consented to (collectively, "Losses").

**9.4 Security Related Indemnity Obligations of Licensee.** Subject to the limits on liability under Sections 10.1 and 10.2, Selectron shall only be liable for losses caused by breaches of Sections 8.8 and 8.9 to the extent Selectron caused such breach (and in proportion to Selectron's fault in causing such breach), and shall not be

liable for, or have any obligation to defend or indemnify Licensee with respect to, any Losses caused by Licensee's breach of Sections 8.8 or 8.9 or any Security Incident to the extent caused by an act or omission of Licensee or any third party (other than Selectron's subcontractors) or any of their affiliates, employees, directors, officers, *agents*, or contractors (other than Selectron), including without limitation any of the following acts or omissions: (a) their loss of control of any device, (b) their failure to maintain the confidentiality of log-in credentials, (c) their transmission of data via methods that are not secure, (d) their failure to maintain systems and environments that are compatible with any Update, (e) their violation of the applicable terms of this Agreement or any applicable laws, regulations, or industry standards, or (f) any vulnerability in their environment, systems, hardware, software, or physical or administrative security safeguards or procedures, including without limitation any vulnerability in the file transfer protocol maintained by Licensee pursuant to Section 8.8. Subject to the limits set forth in section 768.28, Florida Statutes, and without in any manner waiving its sovereign immunity, Licensee shall be responsible for any losses caused by breaches of Sections 8.8 or 8.9 to the extent Licensee caused such breach (and in proportion to Licensee's fault in causing such breach). Subject to the limits set forth in section 768.28, Florida Statutes, Licensee shall indemnify, defend, and hold harmless Selectron for, from and against all Losses arising from a Security Incident caused solely by Licensee, or Licensee's breach of Sections 8.8 or 8.9, including without limitation any expenses incurred by Selectron in complying with its obligations under Section 8.6. Nothing herein shall be construed as a waiver of Licensee's sovereign immunity nor as its consent to be sued by third parties. Under no circumstances will Licensee indemnify Selectron for the acts or omissions of third parties.

**9.5 Conditions for Indemnification.** The parties' indemnification obligations hereunder shall apply only if (a) the party to be indemnified (the "**indemnitee**") notifies the party obligated to indemnify them (the "**indemnitor**") in writing of a claim promptly upon learning of or receiving the same; and (b) the indemnitee provides the indemnitor with reasonable assistance requested by the indemnitor, at the indemnitor's expense, for the defense and settlement, if applicable, of any claim. The indemnitee's failure to perform any obligations or satisfy any conditions

under this Section 9.5 shall not relieve the indemnitor of its obligations hereunder except to the extent that the indemnitor can demonstrate that it has been materially prejudiced as a result of such failure.

**9.6 Control of Defense.** After receipt of notice of a claim, the indemnitor shall be entitled, if it so elects, at its own cost, risk and expense (a) to take control of the defense and investigation of such lawsuit or action; and (ii) to employ and engage attorneys of its own choice to handle and defend the same; *provided, however*, that the indemnitee's consent shall be required for any settlement that does not include a full release of all claims. If the indemnitor fails to assume the defense of such claim within ten (10) business days after receipt of notice of the claim, the indemnitee will (upon delivering notice to such effect to the indemnitor) have the right to undertake, at the indemnitor's cost and expense, the defense, compromise or settlement of such claim on behalf of and for the account and risk of the indemnitor; provided, however, that such claim shall not be compromised or settled without the written consent of the indemnitor. The party that assumes control of the defense of the claim will keep the other party reasonably informed of the progress of any such defense, compromise or settlement. Notwithstanding the foregoing, the indemnitee shall be entitled to conduct its own defense at the cost and expense of the indemnitor if the indemnitee establishes that the conduct of its defense by the indemnitor would reasonably be likely to prejudice materially the indemnitee due to a conflict of interest between the indemnitee and the indemnitor; and provided further that in any event, the indemnitee may participate in such defense at its own expense.

## **10. Limitation of Liability**

**10.1 Limited Remedy.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR, OR BE OBLIGATED TO INDEMNIFY THE OTHER FOR, ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF USE OR DATA, OR INTERRUPTION OF BUSINESS, OR FOR INDIRECT, SPECIAL INCIDENTAL, CONSEQUENTIAL EXEMPLARY, OR PUNITIVE DAMAGES OF ANY KIND OR OTHER ECONOMIC LOSS ARISING FROM OR RELATING TO THIS AGREEMENT OR THE SUBJECT MATTER HEREOF, EVEN

IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, HOWEVER CAUSED.

