Northland Hosted Dictation Services Software Subscription Agreement

THIS AGREEMENT ("Agreement") is hereby entered into between **Northland Business Systems, Inc.,** a company with offices at 12150 Nicollet Avenue, Burnsville, Minnesota 55337 ("Company") and City of Duluth Police Department, a company with offices at 2030 N Arlington Ave, Duluth, MN 55811 on the following terms and conditions:

PART A.   DEFINITIONS

Affiliate means an entity controlling, controlled by or under common control with a Party.

Customer Data means any data that Customer loads or enters into the Service and all results from processing such data, including compilations and derivative works thereof.

Effective Date means the contract date on the Order Form.

End-User means an individual who uses the Service for immediate or near-immediate consumption, and not for resale or redistribution to others.

Generally Available means a feature is released generally to un-affiliated commercial customers. Limited beta and pre-release versions are not generally available.

Intellectual Property Rights mean any copyright, trademark, patent, trade secret or data privacy right of any third person valid under the National Law or in the Local Jurisdiction.

Order Form means the Order Form for Customer's initial subscription to the Service and any future Order Forms that may be executed manually by the Parties or submitted electronically through the Company's online ordering system.

Personnel mean Customer employees and contractors who are bound by confidentiality restrictions at least as restrictive as this Agreement provides.

Service means the software and associated documentation specified in the Order Form and accessed via a URL as the Company may specify.

Subscription Period means the period during which the Customer may use particular features of the Service, commencing with the Start Date and expiring on the End Date specified in the applicable Order Form.

User means Personnel who use the Service through User IDs issued under this Agreement.

PART B.   SERVICE DESCRIPTION

1. **Subscribing to the Service.** Customer will subscribe to the Service under one or more Order Forms specifying the features of the Service and the terms and conditions applicable to that Order. Order Forms shall be executed manually by the Parties or submitted electronically through the Company's online ordering system. In the event of any conflict between this Agreement and an Order Form, the Order Form shall control, except this Agreement shall govern all issues relating to Intellectual Property Rights, warranty, indemnity and liability issues.

    (a) **Initial Service.** Customer is entering into an initial Order Form upon execution of this Agreement. Company will provide the Service described in the initial Order Form to Customer for the Subscription Period specified therein according to such Order Form and this Agreement.

    (b) **Additional Service.** Additional Order Forms may be entered into by the Parties to subscribe to additional or different features of the Service. Unless designated as replacing a specific outstanding Order Form, a new Order Form will be considered in addition to currently outstanding Order Forms.

2. **Permitted Use.** Subject to the terms and conditions of this Agreement, Customer is granted the following usage rights for the Service described in the Order Form(s):

    (a) **Accessing User Accounts.** Company will issue User IDs needed by Customer to access and use the Service features specified in the applicable Order Form during the Subscription Period. Customer will only access and use the Service through the User IDs issued by Company. Customer Personnel will not share User IDs with each other

or with third parties. Company may rely on any User ID, instruction or information that meets the Service's automated criteria or which is believed by Company to be genuine. Company may assume a person entering a User ID and password is, in fact, that user. Company may assume the latest email addresses and registration information on file with the Service are accurate and current. When programmed to do so, the Service may take prescribed actions in the absence of receiving proper and complete contrary instructions.

(b) **Data Preparation & Configuration.** Customer will ensure that: (i) Customer Data is in proper format as specified by the Documentation; (ii) its Personnel are familiar with the use and operation of the Service, and (iii) no other software, data or equipment having an adverse impact on the Service has been introduced. Customer will load the Customer Data and configure the Service, any Updates and its internal processes as needed to operate the Service and any Updates in Customer's computing environment.

(c) **Evaluation Use.** The Service includes a fully functional "sandbox" where Customer may load test data and evaluate features of the Service before deciding whether to subscribe. Company will issue Test IDs for this purpose. The testing account permits Customer to deploy the Service in a production environment for a period not to exceed thirty (30) calendar days. Following completion of the test period, Customer may execute an Order Form for a subscription or the testing account will be terminated and all Customer Data deleted from the test area. Use of the Service beyond the test period requires Customer to execute an Order Form.

(d) **Type of Subscription.** With respect to each Service feature referenced on an Order Form, and for which the applicable Subscription Fee is paid when due, Customer is granted a nonexclusive license to access the Service through the User IDs, to load Customer Data and to operate the features of the Service during the Subscription Period according to the Documentation under normal circumstances.

