

EXHIBIT A to Master Services Agreement

SOFTWARE MAINTENANCE AGREEMENT

between

**SAL, JOHNSON & ASSOCIATES, Inc.
d/b/a COMPUTING SYSTEM INNOVATIONS**

("CSI")

a Florida corporation

having its principal place of business at:

791 Piedmont Wekiwa Road

Apopka, Florida 32703

and

__Hidalgo County Texas

("Customer")

having its principal address at:

This Software Maintenance Agreement (this “Agreement”) dated _August 16_, 2016, by and between Sal, Johnson & Associates, Inc. d/b/a Computing System Innovations (“CSI”) and __Hidalgo County__ (“Customer”) is attached as Exhibit A and hereby made part of that certain Master Services Agreement (the “MSA”) by and between CSI and Customer, dated _August 16_, 2016.

(1) Definitions and Identifications. For purposes of this Agreement, the terms below shall have the meanings as defined in this Section 1. Unless otherwise specifically provided herein, any terms defined in the MSA and used herein shall have the same meaning as detailed in the MSA when used in this Agreement.

(a) *Basic Maintenance Period* - the basic maintenance period specified in Section 6 of this Agreement.

(b) *Covered Maintenance Services* - includes all Conformity Maintenance Services and all Upgrade Maintenance Services.

(c) *Conformity Maintenance Services* - services necessary to insure that the CSI Software operates in conformity with all Specifications.

(d) *Critical Defect* – a bug, error, malfunction of other defect in the CSI Software which renders the CSI Software inoperable and without having a Software workaround to become operable.

(e) *Maintenance and Support Fees* - the fees for Covered Maintenance Services specified in Section 7 of this Agreement.

(f) *Non-Critical Defect* - any defect in the CSI Software other than a Critical Defect.

(g) *Online Support* - the provision of diagnostic advice and assistance concerning the use and operation of the CSI Software via a virtual private network or similar method.

(h) *Telephone Support* - the provision of general information and diagnostic advice and assistance concerning the use and operation of the CSI Software via telephone.

(i) *Upgrade Maintenance Services* - any Enhancement developed by CSI for the CSI Software and related Documentation during the term of this Agreement.

(2) Scope of Agreement. This Agreement covers the maintenance of CSI Software licensed and delivered by CSI for the benefit of Customer pursuant to the MSA. **THIS AGREEMENT PROVIDES MAINTENANCE SERVICES ONLY WITH RESPECT TO CSI SOFTWARE, INCLUDING EMBEDDED THIRD PARTY SOFTWARE, SUPPLIED BY CSI TO CUSTOMER PURSUANT TO THE TERMS OF THE MSA. THIS AGREEMENT DOES NOT PROVIDE FOR MAINTENANCE SERVICES FOR ANY THIRD PERSON SOFTWARE OR THIRD PERSON HARDWARE NOT SUPPLIED BY CSI TO CUSTOMER.**

(3) Initial Maintenance Term. The initial term ("Initial Term") of this Agreement shall begin following the expiration of the Warranty Period pursuant to Section 14.2 of the MSA ("Maintenance Agreement Effective Date"). Unless sooner terminated in accordance with Section 15 hereof, the Initial Term of this Agreement shall remain in effect for a period of one (1) year from the Maintenance Agreement Effective Date.

(4) Automatic Renewal and Subsequent Term. Upon expiration of the Initial Term or any Subsequent Term as defined below, this Agreement shall be automatically extended for successive one (1) year periods (each such one (1) year period referred to as a "Subsequent Term"), unless this Agreement is terminated during the Initial Term or any Subsequent Term in accordance with Section 15 of this Agreement.

(5) CSI Software; Ownership. This Agreement covers all CSI Software as described in any Statement of Work executed between CSI and Customer pursuant to the MSA and attached thereto. Unless Customer otherwise notifies CSI in writing, all subsequently ordered CSI Software installed by CSI shall be automatically subject to this Agreement immediately upon the expiration of the Warranty Period without any separately executed agreement for such subsequently ordered and installed CSI Software, provided that such order and installation of CSI Software was requested and approved by Customer, as detailed in an executed Statement of Work or CSI Quotation. All changes, modifications, Enhancements, and other additions or improvements to the CSI Software or any Documentation including all associated intellectual property rights thereto shall remain the sole and exclusive property of CSI, and shall be subject to all of the terms and conditions of the MSA.