**10.2 Maximum Liability.** Notwithstanding anything in this Agreement to the contrary or the failure of essential purpose of any limited remedy or limitation of liability, Selectron's entire liability arising from or relating to this Agreement or the subject matter hereof, under any legal theory (whether in contract, tort or otherwise) except for (1) Selectron's obligation to indemnify Licensee hereunder (which shall be subject to the super cap identified below); (2) a Security Incident (which shall be subject to the super cap identified below); or (3) Selectron's willful misconduct, gross negligence, or fraud, shall not exceed the amounts actually received by Selectron from Licensee hereunder in the twelve (12) months immediately preceding the action that gave rise to the claim. Selectron's aggregate cumulative liability for damages and expenses arising out of (1) Selectron's indemnification obligations hereunder or (2) a Security Incident pursuant to Section 8.6 shall be limited to \$750,000.00. Licensee acknowledges that the Service Fees reflect the allocation of risk set forth in this Agreement and that Selectron would not enter into this Agreement without the limitations on liability set forth in this Agreement.

## **11. Term and Termination**

**11.1 Term.** The term of this Agreement shall commence on the Effective Date and continue for an initial period of five (5) years therefrom (the "**Initial Term**"), and shall automatically renew for successive one (1) year periods unless either party notifies the other of its intention not to renew at least ninety (90) days before the end of the then-current term (collectively, the "Term"). If Licensee cancels prior to the end of the Initial Term of five (5) years, all fees for the Initial Term of this agreement that are unpaid will become immediately due.

**11.2 Termination for Default.** If either party materially defaults in any of its obligations under this Agreement, the non-defaulting party, at its option, shall have the right to terminate this Agreement by written notice to the other party unless, within sixty (60) calendar days after written notice of such default, the defaulting party remedies the default, or, in the case of a default which cannot with due diligence be cured within a period of sixty (60) calendar days, the defaulting party institutes within the

sixty (60) day-period substantial steps necessary to remedy the default and thereafter diligently prosecutes the same to completion. Notwithstanding anything herein to the contrary, in the event Licensee breaches the EULA or Sections 2.2, 5 and/or 6 of this Agreement, Selectron may immediately terminate this Agreement. Licensee shall notify Selectron within twenty-four (24) hours of Licensee's becoming aware of any breach (other than by Selectron) of the terms and conditions of this Agreement, including, without limitation, any breach of Sections 2.2, 5 or 6.

**11.3 Termination for Bankruptcy.** Either party may terminate this Agreement if the other party (a) becomes insolvent; (b) fails to pay its debts or perform its obligations in the ordinary course of business as they mature; (c) is declared Insolvent or admits its insolvency or Inability to pay its debts or perform its obligations as they mature; or (d) becomes the subject of any voluntary or involuntary proceeding in bankruptcy, liquidation, dissolution, receivership, attachment, or composition, or makes a general assignment for the benefit of creditors, provided that, in the case of an involuntary proceeding, the proceeding is not dismissed with prejudice within sixty (60) days after the institution thereof.

**11.4 Effect of Termination.** Upon the expiration or termination of this Agreement, all rights and licenses granted to Licensee hereunder shall immediately and automatically terminate. Within ten (10) days after any termination or expiration of this Agreement, Licensee shall, at its sole expense, return to Selectron (or **destroy**, at Selectron's sole election) all Licensed Software and Proprietary Information of Selectron (and all copies, summaries, and extracts thereof) then in the possession or under the control of Licensee and its current or former employees. Licensee shall furnish to Selectron an affidavit signed by an officer of Licensee certifying that, to the best of its knowledge, such delivery or destruction has been fully effected. Termination of this Agreement by either party shall not act as a waiver of any breach of this Agreement and shall not act as a release of either party from any liability for breach of such party's obligations under this Agreement. Neither party shall be liable to the other for damages of any kind solely as a result of terminating this Agreement in accordance with its terms. Either party's termination of this Agreement shall be without prejudice to any other right or remedy that it may have at law or in equity, and shall not

relieve either party of liability for breaches occurring prior to the effective date of such termination. Any provisions that would reasonably be expected by the parties to survive termination of this Agreement shall survive such termination, including without limitation the provisions of the EULA and Sections 1 ("Definitions"), 2.2 ("Software Restrictions"), 2.3 ("Data Restrictions"), 2.4 ("Rights in Aggregate Data"), 4 ("Fees and Payment") (with respect to amounts accrued but as-yet unpaid), 5 ("Proprietary Rights"), 6 ("Proprietary Information"), 7 ("Representations and Warranties; Warranty Disclaimer"), 8 ("Security"), 9 ("Indemnification"), 10 ("Limitation of Liability"), 11 ("Term and Termination") and 12 ("General Provisions").

## **12. General Provisions**

**12.1 Notices.** Any notice, request, demand or other communication required or permitted hereunder shall be in writing, shall reference this Agreement, and shall be deemed to be properly given (on the earliest of) (a) when delivered personally; (b) when sent by facsimile, with written confirmation of receipt; or (c) upon receipt three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid. All notices shall be sent to the address set forth on the signature page below (or to such other address as may be designated by a party by giving written notice to the other party pursuant to this Section 12.1).

**12.2 Governing Law; Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, U.S.A., without reference to its conflicts of law provisions. The United Nations Convention on Contracts for the International Sale of Goods does not apply to and shall not be used to interpret this Agreement. Any dispute regarding this Agreement must be brought in the state or federal courts located in Palm Beach County, Florida, U.S.A.