　　(i) **User Based Subscription.** Customer Personnel may access and use the Service through User IDs up to the number of Users specified on the Order Form. Customer is responsible for all activity occurring under its User IDs. Customer may request Company to add/drop User IDs as reasonably needed to accommodate changes in Customer workforce. Customer is not entitled to a refund for any unused or unassigned User IDs.

　　(ii) **Reservation of Rights.** Company expressly reserves all rights in the Service not specifically granted to Customer. It is acknowledged that all right, title and interest in the Service will remain with Company (or third party suppliers, if applicable) and that the Service is licensed on a subscription basis and not "sold" to Customer. Customer expressly reserves all rights in the Customer Data, except the limited right of Company to use the Customer Data in operating the Service features for Customer's benefit. Unless specifically agreed in writing, each Party's exclusive ownership rights extend to any update, adaptation, translation, customization or derivative work thereof.

3. **Transfer of Agreement.** Customer may transfer and assign this entire Agreement to a successor-in-interest acquiring all or substantially all its assets or operations (other than a direct competitor of Company), upon thirty (30) days advance written notice to Company, without payment of any transfer or administrative fee. Such transfer shall be conditioned upon payment of any past due amounts and the transferee's execution of a written agreement in a form acceptable to Company. After such transfer, Customer's User IDs and account shall be terminated and Customer shall cease all further use of the Service. Except as expressly stated herein, neither this Agreement, nor any rights or obligations hereunder, may be transferred, assigned, delegated, sublicensed, time-shared, or rented, in whole or in part, by Customer without Company's prior written consent and any attempt to the contrary shall be void and of no legal effect.

4. **Term.** The term of this Agreement ("Term") shall commence on the Effective Date and continue until all outstanding Subscription Periods under Order Forms for the Service expire or are terminated in accordance with Section 14 ("Termination"). Expiration or termination of one Order Form shall not affect any other Order Form, unless the Agreement as a whole is terminated under Section 14 ("Termination").

5. **User Documentation.** The Service contains online Documentation describing the operation of the Service under normal circumstances. The Service is provided to Customer and shall be used strictly in machine-readable object code format. Any Application Programming Interfaces (APIs) shall be used solely to operate the Service according to the Documentation and for no other purpose. Except as expressly stated, no source code or technical-level documentation to the Service are licensed under this Agreement.

6. **Acceptance.** The Service features described in an Order Form shall be deemed accepted by Customer unless Customer notifies Company in writing of a material defect in the Service within ten (10) business days after the Start Date. If material defects are identified, Company shall have a reasonable opportunity to correct them, or provide a functional workaround.

7. **Support Service.** Customer may receive the following Support Service:

(a) **Web & Hotline Support.** Customer's designated representative shall have access to Company's technical support web site and may use call-in technical support as specified in the Service Level Agreement attached hereto as

Exhibit A. On-site support is not included and any out-of-scope work shall be subject to Company's standard hourly rate.

(b) Service Upgrades. Customer shall receive Generally Available Updates as designated by the Company in its discretion, and at no additional charge.

(c) Certain Conditions. Company shall not be obligated to provide Support Service if: (i) the reported error was caused by changes in Service code, program parameters or other user adjustable features; (ii) the error results from operator error, errors in Customer Data or software not supplied by Company or use that is not in accordance with the Documentation; (iii) the error is in a prior release that was corrected through issuance of an Upgrade that Customer has failed to implement, or (iv) the Customer has failed to pay any required fee or is otherwise in default of this Agreement. To the extent, if any, that the Service is third party software (such as operating systems or third party data or applications), it is acknowledged that Company's performance may be impacted by the level of support provided by such third parties. Support Service does not include preparation of Customer Data, configuration or customization of Service features needed to function in Customer's production environment.

(d) Training. In consideration of Customer's payment of the published Training Fee, Customer Personnel may attend any training sessions provided by Company in the use and operation of the Service. Training will be conducted at Company's training facility and at Customer's location. Customer will reimburse Company's reasonable travel costs.

8. **Fees & Payment.**

(a) Subscription Fees. Unless otherwise expressly stated on an Order Form, Customer will pay an annual Subscription Fee for the Service each year in advance. Subscription Fees are invoiced starting upon the Start Date of Service under the Order Form. Invoices are payable net Thirty (30) days. All prices are stated and payable in U.S. Dollars. Customer may select prices available on the Effective Date of this Agreement for any Order Form placed within one (1) year thereafter. Notwithstanding any other provision hereof, for a period of two (2) years from the Effective Date of this Agreement, prices shall not increase during the Term by more than three (3) percent per year.

