



ROCK ISLAND
ILLINOIS

MEMORANDUM
Police Department

TO: Thomas Thomas, City Manager

Number: 13-27

SUBJECT: Coplogic FTO Software

Date: 05/28/13

For the 2013-2014 fiscal year, the Police Department budgeted monies for Field Training Officer software in an effort to better document, track, and catalog our probationary officers' field training progress. The Police Department reviewed several different FTO software programs over several months, before finally settling on Coplogic FTO Software as the best product to meet our needs.

Coplogic agreed to a negotiated price of \$4,500 to include the software install and first year's maintenance, followed by a yearly maintenance fee of \$2,000 for years two, three, and four of the contract, for a total cost of \$10,500.00. This is a savings of \$4,000 over the duration of the four year agreement as compared to their original quote.

The yearly maintenance fee thereafter will be budgeted for annually.

RECOMMENDATION:

It is recommended that the City Council authorize purchase of the Coplogic FTO software under the terms of the agreed upon four year contract.

Submitted by: Lieutenant Timothy McCloud, Commander, Technical Services Division

Approved by: Jeffrey VenHuizen, Chief of Police

APPROVED: Thomas Thomas, City Manager

Law Enforcement Automated Personnel System (LEAPS) SETUP AND SUBSCRIPTION LICENSE AGREEMENT

THIS SETUP AND SUBSCRIPTION LICENSE AGREEMENT is made on this [] day of May, 2013, by and between the City of Rock Island located at 1528 Third Avenue, Rock Island IL 61201, a municipal corporation under the laws of the State of Illinois and hereafter referred to as "Licensee" and Coplogic Inc., an existing California corporation with a principal place of business at 231 Market Place, Suite #520, San Ramon, CA 94583 and hereafter referred to as "Licensor".

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS IDENTIFIED HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. DEFINITIONS

- (a) "**Documentation**" means technical manuals, training manuals, user guides, and workbooks, as updated and amended from time to time, provided by Licensor to assist Licensee with the use of Software.
- (b) "**Software**" means all or any portion of the global version of the binary computer software programs and updates and enhancements thereto, and Documentation hosted by Licensor on behalf of Licensee or delivered by Licensor to Licensee. Software includes any third-party software delivered by Licensor and modifications made to the Software. Software does not include source code to third party software. Unless specifically stated otherwise, all Software is delivered to Customer only if and when generally commercially available.
- (c) "**Install**" means placing the Software on a computer's hard disk.
- (d) "**Use**" means (i) executing or loading the Software into computer RAM or other primary memory, and (ii) copying the Software for archival or emergency restart purposes.

2. GRANT OF RIGHTS AND SCOPE OF SERVICES

Licensor hereby grants to Licensee a nonexclusive, nontransferable license to use the Software on Licensor's servers for the term of this Agreement. Licensor also agrees to provide the services listed in the Scope of Services attached hereto as Exhibit "A" and made a part hereof. All requests by the Licensee for additional features or functionality that fall outside of Exhibit "A" Scope of Services shall be addressed following the "go-live" date of the Software and shall be quoted separately.

3. LICENSE TERM

This Agreement and this license are effective when the Agreement is executed by both parties and the license granted to the Software remains in force until terminated in accordance with paragraph 5 of this Agreement.

4. COST AND FEES

Licensee agrees to pay Licensor the following one time setup and implementation fee of USD\$2,500.00, plus license and maintenance fees for the first four (4) years of USD\$8,000.00 (US\$2,000.00 per year), as outlined in the Subscription, Support and Maintenance Agreement, for a total of USD\$10,500.00 upon execution of this agreement. The Subscription, Support and Maintenance period shall commence on July 1, 2013. All payments shall be made within thirty (30) days from the date of invoice by electronic funds transfer to the Licensor's account specified in writing, or by check made payable to "Coplogic, Inc." and delivered to 231 Market Place, Suite #520, San Ramon, CA 94583.

- 4.1. Taxes.** In addition to other amounts payable under this Agreement, Licensee shall pay any and all federal, state, municipal, or other taxes, duties, fees, or withholding currently or subsequently imposed on Licensee's use of the Software or the payment of the License Fee to Licensor, other than taxes assessed against Licensor's net income. Such taxes, duties, fees, withholding, or other charges shall be paid by Licensee or Licensee shall provide the appropriate authority with evidence of exemption from such tax, duty, fee, withholding, or charge. If Licensor is required to pay any such tax, duty, fee, or charge, or to withhold any amount from monies due to Licensor from Licensee pursuant to this Agreement, Licensee shall promptly reimburse Licensor any such amounts.

5. TERMINATION

Licensee may terminate this Agreement at any time on thirty (30) days written notice to Licensor. Licensor shall have the right to terminate this License on thirty (30) days written notice to Licensee if Licensee fails to pay any amount due to Licensor under this Agreement or the Subscription, Support and Maintenance Agreement, or if Licensee fails to perform any obligation required of Licensee under this License or if Licensee becomes bankrupt or insolvent.

On termination, Licensee will promptly return all copies of the Software to Licensor or destroy all of Licensee's copies of the Software and so certify to Licensor in writing within fourteen (14) days of termination.