**12.3 Construction.** This Agreement has been negotiated by the parties and their respective counsel. This Agreement shall be interpreted fairly in accordance with its terms and without any construction in favor of or against either party.

**12.4 Attorneys' Fees.** If any legal action is

brought relating to this Agreement or the breach hereof, the prevailing party in any final judgment shall be entitled to the full amount of all reasonable expenses, including all court costs and reasonable attorney fees paid or incurred.

#### 12.5 Reserved.

12.6 Waiver. The waiver by either party of a breach of or a default under any provision of this Agreement, shall be in writing and shall not be construed as a waiver of any subsequent breach of or default under the same or any other provision of this Agreement, nor shall any delay or omission on the part of either party to exercise or avail itself of any right or remedy that it has or may have hereunder, operate as a waiver of any right or remedy.

12.7 Severability. If the application of any provision of this Agreement to any particular facts or circumstances shall be held to be Invalid or unenforceable, then (a) the validity and enforceability of such provision as applied to any other particular facts or circumstances and the validity of other provisions of this Agreement shall not in any way be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties, and reformed without further action by the parties, to the extent necessary to make such provision valid and enforceable. Without limiting the generality of the foregoing, Licensee agrees that Section 7.4 will remain in effect notwithstanding the unenforceability of any other provision hereof.

#### **12.8 Independent Contractor Relationship.**

Selectron's relationship with Licensee will be that of independent contractor, and nothing contained in this Agreement shall be deemed or construed as creating a joint venture, partnership, or employer-employee relationship. Licensee is not an agent of Selectron and is not authorized to make any representation, contract, or commitment on behalf of Selectron, or to bind Selectron in any way. Selectron is not an agent of Licensee and is not authorized to make any representation, contract, or commitment on behalf of Licensee, or to bind Licensee in any way. Selectron will not be entitled to any of the benefits that Licensee may make available to its

employees, such as group insurance, profit sharing, or retirement benefits.

**12.9 Force Majeure.** Except for the payment of monies due hereunder, neither party shall be responsible or have any liability for any delay or failure to perform to the extent due to unforeseen circumstances or causes beyond its reasonable control, including, without limitation, acts of God, earthquake, fire, flood, embargoes, labor disputes and strikes, riots, war, error in the coding of electronic files, Internet or other network "brownouts" or failures, power failures, novelty of product manufacture or other unanticipated product development problems, and acts of civil and military authorities; provided that such party gives the other party prompt written notice of the failure to perform and the reason therefor and uses its reasonable efforts to limit the resulting delay in its performance and to mitigate the harm or damage caused by such delay.

**12.10 Public Announcements.** Licensee shall cooperate with Selectron so that Selectron may issue a press release concerning this Agreement; provided, however, Selectron may not release any such press release without the prior approval of Licensee (which shall not be unreasonably withheld, delayed, or conditioned). However, without seeking prior approval in each instance, Selectron shall have the right to use Licensee's name as a customer reference. Selectron may not use Licensee's logo or seal without Licensee's prior written approval.

**12.11 U.S. Government Rights.** (a) The Licensed Software is a "commercial item," as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 or 48 C.F.R. 227.7202, as applicable. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, the Licensed Software are licensed to any U.S. Government End Users (i) only as a commercial item and (ii) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Manufacturer is Selectron Technologies, Inc., 12323 SW 66th Avenue, Portland, OR 97223, USA. This Section, consistent with 48 C.F.R. § 12.212 and 48 C.F.R. § 227.7202 is in lieu of, and supersedes, any other Federal Acquisition Regulation, Defense Federal Acquisition Regulation Supplement, or other clause or provision that addresses United States Government rights in

computer software, technical data, or computer software documentation.

(b) The parties agree that, in the event that Licensee is a governmental entity, all other state and local governments within Licensee's state may purchase a license from Selectron to use the Licensed Software under the same terms and conditions as set forth in this Agreement by entering into a master services and hosting agreement with the same terms and conditions as set forth herein with Selectron.

**12.12 Export Controls.** The Licensed Software is subject to the export control laws of the United States and other countries. Licensee may not export or re-export the Licensed Software, unless Licensee has first obtained Selectron's prior written permission and the appropriate United States and foreign government licenses, at Licensee's sole expense. Licensee must otherwise comply with, and contractually require that all of its employees comply with, all applicable export control laws and regulations in the use of the Licensed Software. None of the Licensed Software may be downloaded or otherwise exported or re-exported (a) into any country for which the United States has a trade embargo, or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Denied Persons List. Licensee represents and warrants that it is not located in, under the control of, or a national or resident of any such country or on any such list. Subject to the limits set forth in section 768.28, Florida Statutes, Licensee shall defend, indemnify and hold Selectron and all successors, assigns, affiliates, suppliers, and each of their officers, directors, employees, and agents harmless for, from, and against any and all claims, allegations, damages, liabilities, and costs and expenses (including without limitation attorneys' fees and costs) arising out of Licensee's violation of such export control laws. Licensee further agrees to comply with the United States Foreign Corrupt Practices Act, as amended.