(b) Data Storage & Backup Fees. The price of the Service includes up to **25 Gigabytes** of online data storage and **nightly** data backups. Company will rotate backup media through off-site storage facilities. Company shall endeavor to notify Customer when its usage approaches ninety-five (95) percent of the allotted storage space. Any additional data storage shall be at Company's applicable rates hereunder or as otherwise specified in an Order Form.

(c) Late Payment. Customer may not withhold or "setoff" any amounts due hereunder. Company reserves the right to suspend Service until all past due amounts are paid in full after giving Customer advance written notice and an opportunity to cure as specified in Section 13 ("Notices") and Section 14 ("Termination").

(d) Certain Taxes. Prices quoted do not include and Customer shall pay, indemnify and hold Company harmless from all sales/use, gross receipts, value-added, GST, personal property or other tax (including interest and penalties imposed thereon) on the transaction contemplated herein, other than taxes based on the net income or profits of Company.

9. **Confidential & Proprietary Information.** For purposes of this Section, a Party receiving Confidential & Proprietary Information (as defined below) shall be the "Recipient" and the Party disclosing such information shall be the "Discloser".

(a) Acknowledgment. Customer hereby acknowledges that the Service (including any Documentation, source code, translations, compilations, partial copies and derivative works) contains confidential and proprietary information belonging exclusively to Company (or its designated third party supplier), and Company hereby acknowledges that Customer Data contains confidential and proprietary information belonging exclusively to Customer or relating to its affairs (in each case, "Confidential & Proprietary Information"). Confidential & Proprietary Information does not include: (i) information already known or independently developed by Recipient outside the scope of this relationship by personnel not having access to any Confidential & Proprietary Information; (ii) information in the public domain through no wrongful act of Recipient, or (iii) information received by Recipient from a third party who was free to disclose it.

(b) Covenant. Recipient hereby agrees that during the Term and at all times thereafter it shall not use, commercialize or disclose such Confidential & Proprietary Information of the Discloser to any person or entity, except to its own personnel having a "need to know" (and who themselves are bound by similar nondisclosure restrictions), and to such other recipients as the Discloser may approve in writing; provided that all such recipients shall have first executed a confidentiality agreement in a form acceptable to Discloser. Recipient shall not: (i) alter or remove from any Confidential & Proprietary Information of the Discloser any proprietary legend, or (ii) decompile, disassemble or reverse engineer the Confidential & Proprietary Information (and any information derived in violation of such covenant shall automatically be deemed Confidential & Proprietary Information owned exclusively by the Discloser).

Recipient shall use at least the same degree of care in safeguarding the Confidential & Proprietary Information of the Discloser as it uses in safeguarding its own confidential information, but in no event shall less than due diligence and care be exercised. Upon termination or expiration of this Agreement, and regardless of whether a dispute may exist, Recipient shall return or destroy (as instructed by Discloser) all Confidential & Proprietary Information of Discloser in its possession or control and cease all further use thereof.

(c) **Injunctive Relief.** Recipient acknowledges that violation of the provisions of this Section would cause irreparable harm to Discloser not adequately compensable by monetary damages. In addition to other relief, it is agreed that injunctive relief shall be available without necessity of posting bond to prevent any actual or threatened violation of such provisions.

10. **Warranties.**

(a) **Non-infringement Warranty.** Company represents and warrants to the best of its knowledge and belief that the Service, when properly used as contemplated herein, will not infringe or misappropriate any Intellectual Property Rights. Upon being notified of such a claim, Company shall at its option: (i) defend through litigation or obtain through negotiation the right of Customer to continue using the Service; (ii) rework the Service so as to make it non-infringing while preserving the original functionality, or (iii) replace the Service with functionally equivalent software. If none of the foregoing alternatives provide an adequate remedy, Customer may terminate all or any part of this Agreement and recover amounts paid for the infringing Service. Customer represents and warrants that it owns or has all requisite rights to use the Customer Data with the Service, and to authorize Company to process Customer Data as contemplated herein, and that such use will not infringe or misappropriate any Intellectual Property Rights.

(b) **Limited Performance Warranty.** Company represents and warrants during the Subscription Period that the Service operates substantially in accordance with the applicable Documentation; provided, that (i) the Service is implemented and operated in accordance with all instructions supplied by Company; (ii) Customer notifies Company of any such defect within ten (10) calendar days after the appearance thereof; (iii) Customer has properly used all updates made available with respect to the Service, and updates recommended by Company with respect to any third party software products that materially affect the performance of the Service; (iv) Customer has properly maintained all associated equipment, software and environmental conditions in accordance with applicable specifications and industry standards; (v) Customer has not introduced other equipment or software creating an adverse impact on the Service; (vi) Customer has paid all amounts due hereunder and is not in default of any provision of this Agreement; (vii) any legacy software with respect to which the Service is to operate contains clearly defined interfaces and correct integration code, and (viii) Customer has made no changes (nor permitted any changes to be made other than by or with the express approval of Company) to the Service source code, if any is licensed hereunder.