(6) Basic Maintenance Period. The Basic Maintenance Period commences on Monday and continues through Friday of each week (8:00 a.m. to 5:00 p.m., Eastern Standard Time), excepting any day that is a federal holiday

(7) Maintenance and Support Fees. Maintenance and Support Fees during the Initial Term shall be set forth in any Quotations and/or Statement of Work detailing the CSI Software being licensed under the MSA. Maintenance and Support Fees become effective upon the Maintenance Agreement Effective Date with respect to the applicable CSI Software. For each Subsequent Term, Maintenance and Support Fees will be based on the then current CSI Maintenance and Support Fees, but shall not be increased by more than 5% per year over the previous year's Maintenance and Support Fees.

(8) Payment of Maintenance and Support Fees.

(a) *Invoices.* Maintenance and Support Fees shall be invoiced annually in advance for the Initial Term or any Subsequent Term. Invoices for Maintenance and Support Fees shall be due and payable annually within thirty (30) days from the invoice date.

(b) *Subsequently Ordered CSI Software.* Maintenance and Support Fees for subsequently ordered CSI Software shall be paid as above but pro-rated for the applicable periods of this Agreement based upon the conclusion of the Warranty Period for such subsequently ordered CSI Software.

(c) *Failure of Payment.* In the event payment is not made as specified in this Agreement, Customer shall pay interest at the rate of one and one-half percent (1.5%) per month (or the highest applicable legal rate, whichever is lower) on the outstanding overdue balance for each month or part thereof that such sum is overdue; *provided, however,* that if Customer is a governmental agency or authority subject to a "prompt payment" or similar statutory requirement for the transaction contemplated in this Agreement, such statutory requirement shall control to the extent the same is inconsistent with the requirements of this Section 8(c).

(9) Covered Maintenance.

(a) *General.* CSI shall provide to Customer all required Covered Maintenance Services. All Conformity Maintenance Services and all Online Support and Telephone Support will be performed by CSI during the Basic Maintenance Period. Where such services will interfere with the functioning of the Customer's office during its regular hours, Conformity Maintenance Services and Online Support and Telephone Support will be provided at a time agreeable to both parties. Covered Maintenance Services do not include the costs of accessories and expendable supplies necessary to operate the CSI Software, such as magnetic tape cards, optical disks, disk packs, paper, and similar items, and such items are not provided free of charge by CSI hereunder.

(b) *Upgrade Maintenance Services.* As a part of this Agreement, Customer shall also have the right to receive from CSI, without additional service charge, all Upgrade Maintenance Services. Upgrade Maintenance Services include the right to receive, during the applicable CSI Software Warranty Period and during the term of this Agreement (except as otherwise provided in Section 9(c) hereof), all Version Releases to the CSI Software, including all associated Documentation. The right to receive Upgrade Maintenance Services does not include installation of any new release or any onsite training, and also does not include any new product, all of which are separately chargeable by CSI.

(c) *Support of Outdated CSI Software.* Support by CSI of previous versions of CSI Software will cease six (6) months following written notice by CSI to the Customer of the availability of a new Version Release that is provided to Customer by CSI. Support by CSI of previous versions of Embedded Third Party Software will cease in the time period provided for by the specific Embedded Third Party Software manufacturer. Failure of Customer to install new Version Release's provided to Customer by CSI or any other Defect correction or improvement provided by CSI or Embedded Third Party Software manufacturer within the allowed timeframe, shall relieve CSI of responsibility for the improper operation or any malfunction of the CSI Software as modified by any subsequent correction or improvement, but in no such event shall Customer be relieved of any of its payment obligations to CSI hereunder, and CSI shall be released thereafter from its obligation to support the CSI Software. After failure to install in excess of the above allocated timeframe, in order for Customer to return to current CSI Software release level and reinstate support, Customer must obtain a CSI Software audit at then current CSI rates.

(d) *Online Support and Telephone.* Online Support and Telephone Support includes: (i) remote diagnostics; (ii) service desk and dispatch; (iii) question and answer

consulting; and, (iv) non-chargeable user error remedies. A toll-free maintenance telephone number is provided for Telephone Support from CSI's corporate offices. Remote access is required at a minimum to one Customer location for remote support, which remote access equipment is to be obtained by Customer at its sole expense.