**12.13 Captions and Section Headings.** The captions and Section and paragraph headings used in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement.

**12.14 Counterparts.** This Agreement may be signed in one or more counterparts, each of which will be

deemed to be an original copy of this Agreement, and, when taken together, shall be deemed to constitute one and the same agreement. Each party agrees that the delivery of this Agreement by facsimile transmission or by PDF attachment to an e-mail transmission will be deemed to be an original of the Agreement so transmitted and, at the request of either party, the other party will confirm facsimile or e-mail transmitted signatures by providing the original document.

**12.15 Modification; Subsequent Terms.** No amendment or modification of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized signatory of Selectron and Licensee. To the extent that the terms and conditions of the Exhibits hereto or Exhibits to subsequent amendments or modifications of or to the Agreement ("Subsequent Terms") differ from those herein, those Subsequent Terms shall control the interpretation and any conflict resolution thereof. The terms on any purchase order or similar document submitted by Licensee to Selectron will not modify the terms and conditions of this Agreement.

**12.16 Entire Agreement; Amendment.** This Agreement, including the Exhibit(s) attached hereto, constitutes the entire agreement between the parties concerning the subject matter hereof, and supersedes (a) all prior or contemporaneous representations, discussions, proposals, negotiations, conditions, agreements, and communications, whether oral or written, between the parties relating to the subject matter of this Agreement, and (b) all past courses of dealing and industry custom.

**12.17 Sovereign Immunity.** In no event shall Licensee's liability under this Agreement exceed the limits set forth in section 768.28, Florida Statutes. The provisions and limitations of section 768.28, Florida Statutes, as this statute may be amended from time to time, are deemed to apply to Licensee's contractual agreement to indemnify as though this statute applied to waiver of sovereign immunity, liability, and damages for claims or actions arising in tort or contract. Nothing herein shall be construed as a waiver of Licensee's sovereign immunity nor as its consent to be sued by third parties.

**12.18 Insurance.** During the term of the Agreement, Selectron shall maintain the following levels of insurance: (a) Commercial General Liability of at least \$1,000,000 each occurrence, \$1,000,000 aggregate, with primary and non-contributory coverage and with Village of Wellington named as an additional insured; (b) Professional Liability of at least \$1,000,000; (c) Cyber Liability that meets the requirements of paragraph 12.19(c); (d) Automobile Liability of at least \$1,000,000 combined single limit and with Village of Wellington named as additional insured if Selectron will be on site; and (e) Workers' Compensation complying with applicable statutory requirements. Selectron will provide Licensee with copies of certificates of insurance upon request.

**12.19 Cyber Insurance.**

(a) Selectron will implement commercially reasonable administrative, technical, and physical safeguards designed to ensure the security and confidentiality of Licensee Data while such License Data is in Selectron's possession or control, protect against any anticipated threats or hazards to the security or integrity of Licensee Data while such License Data is in Selectron's possession or control, and protect against unauthorized access or use of Licensee Data while such License Data is in Selectron's possession or control. Selectron will review and test such safeguards on no less than an annual basis.

(b) Each Party shall take appropriate technical and organizational measures against unauthorized or unlawful processing of Licensee Data or its accidental loss, destruction or damage so that, while such License Data is in the Party's possession or control, having regard to the state of technological development and the cost of implementing any measures, the measures taken ensure a level of security appropriate to the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction or damage in relation to the Licensee Data and the nature of the Licensee Data being protected. If necessary, the parties will cooperate to document these measures taken.

(c) Selectron shall maintain cyber liability insurance with limits not less than \$1,000,000 per occurrence or claim, \$1,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and

obligations as is undertaken by Selectron in this Agreement. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

In Witness Whereof, the parties have caused this Agreement to be executed by duly authorized representatives of the parties as of the Effective Date.

**SELECTRON TECHNOLOGIES, INC.**

**LICENSEE**

By:   
Signature

By: \_\_\_\_\_  
Signature

Name: Todd A. Johnston

Name: \_\_\_\_\_

Title: President

Title: \_\_\_\_\_

Date: 9/5/2023

Date: \_\_\_\_\_

Address: 12323 SW 66<sup>th</sup> Avenue  
Portland, OR 97223

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EXHIBIT A  
Scope of Work

Managed Services - Relay SelecTXT & Outbound

	<b>TOTAL</b>
SYSTEM SETUP COSTS - Platform Fee	\$15,000
SYSTEM SETUP COSTS - SelecTXT	\$7,500
ANNUAL Platform Fee - SelecTXT	\$5,000
ANNUAL SMS MESSAGE BUNDLE - SelecTXT -100K	\$5,000
SYSTEM SETUP COST - Outbound	\$5,000
ANNUAL Platform Fee - Outbound	\$2,500
ANNUAL MESSAGE BUNDLE 25,000 - Outbound	\$3,750