(c) **Year 2000 Standards.** Company represents and warrants during the Subscription Period that the Service records, stores, recognizes, interprets, processes and presents both 20th and 21st century dates (including leap years) using four digit years substantially according to formats and assumptions specified in the Documentation. This warranty is subject to the conditions described in the preceding subsection, and does not apply insofar as the Service derives date functions from other programs (e.g., operating system run-time libraries, databases or firmware) nor does it require Company to workaround or accommodate other programs that are not compliant with Year 2000 Standards.

(d) **Anti-Virus Checking.** Company represents that it will prior to making a feature of the Service Generally Available scan it with commercially available anti-virus software and shall use reasonable efforts to remove viruses capable of being detected with such software.

(e) **Warranty Disclaimer.** EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION ("WARRANTIES") THE COMPANY HEREBY DISCLAIMS WITH RESPECT TO ALL SERVICES, SUPPORT OR OTHER DELIVERABLES PROVIDED HEREUNDER, ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, ACCURACY, QUALITY, INTEGRATION OR FITNESS FOR A PARTICULAR PURPOSE. COMPANY DOES NOT WARRANT THAT THE SERVICE WILL OPERATE WITHOUT INTERRUPTION OR ERROR FREE. ANY UNAUTHORIZED CHANGES TO SOURCE CODE TO THE SERVICE WILL VOID THE WARRANTY PROVIDED UNDER THIS SECTION.

(f) **Not Fault Tolerant.** THE SERVICE IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATIONS SYSTEMS, AIR TRAFFIC CONTROL, DIRECT LIFE SUPPORT MACHINES, OR WEAPONS SYSTEMS, IN WHICH THE FAILURE OF THE SERVICE COULD LEAD TO DEATH, PERSONAL INJURY OR PHYSICAL OR ENVIRONMENTAL DAMAGE. TO THE EXTENT CUSTOMER USES THE SERVICE IN SUCH ENVIRONMENT, IT EXPRESSLY ASSUMES ALL RISK THEREFORE.

11. **Mutual Indemnity.**

(a) **By Company.** Company shall defend, indemnify and hold Customer harmless from any claim (including attorney fees) that Company violated Section 9 ("Confidentiality & Proprietary Information") or that the Service in the form provided violates or infringes any Intellectual Property Rights; provided that Company is given prompt notice of the claim and sole control over the defence and any settlement thereof (except Company shall not enter into any settlement prejudicial to Customer without Customer's consent). Company is not obligated under this Section to the extent any claim arises from Customer's breach of this Agreement or use of the Service in combination with any software, data, process or technology not supplied by Company (where there would be no claim, but for such combination) or unless Customer provides Company its reasonable cooperation at Company's expense.

(b) **By Customer.** Customer shall defend, indemnify and hold Company harmless from any claim (including attorney fees) that Customer violated Section 9 ("Confidentiality & Proprietary Information") or that Customer Data or Customer's use of the Service harms any person, violates any law or infringes any Intellectual Property Rights; provided that Customer is given prompt notice of the claim and sole control over the defence and any settlement of any third party claim (except Customer shall not enter into any settlement prejudicial to Company without Company's consent). Customer is not obligated under this Section to the extent any claim arises from Company's breach of this Agreement or use of Customer Data in combination with any software, data, process or technology not supplied by Customer (where there would be no claim, but for such combination) or unless Company provides Customer its reasonable cooperation at Customer's expense.

12. **Limitation of Remedies & Liabilities.** The Parties acknowledge that the following provisions have been negotiated by them and reflect a fair allocation of risk:

(a) **Remedies.** Except for indemnified claims under Section 11 ("Mutual Indemnity") or rights or indemnities expressly stated under other provisions hereof and limited remedies specified under Exhibit A ("Service Level Agreement"), Customer's sole and exclusive remedies for Company's default hereunder shall be (i) to obtain the repair, replacement or correction of the defective Service to the extent, if any, warranted under Section 10 ("Warranties") or, (ii) if Company reasonably determines that such remedy is not economically or technically feasible, to obtain an equitable partial or full refund of amounts paid with respect to the defective Service. It is agreed that these remedies shall be exclusive even if they fail of their essential purpose.