6. RIGHTS UPON TERMINATION

Licensor has and reserves all rights and remedies that it has by operation of law or otherwise to enjoin the unlawful or unauthorized use of Software or Documentation. Upon termination of this License, all rights granted to Licensee under this Agreement cease and Licensee will promptly cease all use and reproduction of the Software and Documentation, and Licensee shall return to Licensor or destroy the original and all copies of the Software and Documentation including partial copies and modifications.

Sections 9, 10, 11, and 12 will survive termination or expiration of this Agreement as will any cause of action or claim of either party, whether in law or in equity, arising out of any breach or default.

7. TITLE TO SOFTWARE

Licensor retains title to and ownership of the Software and Documentation and all enhancements, modifications and updates of the Software or Documentation. Licensee shall

not distribute the Software to any persons or entities other than Licensee's employees as designated solely by Licensee. Licensee may not sell the Software to any person or make any other commercial use of the software. Licensee shall retain all copyright and trademark notices on the Software and Documentation and shall take other necessary steps to protect Licensor's intellectual property rights.

8. MODIFICATION AND ENHANCEMENTS

Licensee will make no efforts to reverse engineer the Software, or make any modifications or enhancements or derivative works based on the Software without Licensor's express written consent.

9. WARRANTY

Licensor warrants that from the date of this License, the Software will function given the original configuration is not replaced or changed by Licensee. Licensor warrants that to the best of its knowledge, information, and belief, the Software does not contain any known viruses, back-doors or time bombs, (or similar malicious code), or undocumented security codes that could prevent Licensee's use of the Software.

THE WARRANTY GRANTED HEREIN IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Licensor's entire liability and Licensee's sole and exclusive remedy for breach of the foregoing warranty shall be, at Licensor's option, to:

- Return to Licensee the maintenance fee for the period in which the Software did not perform according to this warranty, or
- Repair the defects or
- Replace the Software.

10. INDEMNITY

Licensor shall indemnify, hold harmless, and defend, with counsel acceptable to Licensee, the Licensee (including its elected officials, officers, agents and employees) from and against any and all claims (including all litigation, demands, damages, liabilities, costs, and expenses, and including court costs and attorney's fees) resulting or arising from performance, or failure to perform, under this Agreement.

Claims which trigger Licensor's responsibility under this Section 10 shall include any claims that the Software resulting from the provision of Services pursuant to the attached Exhibit A Scope of Services infringes any patent, trademark, service mark, copyright, or accidental or intentional violation of a trade secret or other intellectual property of a third party not included in this Agreement. Licensor shall, in its reasonable judgment and at its option and expense: (i) obtain for the Licensee the right to continue using the Software; or (ii) replace or modify the Software so that it becomes non-infringing while giving equivalent performance. Licensor shall not have any liability for a claim alleging that any Software infringes a patent or copyright if the alleged infringement was developed based on information furnished by the Licensee or if the alleged infringement is the result of a modification made by the Licensor, at the direction of the Licensee or with Licensee approval. Licensee shall be responsible for

maintaining appropriate licenses for software not provided by Licensor.

Licensee shall indemnify, hold harmless, and defend, with counsel acceptable to Licensor, the Licensor (including its officers, agents and employees) from and against any and all claims (including all litigation, demands, damages, liabilities, costs, and expenses, and including court costs and attorney's fees) resulting or arising from or incurred in connection with, Licensee's use or reproduction of the Software pursuant to this Agreement.

Should any claim subject to indemnity be made against Licensor or Licensee, the party against whom the claim is made agrees to provide the other party with prompt written notice of the claim. The indemnifying party will control the defense and settlement of any claim with respect to which it has a duty to indemnify under this section 10. The indemnified party agrees to cooperate with the indemnifying party and provide reasonable assistance in the defense and settlement of such claim. The indemnifying party is not responsible for any costs incurred or compromise made by the indemnified party unless the indemnifying party has given prior written consent to the cost or compromise.

11. ATTORNEY FEES

If any legal action is necessary to enforce this License, the prevailing party shall be entitled to reasonable attorney fees, costs and expenses in addition to any other relief to which it may be entitled.

12. CONFIDENTIAL INFORMATION

(a) The term "Confidential Information" shall mean any and all information, which is disclosed by either party to the other verbally, electronically, visually, or in a written or other tangible form, which either is identified or should be reasonably understood to be confidential or proprietary. Confidential Information includes, but is not limited to, trade secrets, computer programs, software, documentation, formulas, data, inventions, techniques, marketing plans, strategies, forecasts, customer lists, employee information, financial information, confidential information concerning Licensor's business, as Licensor has conducted it or as it may conduct itself in the future, confidential information concerning any of Licensor's past, current, or possible future products or manufacturing or operational methods, including information about Licensor's research, development, engineering, purchasing, manufacturing, accounting, marketing, selling or leasing, and any software (including third party software) provided by Licensor. Licensor's Confidential Information shall be treated as strictly confidential by Licensee and shall not be disclosed by Licensee except to those third parties with a need to know and that are operating under a confidentiality agreement with non-disclosure provisions no less restrictive than those set forth herein. This Agreement imposes no obligation upon the parties with respect to Confidential Information which either party can establish by legally sufficient evidence: (i) was in the possession of, or was rightfully known by the Licensor without an obligation to maintain its confidentiality prior to receipt from other party; (ii) is or becomes generally known to the public without violation of this Agreement; (iii) is obtained by Licensee in good faith from a third party having the right to disclose it without an obligation of confidentiality; (iv) is independently developed by Licensee without the participation of individuals who have had access to the Confidential Information or (v) is required to be disclosed by court order or applicable law, provided that Licensee promptly notifies Licensor in order for the disclosing party to have an