*\*Pricing above assumes a 5-year agreement*

5 Year Investment Summary

	Year 1	Year 2	Year 3	Year 4	Year 5
System Setup Cost - Relay Platform	\$15,000				
System Setup Cost - SelecTXT	\$7,500				
Annual Platform Fee - SelecTXT	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
Annual SMS Message Bundle - SelecTXT 100K	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
System Setup Fee - Outbound	\$5,000				
Annual Platform Fee - Outbound	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500
Annual SMS Message Bundle - Outbound 25K	\$3,750	\$3,750	\$3,750	\$3,750	\$3,750
<b>YEARLY TOTAL</b>	<b>\$43,750</b>	<b>\$16,250</b>	<b>\$16,250</b>	<b>\$16,250</b>	<b>\$16,250</b>
<b>Total Investment</b>					<b>\$108,750</b>
<b>Invoiced Annually</b>	<b>\$21,750</b>	<b>\$21,750</b>	<b>\$21,750</b>	<b>\$21,750</b>	<b>\$21,750</b>



# Selectron Managed Services

## Pricing & Payment Information

Pricing does not include additional application integration charges that may be required as part of this solution. This includes Application Vendor API, user, or implementation fees, additional licensing fees, or other surcharges directly or indirectly charged by or remitted to the Application Vendor.

### Setup Fee Payment Schedule

- 45% Invoiced at completion of Kick Off Meeting
- 55% Invoiced at delivery of solution for User Acceptance Testing

### Annual Platform Fees Schedule

100% Invoiced at delivery of solution for UAT and then 45 days prior to the next service year

### Pre-paid Annual Message Bundle Fee Schedule

100% Invoiced 30 days prior to delivery of solution for UAT and then 45 days prior to the next service year or as needed for reload of messages

*\*Outbound messages are purchased in annual call bundles. Calls, as defined by the agreement, that are not used rollover to the next qualifying renewal. The rollover calls from one period may only be used to offset overages in the next immediate period. If there are no overages from one period, the rollover calls from the prior period expire.*

*A qualifying renewal is one that is equal to or greater than the previous period. If customer chooses to reduce their annual plan renewal, rollover calls do not apply.*

### Taxes

Sales Tax or any other applicable taxes *are not included* in any of the pricing in this agreement. All applicable taxes will be invoiced, collected and remitted in accordance with state and local tax laws.

### Payment Terms

Terms are net 45 from date of invoice. Past due invoices are subject to a 1.5% per month late fee. All presented pricing is in US Dollars.

### Vendor Information

Selectron Technologies, Inc.  
12323 SW 66th Avenue  
Portland, OR 97223  
**Ph:** 503.443.1400 **Fax:** 503.443.2052

## EXHIBIT B

### Maintenance and Technical Support

This Exhibit describes the software maintenance and support services that Selectron shall provide for Licensee.

#### I. Definitions

Unless defined otherwise herein, capitalized terms used in this Exhibit shall have the same meaning as set forth in the Agreement.

A. "Error" means any failure of the Licensed Software to conform in any material respect with the Documentation.

B. "Error Correction" means either a bug fix, patch, or other modification or addition that brings the Licensed Software into material conformity with the Documentation.

C. "Priority A Error" means an Error that renders Licensed Software inoperative or causes a complete failure of the Licensed Software, as applicable.

D. "Priority B Error" means an Error that substantially degrades the performance of Licensed Software, as applicable, or materially restricts Licensee's use of the Licensed Software, as applicable.

E. "Priority C Error" means an Error that causes only a minor impact on Licensee's use of Licensed Software, as applicable.

#### II. Error Reporting and Resolution

A. Error Reporting. Selectron shall provide Licensee with telephone customer support twenty-four (24) hours per day, seven (7) days per week for the reporting of Priority A Errors, and telephone support during Selectron's normal business hours for the reporting of Priority B and Priority C Errors, in each event excluding Selectron holidays.

B. Licensed Software Error Resolution. Selectron shall use commercially reasonable efforts to: (a) notify applicable Vendors of all Licensed Software Errors properly reported by Licensee in accordance with Section II(A) of this Exhibit B; (b) make available to Licensee any Error Corrections that are made available by such Vendor(s) to Selectron promptly after such Error Corrections are delivered to Selectron; and (c) update Licensee with respect to the progress of the resolution of all Licensed Software Errors.

C. Error Resolution. Licensee shall report all Errors in the Licensed Software to Selectron in sufficient detail, with sufficient explanation of the circumstances under which the Error occurred or is occurring, and shall reasonably classify the Error as a Priority A, B, or C Error. Selectron shall use commercially reasonable efforts to correct any Error in the Licensed Software reported by Licensee, in accordance with the priority level actually assigned by Selectron to such Error, as follows:

1. Priority A Errors. In the event of a Priority A Error, Selectron shall, within two (2) hours of receiving Licensee's report, commence verification of the Error. Upon verification, Selectron shall use commercially reasonable efforts to resolve the Error with an Error Correction. Selectron shall use commercially reasonable efforts to provide a workaround for the Error within twenty-four (24) hours of receiving Licensee's report of such Error, and an Error Correction within forty-eight (48) hours of receiving Licensee's report. Selectron shall provide Licensee with periodic reports (no less frequently than once every eight (8) hours) on the status of the Error Correction.