(b) **Liabilities.** EXCEPT FOR INDEMNITIES EXPRESSLY PROVIDED BY THIS AGREEMENT, NEITHER PARTY IS LIABLE FOR DIRECT DAMAGES EXCEEDING ONE (1) YEAR'S SUBSCRIPTION FEES PAYABLE UNDER THE ORDER FORM AT ISSUE, NOR FOR ANY CLAIM, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOST SAVINGS, LOST PROFIT OR BUSINESS INTERRUPTION EVEN IF NOTIFIED IN ADVANCE OF SUCH POSSIBILITY) ARISING OUT OF OR PERTAINING TO THIS AGREEMENT. THIS LIMITATION IS INDEPENDENT OF REMEDY LIMITS.

13. **Notices.** Notices sent to either Party shall be effective when delivered in person or transmitted by fax machine, one (1) day after being sent by overnight courier, or two (2) days after being sent by first class mail postage prepaid to the Official Contact designated on the signature page hereof. A facsimile of this Agreement and notices generated in good form by a fax machine (as well as a photocopy thereof) shall be treated as "original" documents admissible into evidence unless a document's authenticity is genuinely placed in question.

14. **Termination.**

(a) **Generally.** Either Party may, in addition to other relief, suspend or terminate an Order Form or this Agreement if the other Party breaches any material provision hereof and fails within thirty (30) days after receipt of notice of default to correct such default or to commence corrective action reasonably acceptable to the aggrieved Party and proceed with due diligence to completion. Either Party shall be in default hereof if it becomes insolvent, makes an assignment for the benefit of its creditors, a receiver is appointed or a petition in Bankruptcy is filed with respect to the Party and is not dismissed within thirty (30) days.

(b) **Survival.** Termination shall have no effect on the Parties' rights or obligations under Section 9 ("Confidential & Proprietary Information"), rights or obligations under Section 10 ("Warranties"), Section 11 ("Mutual Indemnity"), Section 12 ("Limitation of Remedies & Liabilities"), Section 16 ("Independent Contractor Status"), Section 18 ("Insurance, Indemnity"), Section 19 ("Compliance with Export Regulations"), any payment obligations or any provision which by its nature should survive. Upon termination or expiration of the Term, Company shall make a final backup of Customer Data and provide the backup media to Customer at actual cost of duplication.

15. **Disputes, Choice of Law.** Except for certain emergency judicial relief authorized under Section 9 (c) ("Injunctive Relief"), all disputes arising out of or relating to this Agreement or the subject matter thereof shall be submitted to a single arbitrator who shall be a former judge or attorney having experience in similar disputes. The proceedings shall be conducted pursuant to the Streamlined Arbitration Rules and Procedures and the U.S. Arbitration Act, 9 U.S.C. Sec. 1 et seq. ("Arbitration Act") or other National Law specified below. The award of the arbitrator shall include a written explanation of the decision, shall be limited to remedies otherwise available in court and shall be binding upon the Parties and enforceable in any court of competent jurisdiction. **THIS AGREEMENT SHALL BE GOVERNED BY AND**

CONSTRUED IN ACCORDANCE WITH THE SUBSTANTIVE LAWS OF THE UNITED STATES ("NATIONAL LAW") AND MINNESOTA ("LOCAL JURISDICTION"), WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. THE PARTIES WILL INITIATE ANY DISPUTE RESOLUTION PROCEEDING IN SUCH LOCAL JURISDICTION AND IRREVOCABLY CONSENT TO EXCLUSIVE PERSONAL JURISDICTION AND VENUE THEREIN. The U.N. Convention on Contracts for the International Sale of Goods and the Unfair Contracts Act in the United Kingdom shall not apply to this Agreement.

16. **Independent Contractor Status.** Each Party and its people are independent contractors in relation to the other Party with respect to all matters arising under this Agreement. Nothing herein shall be deemed to establish a partnership, joint venture, association or employment relationship between the Parties. Each Party shall remain responsible, and shall indemnify and hold harmless the other Party, for the withholding and payment of all Federal, state and local personal income, wage, earnings, occupation, social security, worker's compensation, unemployment, sickness and disability insurance taxes, payroll levies or employee benefit requirements now existing or hereafter enacted and attributable to themselves and their respective people.

17. **Security, No Conflicts.** Each Party agrees to inform the other of any information made available to the other Party that is classified or restricted data, agrees to comply with the security requirements imposed by any state or local government, or by the United States Government, and shall return all such material upon request. Each Party represents and warrants that its participation in this Agreement does not conflict with any contractual or other obligation of the Party or create any conflict of interest and shall promptly notify the other Party if any such conflict arises during the Term.