(e) *Exclusions.* Covered Maintenance Services does not include maintenance required by or the result of any: (a) operator error or improper operation or use of the CSI Software by Customer; (b) modifications, repairs, or additions to the CSI Software performed by persons other than CSI, and Customer shall notify CSI in writing of any such modifications, repairs, or additions; (c) modifications, repairs, or additions to Third Person Hardware or to any Third Person Software supplied by any person other than CSI; (d) damage to CSI Software by Customer's employees or third persons, including, without limitation, damage caused by improper operation or use of other software, hardware, or other equipment; (e) causes beyond the reasonable control of CSI, including, without limitation, any matter described in Section 14 (Excusable Delays) of this Agreement; (f) electrical disturbances, outages, brownouts, or similar events; (g) CSI's requested involvement in determining or solving a problem with the CSI Software and/or any other software, hardware, or equipment not covered by this Agreement; (h) damage to optical or magnetic media or any work effort associated with copying, reconstructing, or restructuring files or data; (i) damage resulting from radiation, radioactivity, ultraviolet light, or similar agents; (j) training services other than those expressly provided for without charge pursuant to the terms of the MSA; (k) CSI Software removed or detached from the Customer's network or system; or, (l) modifications made to the CSI Software or to any of the Specifications requested by Customer. Travel costs incurred by CSI, with the prior written approval of the Customer, including, without limitation, mileage, air fare, meals, lodging, and similar items for services performed by CSI outside the scope of the Covered Maintenance Services shall be the sole responsibility of Customer.

(10) Response Times. CSI will respond within four (4) hours for standard support issues and within one (1) hour for system outage issues (but only during the Basic Maintenance Period) as calculated from CSI's receipt of a request or notice from Customer of the need for Conformity Maintenance Services or CSI's receipt of a request or notice from Customer for Online Support or Telephone Support to resolve such issues. Any such request or notice from Customer will, to the extent possible, identify any Critical Defect, and, in connection with the provision of any Conformity Maintenance Service, Online Support, and/or Telephone Support, Customer will, at its own expense, provide its full good faith support and cooperation with CSI's efforts at resolution. CSI will use its good faith efforts to correct any Critical Defect within twenty-four (24) hours after its receipt of the request or notice from Customer regarding the applicable Critical Defect. Any Non-Critical Defect as agreed to by CSI and the Customer will be corrected, before the earlier of: (a) thirty (30) days following the date of the next release (following notice of Defect from Customer) of an Enhancement relating to the applicable CSI Software component; or, (b) six (6) months following notice of Defect from Customer. In this instance of a Non-Critical Defect, CSI will provide the Customer with interim alternative solutions, provided such is available to address such Non-Critical Defect. Support and Maintenance may be initiated by the Customer outside of the Basic Maintenance Period and will be provided by CSI 24x7 on a best effort basis having the cost for such billed as provided for in Billable Call Maintenance.

(11) Billable Call Maintenance. Any maintenance service or related service or training other than Covered Maintenance Services will be charged at the rate of \$181.25 per hour, which rate will not exceed a 5% increase each year. Such rates apply to time spent performing maintenance, including travel time. The minimum charge for billable call maintenance is one-half hour (1/2 hour). Should billable call maintenance services require travel to the Customer's site, travel costs, subsistence and lodging will be billed to Customer at CSI's actual costs. All charges for billable call maintenance shall be due and payable within thirty (30) days following proper invoice by CSI.

(12) Taxes. All Maintenance and Support Fees and all other charges payable hereunder are exclusive of federal, state, and local Taxes. If Customer is tax exempt, it shall have no liability for taxes.

(13) LIMITATION OF LIABILITY. IN NO EVENT SHALL CSI OR CUSTOMER BE RESPONSIBLE UNDER THE TERMS OF THIS AGREEMENT OR OTHERWISE FOR ANY INCIDENTAL, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF DATA, LOSS OF PROFITS, AND/OR LOSS OF USE OF PRODUCT) EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSS OF USE. IN NO EVENT WILL CSI'S LIABILITY RELATING TO THIS AGREEMENT FOR DAMAGES, UNDER ANY THEORY OF LIABILITY OR FORM OF ACTION, IN THE AGGREGATE FOR ALL CLAIMS EXCEED FIFTY PERCENT (50%) OF THE TOTAL AMOUNT OF THE MAINTENANCE AND SUPPORT FEES PAID BY CUSTOMER TO CSI FOR THE TWELVE (12) MONTH PERIOD OF MAINTENANCE PRECEDING THE EVENT THAT CAUSED SUCH DAMAGES. THE LIMITATIONS OF LIABILITY HEREUNDER SHALL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE WITH THE EXCEPTION OF WILLFUL MISCONDUCT, AND GROSS NEGLIGENCE. CUSTOMER AND CSI UNDERSTAND THAT THE FEES CHARGED OR AGREED TO BE PAID HEREUNDER SPECIFICALLY REFLECT THE ALLOCATION OF RISK AND EXCLUSION OF DAMAGES PROVIDED FOR IN THIS SECTION, AND THAT THE REMEDIES PROVIDED HEREUNDER ARE ADEQUATE.