2. Priority B Errors. In the event of a Priority B Error, Selectron shall, within six (6) hours of receiving Licensee's report, commence verification of the Error. Upon verification, Selectron shall use commercially reasonable efforts to resolve the Error with an Error Correction. Selectron shall use commercially reasonable efforts to provide a workaround for the Error within forty-eight (48) hours of receiving Licensee's report of such Error, and an Error Correction within six (6) business days of receiving Licensee's report. Selectron shall provide Licensee with periodic reports (no less frequently than once every twelve (12) hours) on the status of the Error Correction.

3. Priority C Errors. In the event of a Priority C Error, Selectron shall, within two (2) business days of receiving Licensee's report, commence verification of the Error. Upon verification, Selectron shall use commercially reasonable efforts to resolve the Error with an Error Correction. Selectron shall use commercially reasonable efforts to provide a workaround for the Error within six (6) business days of receiving Licensee's report of such Error, and an Error Correction within three (3) weeks of receiving Licensee's report. Selectron shall provide Licensee with periodic reports on the status of the Error Correction.

EXHIBIT C  
Statement of Work



# Statement of Work

Wellington, FL

## Relay

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## 1. Overview

This Statement of Work (SOW) outlines the services provided by Selectron Technologies, Inc. (Selectron) to Wellington, FL (Wellington or Customer). The features, functionality, and services are provided through Selectron Technologies' Relay communication platform (Relay).

### 1.1. Revision History

Version	Details	Date
1.0	I Initial Release	12/19/2022



## 2. Functionality

This section details the functionality of each application included in Relay. All functions and features are dependent upon the accessibility of Wellington's EnerGov application database to provide the given data to Relay.

### 2.1. The Relay Platform

The Customer's solution is powered by Selectron's Relay platform. Relay is a multi-channel, multi-department platform designed to connect Customers and government agencies, and utilities. The Relay platform uses a number of different application packs specific to the market being serviced. In addition to each application pack, the Relay channels include interactive voice response (IVR), web, mobile, outbound, call center agent assistance, and interactive texting capabilities all in a single platform.

The following sections detail the functionality that will be implemented for the Customer. Additional channels, applications, and integrations that are not specified in this SOW are not included but may be able to be added to the system under a supplemental statement of work.

#### 2.1.1. Application Packs and Channels

The Customer's solution includes the following application pack and channels:

- Application packs:
  - Permits Pack
- Channels:
  - Outbound
  - SelectTXT

### 2.2. Permits Pack

The Customer's solution will be configured with the Relay Permits Pack. The Permits Pack offers community development agencies the ability to provide their citizens and contractors with a central point of access for permit and inspection information and services. Through available Relay channels, citizens and contractors using a permit number can communicate with the department 24/7 and 365 days. Callers will be able to enter a permit number and perform a variety of actions.

All permit, inspection, and/or code information is made available through an API to the Customer's application database. For any of the features detailed below to function as described, data must be available in this database to be presented to users.

### 2.3. Relay Outbound

Relay Outbound provides the Customer's staff with a multi-channel outbound communication platform capable of sending citizens voice, SMS, and email messages.



Messages can be configured to include dynamic account data designed to be sent to specific recipients or can be designed as 'general information' messages without customer-specific data. These outbound messages can be designed and configured by staff using the Relay Portal. Customer-configured voice messages will be spoken to message recipients using computerized text-to-speech.

In addition to the above customer-configured messages, Selectron will design one message template during the implementation process. This Selectron-created template will use professional voice recording for voice messages instead of computerized text-to-speech. This project includes one Selectron-built notification as described in the following section.

### **2.3.1. Automatic Results Notification**

During the inspection scheduling process, the permit holder may request to be contacted when the inspector has posted the results. After selecting this option, the permit holder is prompted to enter their telephone number.

After inspectors post the results of an inspection, permit holders that have opted in are contacted with the notification. The Automatic Results Notification provides the following information: the permit number, inspection type, inspection result, and the inspection date. If the call is answered by voice mail, a generic message is played stating that a result was posted to the inspection, but the actual result is not played.

### **2.3.2. Static Notifications**

The Customer can send end-user-defined static notifications to citizens via phone, email, or SMS text. The Customer is responsible for defining and configuring these notifications, which can be done via the Relay Portal. Training for configuring and recording static notifications will be provided at the end of the implementation process.