18. **Insurance, Indemnity.** Each Party shall maintain adequate insurance protection covering its respective activities hereunder, including coverage for statutory worker's compensation, comprehensive general liability for bodily injury and tangible property damage, as well as adequate coverage for vehicles. Each Party shall indemnify and hold the other harmless from liability for bodily injury, death and tangible property damage resulting from the negligent or wilfully injurious acts or omissions of its officers, agents, employees or representatives acting within the scope of their work.

19. **Compliance with Export Regulations.** Customer has or shall obtain in a timely manner all necessary or appropriate licenses, permits or other governmental authorizations or approvals; shall indemnify and hold Company harmless from, and bear all expense of, complying with all foreign or domestic laws, regulations or requirements pertaining to the importation, exportation, or use of the technology to be developed or provided herein. Customer shall not directly or indirectly export or re-export (including by transmission) any regulated technology to any country to which such activity is restricted by regulation or statute, without the prior written consent, if required, of the administrator of export laws (e.g., in the U.S., the Bureau of Export Administration of the U.S. Department of Commerce). This provision and the assurances made herein shall survive termination of this Agreement.

20. **Government End-Users.** The Service and related Documentation are "Commercial Items" as defined at 48 C.F.R. 2.201, 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. 227.7202-1 through 227.7202-4, as applicable. The Service and Documentation are being licensed to U.S. Government End-Users: (a) only as Commercial Items and (b) with only those rights as are granted to all other End-Users pursuant to the terms of this Agreement. Unpublished rights are reserved under U.S. Copyright Law. The Contractor is Northland Business Systems, Inc., with offices at Burnsville, Minnesota.

21. **Miscellaneous.** This document and the accompanying Exhibits constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all other communications, whether written or oral. This Agreement may be modified or amended only by a writing signed by the Party against whom enforcement is sought. Except as specifically permitted herein, neither this Agreement nor any rights or obligations hereunder may be transferred or assigned by Customer without Company's prior written consent and any attempt to the contrary shall be void. Company reserves all rights not specifically granted herein. Neither Party shall be liable for delays caused by events beyond its reasonable control, except non-payment of amounts due hereunder shall not be excused by this provision. Any provision hereof found by a tribunal of competent jurisdiction to be illegal or unenforceable shall be automatically conformed to the minimum requirements of law and all other provisions shall remain in full force and effect. Waiver of any provision hereof in one instance shall not preclude enforcement thereof on future occasions. Headings are for reference purposes only and have no substantive effect.

IN WITNESS WHEREOF, for adequate consideration and intending to be legally bound, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives.

Customer	name	City of Duluth Police Department

company number	
address for notices	2030 N Arlington Ave, Duluth, MN 55811
Attention	Kerry Cronin
tel / fax	218-730-5422 fax
Cc	kcronin@DuluthMN.gov
Acceptance	The Customer agrees to the conditions of this Agreement
Signature	See below
name (print)	
Position	date
Company	Northland Business Systems, Inc. ("Northland")
address for notices	12150 Nicollet Avenue, Burnsville, Minnesota 55337
Attention	Sales Manager
Tel	(952) 894 4204 fax (952) 894 7903
Acceptance	Northland agrees to the conditions of this Agreement
Signature	
name (print)	
Position	date

EXHIBIT A

SERVICE LEVEL AGREEMENT

THIS SERVICE LEVEL AGREEMENT ("SLA") is entered into under the terms of a certain Software Subscription Agreement between **Northland Business Systems, Inc.**, a company with offices at 12150 Nicollet Avenue Burnsville, Minnesota 55337 ("Company") and City of Duluth Police Department, a company with offices at 2030 N Arlington Ave, Duluth, MN 55811 dated November 25, 2019 (the "Agreement").

1. **Definitions.** The following capitalized terms, and any defined terms in the Agreement, shall apply to the SLA:

Total Minutes means the total minutes in each full calendar quarter of operation by the Company. A partial quarter at the beginning or end of a Subscription Period shall not be counted or subject to the Service Level Commitment.

Generally Available means the Service, in substantial whole, is available for use by Customers (disruptions to non-material features or features not used by Customer, even if available less than 99.9% of the time, shall not be counted).

Excluded Events means Scheduled Downtime and Force Majeure Events, as follows:

* **Scheduled Downtime** means downtime that is scheduled by Company with at least twelve (12) hours notice to Customer, not to exceed six (6) Scheduled Downtime events per month. Company will try to avoid scheduling downtime during normal work hours or peak usage hours for the Service.