(14) Excusable Delays. Notwithstanding any other term or provision hereof, neither party shall be liable for delays in delivery, failure to deliver, or otherwise to perform any obligation hereunder when such delay or failure arises from causes beyond the reasonable control of such party, including, without limitation, such causes as acts of God or public enemies, labor disputes, supplier or material shortages, hurricanes, public building closures on a county wide basis, embargoes, rationing, acts of local, state, or national governments or public agencies, utility or communication failures, fire, flood, storms, earthquake, settling of walls or foundations, epidemics, riots, terrorism, civil commotion, strikes, or war.

(15) Termination.

(a) *Termination at Will Upon Conclusion of Term.* During the Initial Term or any Subsequent Term of this Agreement, neither Party shall terminate this Agreement for reasons other than those expressly provided for in this Agreement; *provided, however*, that either Party hereto may terminate this Agreement at any time as of and effective at the conclusion of the Initial Term or any Subsequent Term upon written notice to the other Party given not later than ninety (90) days prior to the conclusion of the then current term of this Agreement. Notwithstanding such termination, if Customer is not in

default under this Agreement, and CSI elects to discontinue services by terminating this Agreement as set forth above, CSI must cooperate with Customer by providing documentation, written technical materials and reasonable technical assistance as necessary to ensure Customer's ability to continue to utilize the CSI Software so long as the MSA remains in effect. Customer will warrant and agree to maintain the confidentiality of all materials and documentation.

(b) *Termination by CSI for Non-Payment or Upon Termination of License under MSA.* CSI may terminate this Agreement and its obligation to provide Covered Maintenance Services or any other service hereunder upon written notice to Customer in the event Customer fails to make any payment when due to CSI after twenty (20) days' notice of such failure to pay from CSI. This Agreement shall automatically terminate in the event the MSA or the subject Statement of Work is terminated upon the effective date of termination of the MSA and/or any subject Statement of Work. No termination pursuant to this subsection shall relieve Customer of its accrued payment obligations to CSI up to the date of termination.

(c) *Termination by Customer.* Customer may terminate this Agreement for "cause" in accordance with this Section. For purposes of this Section, "cause" means a continuous, repeated, and substantial systemic failure of the CSI Software as identified and documented by the Customer. In such event, the Customer shall deliver written notice of its intent to terminate along with a description in reasonable detail of the problems for which the Customer is invoking its right to terminate this Agreement under this Section. Following such notice, CSI shall have sixty (60) days to cure such problems. Following the sixty (60) day period, CSI and Customer representatives will meet to discuss any outstanding issues. In the event that "cause" still exists at the end of such period, then the Customer may terminate this Agreement. In the event of a termination under this Section, CSI shall return a portion of the Maintenance and Support Fees paid in advance by the Customer to CSI on a prorata basis for the CSI Software directly involved with CSI's breach (based on the remainder of the term) and Customer shall have no further obligations under this Agreement.

(d) *General Effect of Termination.* No termination of this Agreement shall relieve any Party hereto of any payment obligation that has accrued or been earned up to the date of termination, or shall terminate any right or remedy available to a Party as a consequence of any breach of this Agreement prior to the effective date of termination.

(e) *Reinstatement of Maintenance.* In the event this Agreement is terminated (except for an uncured breach by CSI), and then Customer subsequently elects to obtain any CSI Software support services provided hereunder, such services will be available for CSI's current yearly fee, plus a one-time fee equal to the sum of all missed Maintenance and Support Fees, providing the Customer has installed the most current Version Release of the applicable CSI Software.

(16) Miscellaneous Provisions. All applicable miscellaneous provisions in Section 21 of the MSA are hereby incorporated into this Agreement by this reference.

[Signature page follows]

IN WITNESS WHEREOF, this Agreement has been executed by a duly authorized officer of each Party hereto as of the date first above written.

**Sal, Johnson & associates, Inc. d/b/a
Computing System Innovations**

__Hidalgo County Texas __
[INSERT CUSTOMER NAME ABOVE]

By: _____

By: _____

Date: _____

Date: _____

Name: Henry Sal
Title: President

Name: _____
Title: _____

Address: 791 Piedmont Wekiwa Road
Apopka Florida 32703

Address: _____