opportunity to seek an appropriate protective order. The Licensee shall not obtain, by virtue of this Agreement, any rights title or interest in any Confidential Information of the Licensor. Within fourteen (14) days after termination of this Agreement, each party shall certify in writing to Licensor that all copies of Licensor's Confidential Information in any form, including partial copies, have been destroyed or returned to Licensor.

- (b) Licensor acknowledges that the Licensee is a governmental agency and may be required to disclose certain information under requests made according to provisions of the Public Records Act. Licensee shall give notice to Licensor of any request for the disclosure of any information set apart and marked "confidential," "proprietary" or "trade secret" by Licensor. Licensor shall then have five (5) days from the date it receives such notice to enter into an agreement with Licensee providing for the defense of, and complete indemnification and reimbursement for all costs (including plaintiff's attorney's fees) incurred by Licensee in any legal action to compel the disclosure of such information under the Public Records Act. Licensor shall have the sole responsibility for the defense of the actual proprietary or trade secret designation of such information. The parties understand and agree that any failure by Licensor to respond to the notice provided by Licensee and/or to enter into an agreement with Licensee, as set forth above, shall constitute a complete waiver by Licensor of any nondisclosure or confidentiality rights hereunder with respect to such information, and such information shall be disclosed by Licensee pursuant to applicable procedures required by the Public Records Act.
- (c) Licensee shall protect the deliverables resulting from Services with at least the same degree of care and confidentiality, but not less than a reasonable standard of care, which Licensee utilizes for Licensee's Confidential Information.
- (d) The terms of this Section 12 shall survive termination of this Agreement. Licensor and Licensee acknowledge that any breach of this Section 12 by Licensee will irreparably harm Licensor. Accordingly, in the event of a breach, Licensor is entitled to promptly seek injunctive relief in addition to any other remedies that the disclosing party may have at law or in equity.

13. RELATIONSHIP BETWEEN THE PARTIES

Licensor is, and at all times shall remain, an independent contractor solely responsible for all acts of its employees, agents, or sub consultants, including any negligent acts or omissions. Licensor is not Licensee's agent, and shall have no authority to act on behalf of the Licensee, or to bind the Licensee to any obligation whatsoever, unless the Licensee provides prior written authorization to Licensor. Licensor is not an officer or employee of Licensee and Licensor shall not be entitled to any benefit, right, or compensation other than that provided in this Agreement.

14. CONFLICTS OF INTEREST PROHIBITED

Licensor (including its employees, agents, and sub Licensors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement.

15. COMPLIANCE WITH LAW AND STANDARD OF CARE

Licensor shall comply with all applicable legal requirements including all federal, state, and local laws (including ordinances and resolutions), whether or not said laws are expressly

stated in this Agreement. Licensor shall perform services under this Agreement using a standard of care equal to, or greater than, the degree of skill and diligence ordinarily used by reputable professionals, with a level of experience and training similar to Licensor, performing under circumstances similar to those required by this Agreement. Licensor certifies that its employees have the training and experience to perform and complete all services mentioned herein and outlined in Exhibit A.

16. INSURANCE

Licensor shall, throughout the duration of this Agreement, maintain insurance to cover Licensor (including its agents, representatives, sub-consultants, and employees) in connection with the performance of services under this Agreement. This Agreement identifies the minimum insurance levels with which Licensor shall comply; however, the minimum insurance levels shall not relieve Licensor of any other performance responsibilities under this Agreement (including the indemnity requirements), and Licensor may carry, at its own expense, any additional insurance it deems necessary or prudent. Concurrently with the execution of this Agreement by the Licensor, and prior to the commencement of any services, the Licensor shall furnish written proof of insurance (certificates and endorsements), in a form acceptable to the Licensee. Licensor shall provide substitute written proof of insurance no later than 30 days prior to the expiration date of any insurance policy required by this Agreement.

16.1. Minimum Insurance Levels. Licensor shall maintain insurance at the following minimum levels:

- (a) Commercial General Liability coverage in an amount not less than USD\$1,000,000 general aggregate and USD\$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
- (b) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
- (c) Errors and Omissions Liability Insurance appropriate to the Licensor's profession. Architects' and engineers' coverage is to be endorsed to include contractual liability.