* **Force Majeure Event** means events beyond Company's direct fault and control including, without limitation, acts of God, strikes, lockouts, riots, war, terrorism or other civil disturbance, earthquakes, weather, fires, explosions, disruptions of communications and other essential services, labor stoppages, computer viruses and malicious attacks.

Response Time means the time it takes Company's server to transmit the first data packet in response to a query received from the Customer's computer, as measured in milliseconds by Company's systems.

Service Availability is calculated against the Commitment as follows:

(Total Minutes - Unscheduled Downtime - Excluded Events) / (Total Minutes - Excluded Events) x 100 = 99.9% or higher

2. **Service Level Commitment.**

(a) **Service Operation.** Company promises Customer that the Service will be Generally Available at least 99.9% of the time during each calendar quarter, and that Call-in Support will meet the Support Commitment set forth below, except for Excluded Events ("Commitment"). If Company does not meet the Commitment, Customer will be entitled to receive the Free Days described below.

(b) **Call-In Support.** Call-In Maintenance Service will be available during Normal Hours of Operation (currently 8:00 a.m. to 5:00 p.m., Company local time). The Company may provide extended hours to respond to Priority 1 service requests.

    (i) **Submitting Service Requests.** Customer's designated contact person will submit service requests, via Northland's call-in support line or Website, according to Company instructions. The service request should assign a Severity Level and adequately describe and document the reported error so it can be reproduced. Company may re-characterize the Severity Level and charge for Consulting Maintenance Service if the Severity Level appears materially inaccurate.

    (ii) **Severity Level.** The Severity Level means a perceived error in the Service is reportedly having the following impact on Company's business:

        'Priority 1' means the reported error is having a material impact on critical business operations at the enterprise level that cannot be worked around and which needs to be corrected as soon as reasonably possible (e.g., transaction processing application for e-commerce system has crashed and cannot be rebooted).

        'Priority 2' means the reported error is having a material impact on important business operations that can be worked around or deferred for only a limited period of time (e.g., delay in daily reports is causing

work stoppages).

'Priority 3' means the reported error is degrading business operations in a way that delays or interferes with some non-critical business operations and can be worked around for a reasonable time (e.g., slowdown in generation of reports that need to be produced in the next few days).

'Priority 4' means the reported error is having a minor impact on business operations that can be worked around and a fix should be included in the next Service Update (e.g., cosmetic changes to screen layouts, requests for feature enhancements or updates to Documentation).

(iii) **Response to Service Request.** Response time begins when Company logs-in a service request in proper form from the Customer's authorized contact. Service requests received after Normal Hours are logged at the beginning of the next business day (except Code Red cases may be logged sooner if Company personnel are available). Response time ends with Company's notice that it has commenced diagnosis and error correction efforts. Company's Response Time Commitment is as follows:

Severity Level	Response Time Commitment
Priority 1	Within one (1) hour
Priority 2	Within four (4) hours
Priority 3	Next Working Day
Priority 4	Reasonable Time

3. **Free Days.** If Company fails to meet its Commitment in any quarter of the Subscription Period, Customer will be entitled to receive 10 free days of Service ("Free Days") added to the beginning of the next Subscription Period.

4. **Claims Procedure.**

(a) **Generally.** Customer must request Free Days by sending an email to Company at: dleyde@northlandsys.com within fifteen (15) days after the end of the period to which it relates. The email will identify Customer, this Agreement, the period to which the claim relates and include supporting calculations, which will be compared to Company records. If disputed, Company shall provide Customer reports of system performance. Company's report prepared in the ordinary course of business shall be deemed correct unless demonstrated to be clearly erroneous. Free Days are Customer's sole and exclusive remedy for claims relating to failure to meet SLA Commitments and are forfeited if a claim is not made in the time and manner specified. The maximum Free Days to be issued to Customer in any year of the Subscription Period shall not exceed 40.

(b) **Important Conditions.** This Exhibit does not apply and Free Days shall be forfeited if Customer has been given written notice of material breach under Section 13 ("Notices") and Section 14 ("Termination") and has not cured such breach as set forth therein.

5. **Termination for Convenience.** If Company fails to meet the Commitment during any consecutive three (3) quarter period, Customer may terminate the Order Form (or such part of the Order as relates to deficient Service) "for convenience" by giving Company written notice at least ten (10) days after the end of such three (3) quarter period. On termination for convenience, Customer shall receive the prorated refund and any pre-paid Subscription Fees from the date of termination through the Subscription End Date. Alternatively, Customer may give written notice of breach in accordance with Section 13 ("Notices") and Section 14 ("Termination"), subject to Company's right to cure set forth therein and any damage claims by Customer permitted by this Agreement if such cure is not forthcoming.