## **2.4. Se1ecTXT**

Select)(T for inspection scheduling allows contractors to manage inspection requests and results from a mobile device. Users can schedule, reschedule, and cancel inspection dates via an interactive text message conversation, and view inspection results. SelectTXT provides both step-by-step, menu-driven, and "power user" entries. Scheduling, rescheduling, and canceling inspections require a text message conversation back and forth between the application and the mobile user, where the application requests specific permit-related information and the mobile user responds. A conversation consists of multiple text messages for each inspection request process.

Citizens and contractors using a permit number can communicate with the department 24/7 & 365 days. Callers will be able to enter a permit number and perform the following actions:

- Access inspection results
- Permit-based messaging
- Schedule
- View the site address for the permit

### **3. System Integration**

Depending on the implemented features, Relay requires varying levels of integration with other database components. These are described in the following sections.

#### **3.1. Application Database Interfaces**

It is anticipated that Selectron will be integrating with the Customer's backend application database. All data-based interactivity on the solution is reliant upon data being available via the application vendor APIs.

During the implementation phase, if necessary data are not available via the included APIs, the project will be impacted. This may affect the implementation timeframe and result in additional professional service fees.

### **4. Deployment Model**

This implementation of Relay will be deployed in Selectron's Relay Managed Services environment. Relay Managed Services is a hosted application environment, located in Selectron's local hosting facility. Selectron's hosting facility is a co-located data center featuring keyed entry and individual server locks for security. With a Managed Services solution, Selectron owns all hardware and is responsible for security, ongoing maintenance, and proactive support.

### **5. Administrative Tasks**

This section details administrative tasks that can be performed to manage Relay. All system administration for Relay is handled through the Relay Portal web application. The Customer's administrator will be provided with user credentials for the Relay Portal application during the implementation process. Additional users can be created by the administrator as needed. Permissions can be assigned per-user; permissions govern the functionality available to a given user.

The Relay Portal provides administrators with a single platform for viewing system usage and health, running reports, and configuring various system settings. The Relay Portal is supported on Chrome, Firefox, Microsoft Edge, and Safari.





## 5.1. Activity Widgets

The Customer's solution is equipped with the following dashboard widgets, allowing for the easy tracking of daily activity and statistics.

### Activity

- SelectTXT Activity - Tracks and reports SelectTXT activity with line graph
- Inspection Widget — Tracks and reports inspection activity with displayed numbers
- SelectTXT Inspection Activity Widget — Tracks and reports SelectTXT inspection activity with bar graph

### Support System

- System Status Widget — Tracks status of the system through Ping and Database displays
- Today Widget — Displays date, holiday, office hours, and greeting

### Outbound

- Outbound: Completed Summary — Summarizes and displays data of completed outbound campaigns
- Outbound: Running Now — Tracks, reports, and displays current outbound data through a percentage chart
- Outbound: Up Next — Tracks, report and displays upcoming outbound campaign data through a time countdown

## 5.2. Run System Reports

Administrators will be able to run system reports via the Relay

### Portal. 5.2.1. Reports Center

- Running / Saving Reports - Depending on your permissions, the Reports Center has a large number of system, activity, and usage reports that you can run. Saving a Report To save a report (including how you have set the filters), click the desired file type you want to download, either PDF or Excel. The Portal will automatically generate the file and allow you to download it.

The solution will also be equipped to provide the following reporting functions:

- System Status Report - See a log of system events, including reboots and changes in the system's overall status or health.

### 5.2.2. Relay Permits Reports

- Inspections Summary Report - This report provides a summary of inspection scheduling activity per day within the specified month and year. The report lists the number of inspections scheduled and canceled on the IVR each day.

### 5.2.3. SelectTXT Reports

- SelectTXT Activity Report • This report provides a graph of different activity types performed by visitors over a relative span of time (hour over hour, day over day, month over month, and more).
- SelectTXT Activity Detail Report - Use this report to find a specific SelectTXT conversation or group of conversations. Search by date/time, phone number, or other identifying information to find text conversations of interest.

### 5.2.4. Relay Outbound Reports

- Outbound Campaign Detail Report—This report shows the detail of Outbound campaign messages delivered for a specific Campaign Type.
- Outbound Campaign Summary Report — This report shows the summary of Outbound campaign messages delivered for a specific Campaign Type.
- Outbound Import Errors Report - This report shows all recipients that were not contacted due to incomplete data or errors.

## 5.3. Schedule Outbound Campaigns

Using the Relay Portal, administrators can create, edit, and review outbound campaigns made using Relay Outbound. Each instance of an outbound campaign must be scheduled individually. This includes selecting the type of notification, the date/time of delivery, and (for static notifications) the configuration of the message.

The administrator will also need to upload a contact list in .csv format for the notification. The exact formatting of the .csv file will vary depending on the notification being scheduled. Selectron will provide the Customer with example .csv files for the configured notifications included in this project, as well as assistance in generating the outbound call list.

## 6. Responsibilities

### 6.1. Selectron Technologies, Inc.

This section outlines Selectron Technologies' responsibilities regarding service initiation and operation.