16.2. Endorsements. The insurance policies shall be endorsed as follows:

- (a) For the commercial general liability insurance, the Licensee (including its elected officials, employees, and agents) shall be named as additional insured.
- (b) Licensor's insurance is primary to any other insurance available to the Licensee with respect to any claim arising out of this Agreement. Any insurance maintained by the Licensee shall be excess of the Licensor's insurance and shall not contribute with it.

16.3. Qualifications of Insurers. All insurance companies providing coverage to Licensor shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California, and shall have an A.M Best's rating of not less than "A:VII."

17. REPORTING DAMAGES

If any damage (including death, personal injury or property damage) occurs in connection

with the performance of this Agreement, Licensor shall immediately notify the Licensee Risk Manager's office and Licensor shall promptly submit to the Licensee's Risk Manager and the Licensee's Authorized Representative, a written report (in a form acceptable to the Licensee) with the following information: (a) name and address of the injured or deceased person(s), (b) name and address of witnesses, (c) name and address of Licensor's insurance company, and (d) a detailed description of the damage and whether any Licensee property was involved.

18. GENERAL PROVISIONS

- (a) **Complete Agreement.** This License together with Exhibit "A", which is incorporated herein by reference, is the sole and entire Agreement between the parties. This Agreement supersedes all prior understandings, agreements and documentation relating to such subject matter, except for the concurrently executed Software Subscription, Support and Maintenance Agreement.
- (b) **Modifications to License.** Modifications and amendments to this License, including any exhibit or appendix hereto, shall be enforceable only if they are in writing and are signed by authorized representatives of both parties.
- (c) **Applicable Law.** This License will be governed by the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Contra Costa.
- (d) **Notices.** All notices and other communications given in connection with this License shall be in writing and shall be deemed given as follows:
- When delivered personally to the recipient's address as appearing in the introductory paragraph to this License;
 - Three days after being deposited in the United States mails, postage prepaid to the recipient's address as appearing in the introductory paragraph to this License; or
 - When sent by fax or telex to the last fax, telex number or E-Mail address of the recipient known to the party giving notice. Notice is effective upon receipt provided that a duplicate copy of the notice is promptly given by first-class or certified mail or the recipient delivers a written confirmation of receipt.

Any party may change its address appearing in the introductory paragraph to this License by giving notice of the change in accordance with this paragraph.

- (e) **No Agency.** Nothing contained herein will be construed as creating any agency, partnership, joint venture or other form of joint enterprise between the parties.
- (f) **Assignment.** The rights conferred by this License shall not be assignable by the Licensee without Licensor's prior written consent. Licensor may impose a reasonable license fee on any such assignment
- (g) **Modifications.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
- (h) **Waivers.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
- (i) **Headings.** The heading titles for each paragraph of this Agreement are included only as

a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.

- (j) **Severability.** If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.

19. SIGNATURES

The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Licensor and the Licensee. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

This Agreement may be executed in separate counterparts, each of which so executed and delivered shall constitute an original, but all such counterparts shall together constitute one and the same instrument. Any such counterpart may comprise one or more duplicates or duplicate signature pages, any of which may be executed by less than all of the parties provided that each party executes at least one such duplicate or duplicate signature page. The parties stipulate that a photocopy of an executed original will be admissible in evidence for all purposes in any proceeding as between the parties

IN WITNESS WHEREOF, the Licensee and Licensor do hereby agree to the full performance of the terms set forth herein.

**Coplogic, Inc.
(LICENSOR)**

**City of Rock Island,
a Municipal Corporation (LICENSEE)**

(Signature)

(Signature)

James Lee
Chief Operating Officer

(Typed or Printed Name and Title)

(Date)

(Date)

Exhibit A: Scope of Services

Licensors has designed and built a Personnel Training System for Police Departments. The system is designed to enable Field Training Officers (FTOs) to manage departmental training programs for numerous positions, including Patrol, Dispatch, Records, Sergeants/Supervisors, Equipment Room Personnel and Explorers/Cadets.

A. SETUP AND CUSTOMIZATION

Licensee Responsibilities:

1. Coordinate with Licensor to establish schedule for deployment.
2. Provide Licensor with VPN access to set up Software.
3. Identify and configure computer on Licensee's premises for the system to be installed on. Computer should have the following minimum specifications:
 - PC with 2.2Ghz processor
 - Hard drive with at least 250 gigabytes of free storage
 - Internet connection
4. Provide timely responses to Licensor's questions, which may arise during the setup and customization process.

Licensor's Responsibilities:

1. Coordinate with Licensee to establish schedule for deployment.
2. Conduct kick-off meeting with Licensee to provide comprehensive overview of system.
3. Install system on computer identified and preconfigured by Licensee.

Completion Criteria:

This task is considered complete after Licensor has provided kick-off meeting and delivered listed materials, and the Software is active and accessible on the Licensee's website.

B. SOFTWARE CONFIGURATION

Licensee's Responsibilities:

1. Coordinate with Licensor for web training session on administering the program.
2. Coordinate with Licensor to set up and configure initial training types, shifts, users, evaluation forms, tests and test items.
3. Test the system, document any problems, and collaborate with Licensor on a plan for corrective action(s).