DATA SECURITY POLICY SUMMARY

Northland has created this data security statement ("Statement") in order to demonstrate our commitment to customer privacy. Privacy on the Northlandsys.com web site (the "Site") is of great importance to us. Because we gather important information from our visitors and customers, we have established this Statement as a means to communicate our information gathering and dissemination practices. We reserve the right to change this Statement and will provide notification of the change at least thirty (30) business days prior to the change taking effect.

Collected Information:
We require customers who register to use the services offered on our Site (collectively, the "Service") to give us contact information, such as their name, company name, address, phone number, and e-mail address, and financial qualification and billing information, such as billing name and address, credit card number, and the number of users within the organization that will be using the Service. At the time you express interest in attaining additional information, or when you register for the Service, we may also ask for additional personal information, such as title, department name, fax number, or additional company information, such as annual revenues, number of employees, or industry. Customers can opt out of providing this additional information by not entering it when asked.

Northland uses the information that we collect to set up the Service for individuals and their organizations. We may also use the information to contact customers to further discuss customer interest in our company, the Service that we provide, and to send information regarding our company or partners, such as promotions and events. Customers are invited to receive an email newsletter by providing an email address. Customer email addresses and any personal customer information will not be distributed or shared with third parties. We may also email information regarding updates to the Service or company, and will send a Customer Newsletter. Again, email will not be distributed or shared and customers can opt out of receiving any communication by emailing solutions@northlandsys.com at the time it is distributed, or at the time any customer registers for the Service.

Except as we explicitly state at the time we request information, or as provided for in the Northland Subscription Agreement, we do not disclose to third parties the information provided. All financial and billing information that we collect through the Site is used solely to check the qualifications of prospective customers and to bill for the Service. This billing information is not used by Northland for marketing or promotional purposes. Northland uses a third-party intermediary to manage the credit card processing. This intermediary is solely a link in the distribution chain, and is not permitted to store, retain, or use the information provided, except for the sole purpose of credit card processing.

Customers of the Service will be using the Site to host data and information ("Data"). Northland will not review, share, distribute, print, or reference any such Data except as provided in the Northland Subscription Agreement, or as may be required by law. Individual records may at times be viewed or accessed only for the purpose of resolving a problem, support issue, or suspected violation of the Subscription Agreement, or as may be required by law. Of course, customers are responsible for maintaining the confidentiality and security of their user registration and password.

Northland may also collect certain information from visitors to and customers of the Site, such as Internet addresses. This information is logged to help diagnose technical problems, and to administer our Site in order to constantly improve the quality of the Service. We may also track and analyze non-identifying and aggregate usage and volume statistical information from our visitors and customers and provide such information to third parties.

Security:
Our Site has security measures in place to help protect against the loss, misuse, and alteration of the Data under our control. When our Site is accessed using Netscape Navigator, or Microsoft Internet Explorer versions 5.5 or higher, Secure Socket Layer (SSL) technology protects information using both server authentication and data encryption to help ensure that Data is safe, secure, and available only to you. Northland also implements an advanced security method based on dynamic data and encoded session identifications, and hosts the Site in a secure server environment that uses a firewall and other advanced technology to prevent interference or access from outside intruders. Finally, Northland provides unique user names and passwords that must be entered each time a customer logs on. These safeguards help prevent unauthorized access, maintain data accuracy, and ensure the appropriate use of Data.

Opt-Out Policy:
Northland offers its visitors and customers a means to choose how we may use information provided. If, at any time after registering for information or ordering the Service, you change your mind about receiving information from us or about sharing your information with third parties, send us a request specifying your new choice. Simply send your request to dleyde@northlandsys.com.

Correcting & Updating Your Information:
If customers need to update or change registration information they may do so by emailing dleyde@northlandsys.com or call 952-894-4204. To discontinue the Service and to have data returned, email dleyde@northlandsys.com or call 952-894-4204. Northland will respond to your correction or update request within at most 30 days from the date of your request.

Additional Information:
Questions regarding this Statement or the practices of this Site should be directed to Northland's Security Administrator by e-mailing such questions to dleyde@northlandsys.com or by regular mail addressed to Northland Business Systems, Inc., Attn: Security Administrator, 12150 Nicollet Avenue South, Burnsville, Minnesota 55337.

CITY OF DULUTH a Minnesota municipal corporation

By: _____
    Its Mayor

Date: _____

Attest: _____
     City Clerk

Date: _____

Countersigned:

_____
City Auditor

Approved as to form:

_____
City Attorney