#### 6.1.1. Provide Project Management

Selectron Technologies assigns a Project Manager to the service implementation. The Project Manager is the Customer's primary contact at Selectron Technologies and coordinates all necessary communication and resources.



## 6.1.2. Provide Documentation

The Project Manager provides the Customer with the documents to help facilitate the service implementation process. Some or all of these may be provided depending on the scope of the project.

- Implementation Questionnaire- gathers critical information needed to set up and initiate the service. This includes information on the toll-free numbers, call volume, APIs.
- Remote Access Questionnaire- details information that Selectron Technologies needs to remotely access the Customer's network and application database prior to system initiation, allowing for complete system testing.
- Implementation Timetable- details project schedule and all project milestones.
- Quality Assurance Test Plan- assists the Customer in determining that the interactive solution is functioning as specified in the Contract.
- Service Acceptance Sign-off Form- indicates that the Customer has verified service functionality.

## 6.1.3. Develop Channel Design

The Project Manager works with the Customer to develop and complete the following portions of channel design:

- Outbound messaging configuration
- SelectTXT messaging flow

Software development can begin once these design elements are completed and approved by the Customer.

## 6.1.4. Perform Quality Assurance Testing

Selectron Technologies thoroughly tests all applications and integration points prior to initiation, ensuring system functionality. This includes data read from and written to the application database and the general ability for a customer to successfully access live data and complete a transaction.

## 6.1.5. Provide Installation and Administrative Training

Selectron will provide remote training for the Relay solution. All installation is handled by Selectron technical staff at our remote hosting facility.

## 6.1.6. Provide Marketing Materials

Selectron Technologies provides marketing collateral that the Customer can use to promote the interactive solution to citizens. Marketing collateral includes a poster, tri-fold brochure, and business card; standard templates for each item are used. Collateral

is provided to the Customer in PDF format (original Adobe InDesign files are provided upon request).

Marketing collateral will be provided for each department included in this project. Selectron Technologies' Project Manager will assist in gathering the correct information to be displayed on the marketing collateral. Information displayed includes the following:

- Department logo (preferably in EPS format)
- Department address
- A description of functionality
- Additional contact/informational phone numbers
- Samples: where to find account/ permit/ case numbers, etc.

Any changes to the collateral that do not include the items listed above (e.g., design changes to the template) are billed on a time and materials basis. Any changes to the marketing materials after final delivery are also billed on a time and materials basis.

### **6.1.7. Interface Upgrades**

After service initiation, the Customer's database application may release new updates to their application or its interface. Upgrading the Relay interface to be compatible with any of the Customer's application databases (or other application database software) may require professional services outside the scope of this service.

## **6.2. Wellington, FL**

This section outlines the Customer's service implementation and maintenance requirements and responsibilities.

### **6.2.1. Return Questionnaires and Information**

Selectron Technologies' Project Manager provides the Customer with an implementation questionnaire. The implementation questionnaire must be returned prior to developing the call flow design and the implementation timetable.

### **6.2.2. Provide Customer Specific Information**

The following information should be supplied to Selectron Technologies, in conjunction with the Implementation Questionnaire, to help create a precisely integrated product. For further clarification on the format and detail of the following data, refer to the Implementation Questionnaire or contact your Selectron Technologies' Project Manager.

- Street names
- Observed holidays
- Extensions used for transfer functions

- Permit status codes and types
- Inspection types and descriptions
- Validations used for scheduling an inspection
- Correction codes and descriptions
- Permit numbering scheme

### **6.2.3. Approve Channel Configuration**

The Customer is responsible for approving the application design developed by Selectron Technologies' Project Manager. This includes reviewing:

- Outbound messaging configuration
- SelectTXT message flow design

Once the channel design(s) have been approved, software development begins.

### **6.2.4. Provide Remote Network Access to Application Database(s)**

To fully test the interactive solution, Selectron Technologies requires access to the Customer's application database(s) prior to installation. The Customer will help facilitate communication between Selectron and the database vendor.

### **6.2.5. Provide System Access**

Selectron Technologies requires access to the Customer's network and database/system. Changing or deleting access accounts could disrupt service for the interactive solution and/or Selectron Technologies' ability to provide timely support. Please notify Selectron Technologies immediately if the accounts for the Application Database, the payment gateway, or the network are modified. The Customer is responsible for providing Selectron with appropriate application database and payment gateway network access as defined in the System Integration section.

### **6.2.6. Confirm Service Functionality**

The Customer has 30 calendar days after service initiation to verify the functionality of the interactive solutions. Within the 30-day system acceptance period, the Customer should test system functionality using the provided Quality Assurance Test Plan. Additionally, the System Acceptance Sign-off form must be sent to Selectron Technologies' Project Manager within this period.

### **6.2.7. Contact Customer Support**

Anytime the Customer requests a significant change to their Selectron interactive solution, an authorized contact from the agency must provide acknowledgment to Selectron's Customer Support Department. A significant change is a modification that will A) change system behavior, B) allow users to change the system, or C) allow access to protected data.

EXHIBIT D  
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