Licensor's Responsibilities:

1. Coordinate with Licensee for web training session on administering the program
2. Assist Licensee to set up and configure initial training types, shifts, users, evaluation forms, tests and test items.
3. Assist Licensee in testing of system, review problems identified by Licensee, and

collaborate with Licensee on a plan for corrective action(s).

Completion Criteria:

This task is considered complete when the Law Enforcement Automated Personnel System is configured and operational.

C. CONTINUING MAINTENANCE.

Licensee's Responsibilities:

During the term of this Agreement and subject to approval by Licensee, Licensee agrees to serve as a reference for the Software. Such references may include activities such as (i) reference calls with mutually acceptable prospects; (ii) a published "success story" describing the partnership with Licensor; (iii) the use of Licensee's name in Licensor marketing activities; or (iv) a favorable reference of Licensor to an industry analyst or at an industry conference.

Licensor's Responsibilities:

Licensor will provide remote application support and updates in accordance with the Subscription, Support and Maintenance Agreement.

Law Enforcement Automated Personnel System (LEAPS) SUPPORT AND MAINTENANCE AGREEMENT

THIS SUPPORT AND MAINTENANCE AGREEMENT ("Support and Maintenance Agreement") is made on this [] day of May, 2013, by and between the City of Rock Island located at 1528 Third Avenue, Rock Island IL 61201, a municipal corporation under the laws of the state of Illinois ("Licensee") and Coplogic, Inc., an existing California corporation, whose address is 231 Market Place #520 San Ramon, CA 94583 ("Licensor").

RECITALS

Licensee has obtained a subscription license to use the Law Enforcement Automated Personnel System ("Software") for the term of that agreement, more particularly described in the Setup and Subscription License Agreement of the same date. As a part of the Support and Maintenance Agreement, Licensor shall provide support and maintenance services for the Software.

SUPPORT AND MAINTENANCE SERVICES

1. Generally. During the duration of this Support and Maintenance Agreement, Licensor shall provide to the Licensee a subscription license, as well as support and maintenance for the Software purchased in accordance with the terms of this Support and Maintenance Agreement and the response time described in Schedule A, attached hereto. Support includes an annual review of current outstanding questions and usage issues at Licensee request; the provision of new and upcoming releases of updates; and enhancements made to the Software that the Licensee is licensed to use that are generally made available without additional charge to other users of the Software with similar support and maintenance contracts. The parties shall amend Schedule B from time-to-time in the event that the Licensee requests customizations to the Software.
2. Hours of Support. Licensor will provide the support services during the hours as described in Schedule A attached hereto.
3. New Releases. Licensor will, from time-to-time issue new releases of the software (Schedule B), and when it does, it will provide a copy of the release documentation, and/or updated user or system documentation. If any part of the Licensee's custom code is not part of the general release delivered by Licensor, then Licensor will assist and provide guidance for integrating the custom code into the new release. Any time taken to modify or repair unauthorized changes that may require Licensor assistance to modify may be billed at Licensor's then current pricing schedule.
4. Exceptions. Corrections for difficulties or defects traceable to the Licensee's errors or unauthorized changes, Licensee's hardware, or conflicts with other software not identified by Licensor as compatible or part of the recommended operating environment may be subject to billing at Licensor's current standard time and material charges.
5. Exceptions (Should Licensee Elect to Self-Host Software). Licensor is not responsible for maintaining unauthorized Licensee modified portions of the Software, Licensee data files or for maintaining portions of the Software affected by unauthorized Licensee modified portions of the Software. The Licensee agrees that the equipment on which the Software

operates will be operating properly at all times and must have been and continue to be properly maintained by the manufacturer of the equipment or a properly qualified service organization.

The Licensee will be responsible for properly testing and applying routine virus updates and security patches without the need for additional Licensor's notification. Licensor will be responsible for testing Licensor's software updates prior to making them available to the Licensee. The Licensee acknowledges responsibility for testing Licensor's software updates before applying them to the Licensee's production systems. For servers running Licensor's software, the Licensee acknowledges responsibility for communicating with Licensor prior to installation of non- Licensor's software service packs, implementation of new releases or versions of non- Licensor's software, or installation of new non- Licensor's software products.

Except for emergency replacement of a failing server, the Licensee acknowledges responsibility for communicating with Licensor prior to replacing a server on which Licensor's software is being used. Licensor is not responsible for changes if related to or caused by software not provided by Licensor. For workstations running Licensor's software, the Licensee acknowledges responsibility to test new workstation configurations, software service packs, new releases or versions of software, and new software products prior to implementation.

The Licensee must upgrade the Software in its entirety to the most recent version within seven business days of the release of any updates or modifications of the Software unless otherwise mutually agreed. Licensor will not be obligated to provide support for release versions that are more than two release versions older than the current version unless specified in this Support and Maintenance agreement.

The Licensee agrees that, subject to and in accordance with the Licensee's internal policies and guidelines, it will upgrade the computer operating software, hardware and underlying database engines of the Software as necessary to meet the changing requirements of the Software as specified by Licensor as part of a current release of the Software, or as the parties mutually agree. The Licensee agrees that, subject to and in accordance with the Licensee's internal policies and guidelines, it will maintain appropriate licenses for the computer operating software and underlying database engines required of the Software as necessary.

6. **Limitations.** Licensor may, in its sole discretion, limit or suspend Licensee's access to support, pursuant to this Support and Maintenance Agreement, where (1) Licensee is in material default under the terms of this Support and Maintenance Agreement (non-payment is deemed to be a material default), or (2) Licensee fails to provide adequately trained staff to administer the Software. Prior to limiting or suspending support, Licensor will give the Licensee thirty (30) days written notice of its intention to do so and actively participate with the Licensee to remedy any such default or failure.
7. **Term.** This Support and Maintenance Agreement commences on July 1, 2013 and expires four (4) years after its commencement date. Within thirty (30) days prior to its expiration, Licensor shall send to the Licensee an invoice for an annual subscription, support and maintenance fee ("Annual Fee"). The sending of any such invoice will constitute an

irrevocable offer to extend the Support and Maintenance Agreement for the period and fees set forth in the invoice, which may be accepted by the Licensee in its sole discretion as hereinafter set forth. Termination of the Support and Maintenance Agreement prior to its expiration shall not result in the refund of partial service fees.

The Licensee's payment of an Annual Fee in response to an invoice prior to the expiration date of the Support and Maintenance and Agreement, or within thirty (30) days after the date of Licensor's invoice, whichever is later, will extend the Subscription, Maintenance and Support Period for the period of one year from its previous expiration date, or for the period set forth in the invoice if different.

8. Adjustments to Terms and Conditions. Licensor may change the Annual Fee and the terms and conditions of this Support and Maintenance Agreement provided that written notice is given to the Licensee thirty (30) days prior to the expiration of the current term.

COST

9. Annual Fee. The Licensee shall pay Licensor an Annual Fee for which the Software license and support is being provided (see Schedule B for base Annual Fee). The Annual Fee for the first four (4) years is due upon execution of this agreement and will then reoccur on the anniversary date of the execution of this agreement for each year thereafter. All requests by the Licensee for additional features or functionality that fall outside of Licensor's ongoing policy of upgrading the Software will be quoted separately.

Late Payments. All invoices will be sent at least thirty (30) days prior to their due date. Payments received forty-five (45) days after their due date will be assessed a 10% late fee.

10. Taxes. In addition to other amounts payable under this Support and Maintenance Agreement, Licensee shall pay any and all federal, state, municipal, or other taxes, duties, fees, or withholding currently or subsequently imposed on Licensee's use of the Software or the payment of the Annual Fee to Licensor, other than taxes assessed against Licensor's net income. Such taxes, duties, fees, withholding, or other charges shall be paid by Licensee or Licensee shall provide the appropriate authority with evidence of exemption from such tax, duty, fee, withholding, or charge. If Licensor is required to pay any such tax, duty, fee, or charge, or to withhold any amount from monies due to Licensor from Licensee pursuant to this Support and Maintenance Agreement, Licensee shall promptly reimburse Licensor any such amounts.
11. On Site Support. The Licensee shall reimburse Licensor at the rate of USD\$2,500.00 per day for each Licensor employee or contractor required for any On-Site support incurred at the Licensee's direct written request and authorization. This rate shall be paid for each day that Licensor personnel are required to be on the Licensee's site. Licensee will not pay for Licensor personnel travel time or travel expenses. In response to written Licensee requests for Licensor to provide on-site routine non-emergency support, Licensor shall produce a written estimate of the time required to provide the requested support and state any requirements, such as the presence of Licensee staff or other resources or materials. Any On-Site Support provided by Licensor shall only be invoiced by Licensor or paid by Licensee if the problem arose due to something other than a defect in the Software.

LICENSEE'S OBLIGATION

12. The Licensee Agrees to:

- (a) Furnish descriptions of problem(s) in the form reasonably requested by Licensor Support representatives;
- (b) Assist Licensor's efforts to reproduce the problem(s) in the applicable operating environment, and
- (c) Make available qualified, trained staff on-site to carry out Licensor's instructions and/or provide remote access to system(s) as requested by Licensor.

13. The Licensee shall designate a sole Support Contact to provide routine end user support for the Licensee personnel concerning the Product.

14. The Licensee shall take appropriate steps to educate its end users about the need to contact the Support Contact (rather than Licensor directly) when support is needed. The Licensee shall appropriately publicize the name, telephone number, and/or fax number and/or electronic mail address if applicable, of the Support Contact.

15. Access to Data and System. The Licensee agrees to provide Licensor with data dumps, as requested, remote access to the Software system, and with sufficient test time on the Licensee's computer system to duplicate the problem, to certify that the problem is with the Software, and to certify that the problem has been corrected.

16. The Licensee shall install and maintain for the term of this Support and Maintenance Agreement, a reasonable and satisfactory method of direct remote computer access to the Software. The Licensee shall pay for the installation and maintenance of such access. Licensor shall use this access service in connection with error correction, software updating and user support only, and only upon prior written or email notice to the Licensee, and Licensee's acknowledgment of that notice.

17. Licensor agrees that all release versions will be tested for installation in a computer environment substantially similar to the Licensee's and that all releases will be free of material defects that would affect the orderly continuation of Licensee's use of the Product.

18. The parties agree that Licensor is not obligated to ensure that its new release of the Software is compatible with outdated (exceeding 4 years from date of initial release) hardware, computer operating software or database engines).

CONFIDENTIALITY

19. Confidential Information.

- (a) The term "Confidential Information" shall mean any and all information, which is disclosed by either party to the other verbally, electronically, visually, or in a written or other tangible form, which either is identified or should be reasonably understood to be confidential or proprietary. Confidential Information includes, but is not limited to, trade secrets, computer programs, software, documentation, formulas, data, inventions, techniques, marketing plans, strategies, forecasts, customer lists, employee information,

financial information, confidential information concerning Licensor's business, as Licensor has conducted it or as it may conduct itself in the future, confidential information concerning any of Licensor's past, current, or possible future products or manufacturing or operational methods, including information about Licensor's research, development, engineering, purchasing, manufacturing, accounting, marketing, selling or leasing, and any software (including third party software) provided by Licensor. Licensor's Confidential Information shall be treated as strictly confidential by Licensee and shall not be disclosed by Licensee except to those third parties with a need to know and that are operating under a confidentiality agreement with non-disclosure provisions no less restrictive than those set forth herein. This Agreement imposes no obligation upon the parties with respect to Confidential Information which either party can establish by legally sufficient evidence: (i) was in the possession of, or was rightfully known by the Licensor without an obligation to maintain its confidentiality prior to receipt from other party; (ii) is or becomes generally known to the public without violation of this Agreement; (iii) is obtained by Licensee in good faith from a third party having the right to disclose it without an obligation of confidentiality; (iv) is independently developed by Licensee without the participation of individuals who have had access to the Confidential Information or (v) is required to be disclosed by court order or applicable law, provided that Licensee promptly notifies Licensor in order for the disclosing party to have an opportunity to seek an appropriate protective order. The Licensee shall not obtain, by virtue of this Agreement, any rights title or interest in any Confidential Information of the Licensor. Within fourteen (14) days after termination of this Agreement, each party shall certify in writing to Licensor that all copies of Licensor's Confidential Information in any form, including partial copies, have been destroyed or returned to Licensor.

- (b) Licensor acknowledges that the Licensee is a governmental agency and may be required to disclose certain information under requests made according to provisions of the Public Records Act. Licensee shall give notice to Licensor of any request for the disclosure of any information set apart and marked "confidential," "proprietary" or "trade secret" by Licensor. Licensor shall then have five (5) days from the date it receives such notice to enter into an agreement with Licensee providing for the defense of, and complete indemnification and reimbursement for all costs (including plaintiff's attorney's fees) incurred by Licensee in any legal action to compel the disclosure of such information under the Public Records Act. Licensor shall have the sole responsibility for the defense of the actual proprietary or trade secret designation of such information. The parties understand and agree that any failure by Licensor to respond to the notice provided by Licensee and/or to enter into an agreement with Licensee, as set forth above, shall constitute a complete waiver by Licensor of any nondisclosure or confidentiality rights hereunder with respect to such information, and such information shall be disclosed by Licensee pursuant to applicable procedures required by the Public Records Act.
- (c) Licensee shall protect the deliverables resulting from Services with at least the same degree of care and confidentiality, but not less than a reasonable standard of care, which Licensee utilizes for Licensee's Confidential Information.
- (d) The terms of this Section 18 shall survive termination of this Agreement. Licensor and Licensee acknowledge that any breach of this Section 12 by Licensee will irreparably harm Licensor. Accordingly, in the event of a breach, Licensor is entitled to promptly

seek injunctive relief in addition to any other remedies that the disclosing party may have at law or in equity.

TERMINATION

20. The Licensee may terminate this Agreement at any time and for any reason upon thirty (30) days prior notice to Licensor.

In the event of a material default by the Licensee under this agreement, Licensor may terminate this Agreement upon thirty (30) days prior notice to Licensee, provided that Licensee has been given thirty (30) days notice to cure the default.

LIMITATION OF LIABILITY

21. To the extent permitted by law, neither party's liability to the other party in connection with any cause of action, costs or damages relating to this Support and Maintenance Agreement shall exceed the annual fee paid in the twelve month period preceding the event giving rise to the claim.

Notwithstanding the foregoing, for purposes of the services performed by Licensor under this Support and Maintenance Agreement, Licensor agrees to fully defend, indemnify and hold harmless Licensee, its officers, employees and agents from any damage, loss, liability, costs (including reasonable attorneys fees), claim or cause of action arising out of injury, loss or damage to real property or tangible personal property, or arising from personal injury or death, where such damage, loss, liability, costs, claim or cause of action is caused or incurred in whole or in part as a result of any negligent or wrongful act or omission or willful misconduct of Licensor, its officers, employees, agents, contractors and assigns. Licensor's obligation hereunder is contingent upon Licensee providing Licensor prompt written notice of any such claim, action, lawsuit or other proceeding and Licensee shall fully cooperate with Licensor in the defense and all related settlement negotiations. The existence of any insurance policies or coverage's shall not affect the parties' rights and obligations hereunder.

GENERAL

22. This Agreement shall be binding upon the successors and assigns of both parties, provided, however that no assignment, delegation or other transfer shall be made by Licensor without the prior written approval of the Licensee, which approval shall not be unreasonably withheld.
23. This Agreement, together with Schedule A and Schedule B, which are incorporated herein by reference, is the sole and entire Agreement between the parties. This Agreement supersedes all prior understandings, agreements and documentation relating to such subject matter, except for the concurrently executed Setup and License Agreement. No modification or amendment of this Agreement will be valid or binding unless reduced to writing and duly executed by the party or parties to be bound.
24. Each party shall be excused from delays in performing or from its failure to perform hereunder to the extent that such delays or failures result from causes beyond the reasonable control of such party; provided that, in order to be excused from delay or failure to perform,

such party must act diligently to remedy the cause or effect of such delay or failure to the extent the party is able. In the event of such delays, the timetables shall be extended by as many calendar days as the delay caused by forces outside the reasonable control of the parties.

- 25. This Support and Maintenance Agreement may be executed in separate counterparts, each of which so executed and delivered shall constitute an original, but all such counterparts shall together constitute one and the same instrument. Any such counterpart may comprise one or more duplicates or duplicate signature pages, any of which may be executed by less than all of the parties provided that each party executes at least one such duplicate or duplicate signature page. The parties stipulate that a photocopy of an executed original will be admissible in evidence for all purposes in any proceeding as between the parties.
- 26. Any provision of this Support and Maintenance Agreement or part thereof found to be illegal or unenforceable shall be deemed severed, and the balance of the Agreement shall remain in full force and effect.
- 27. This Support and Maintenance Agreement shall be governed and construed in accordance with the laws of the State of California. Venue of any action brought with regard to this Support and Maintenance Agreement shall be in Contra Costa County, California.

The undersigned represent and warrant that they are authorized as representatives of the party on whose behalf they are signing to sign this Support and Maintenance Agreement and to bind their respective party thereto.

Coplogic, Inc.
(LICENSOR)

City of Rock Island,
a Municipal Corporation (LICENSEE)

(Signature)

(Signature)

James Lee
Chief Operating Officer

(Typed or Printed Name and Title)

(Date)

(Date)

SCHEDULE A

Licensors Hours of Support and Maintenance Service are as follows:

Regular Hours of Service (Pacific Time):
0900 to 1700 hours, Monday to Friday
(excluding Holidays observed by the U.S.
Federal Govt.)

After Hours Service (Pacific Time):
1701 to 0859 hours, Monday to Friday
Saturdays & Sundays
Holidays

E-mail received by:
Licensors staff at support@coplogic.com

E-mail received by:
Licensors staff at support@coplogic.com

Incident/Request for Service Priority. All support and maintenance incidents/ requests for service will be prioritized on the following basis:

Priority	Definition
A	Work is stopped to the point that critical business activities cannot continue. e.g. Loss of use of major features, file system corruption, data loss, security issue, system outage.
B	Issues or features of the product are preventing normal operations.
C	Non-critical features, for which a convenient or reasonable work around exists, or a feature which functions unexpectedly. Slight inconvenience.

Response Time. The following table outlines the response times for each priority:

Priority	Response Time During Regular Hours of Service	Response Time During After Hours of Service
A	2 hours	6 hours from time of notifying the vendor contact(s) through voice mail or e-mail
B	(2) business days of Licensor receipt of verbal, written or electronic notice thereof and to correct the Priority B Issue by the Licensee’s reasonably requested date. If the Priority B Issue is not corrected within 2 business days of the original notification Licensor will provide the Licensee with reports of its efforts to correct the Priority B Issue as requested by Licensee.	Not available
C	As time permits basis or inclusion in the next scheduled update to the Licensed Product.	Not available

1. Incident/Request for Service Reporting Procedure

All problems, queries or requests for assistance must be made to Licensor at support@coplogic.com, during regular business hours of service.

Licensee must be prepared to leave a contact name, phone number, workstations affected, screenshots, a description of the problem/service and the impact.

Licensor’s resources will work with the Licensee to diagnose the problem. After investigating the issue, Licensor and the Licensee will jointly categorize the problem into:

Type of Problem	Ownership
Licensee Server Hardware Problem	Licensee
Desktop Hardware Problem	Licensee
Licensee Network Communication	Licensee
Isolated Workstation Issue	Licensee
Licensee Database Performance/storage	Licensee
Application or software related	Licensor

Licensor will deal with problem/incident according to the priority assigned. In the case that a problem cannot be readily resolved, Licensor will attempt to identify a work around.

As soon as Licensor corrects an Issue, Licensor shall notify the Licensee that the Issue has been corrected by sending an electronic mail.

SCHEDULE B

Coplogic Law Enforcement Automated Personnel System

Base Annual Fee: USD\$2,000 per year for Years 1-4 License/Support fee, paid upfront

On-site Support: USD\$2,500 per day per Licensor personnel (includes travel time and expenses)