



**Schedule B**  
**CityView Escrow Services Agreement**

# CityView/Harris Computer Systems

## Escrow Services Agreement

SERVICES AGREEMENT by and between CityView ("CityView"), a division of Harris Computer Systems Corporation, a Canadian Corporation and wholly owned subsidiary of Constellation Software, Inc., having offices at #4464 Markham St – Suite 1202, Victoria, BC, V8Z 7X8 and City of Norman ("Customer"), having offices at 201 W. Gray Street, Norman, OK 73069, is made and entered into as of the \_\_\_\_\_ day of Month December 2017.

**PREAMBLE**

**WHEREAS:**

- a) CityView owns or has the right to license certain Software ("Programs"); and
- b) CityView provides software escrow services ("Escrow Services") to its licensees and is willing to provide such services to Customer on the terms and conditions specified in this Agreement; and
- c) Customer has licensed the Software ("Programs") specified in the Contractual Services Agreement dated \_\_\_\_\_, 2017
- d) The initial Support and Maintenance period specified in the Contractual Services Agreement has not expired or the Customer has made timely renewal payments;

THEREFORE in consideration of the premises and of the mutual covenants herein set forth, the parties agree as follows:

PROGRAMS	ANNUAL FEES	UPDATE FEES
As specified in the Contractual Services Agreement	\$1,500	\$500

**SECTION 1: CITYVIEW PROGRAMS**

1.1 "Program" means the software application(s) set in the Contractual Services Agreement or otherwise made available by CityView or use by the Licensee as a part of this Agreement.

**SECTION 2: ESCROW SERVICES**

2.1 Term: Escrow Services will commence on the date of execution of this Agreement and will continue as long as the Customer is covered by Support and Maintenance pursuant to the Software License and Support Agreement and any Support and Maintenance Service Agreement entered into between the parties and so long as the Customer has paid the applicable Escrow Service Fees. Escrow Services will terminate automatically upon the termination of the Software License and Support Agreement or of an applicable Contractual Services Agreement, Service Agreement, or upon non-payment of Support and Maintenance fees or Escrow Services Fees.

2.2 Charges: The fee for the first delivery of the Escrow Materials will be the Annual Fee. Subsequently, the Annual Fee will be billed as a supplementary charge to the Support and Maintenance fees under the same payment terms. Should Customer request Escrow Materials outside the normal release update cycle, the Update Fee will apply.

2.3 Delivery of Escrow Materials: "Escrow Materials" is defined as a sealed package containing a copy of the Program's source code on CityView supported electronic medium in the format and system environment used by CityView and Customer in its own operation to generate object code, together with a copy of the existing systems documentation developed for the Programs and the specifications for the operating environment and software tools required to make effective use of the source materials. Escrow Materials will be shipped within ten (10) days of the initial payment of the Annual Fees to CityView's then current Escrow Agent, Jones Emery Hargreaves Swan, Suite 1212 - 1175 Douglas Street, Victoria, B.C., V8W 2E1. Subsequently, provided Customer has maintained payment of the Support and Maintenance fees and Escrow Services Annual Fees, the existing Escrow Materials will be exchanged for a replacement set comprising the then-current source and documentation and shall again be placed with CityView's then current Escrow Agent, such exchange occurring as soon as practical following the shipment of a new release of the Programs.

2.4 Access to Escrow Materials: Escrow Materials shall remain in a sealed package and shall be held, in trust, by CityView's Escrow Agent. Customer shall be entitled to verify with the Escrow Agent that the Escrow Materials (namely the sealed package containing the then current source code) have been placed with CityView's Escrow Agent. However, Customer shall not be entitled to access the Escrow Materials unless and until one of the following events occur:

- a) CityView is unwilling or unable to complete modifications to the programs which are required to allow Customer to comply with regulatory or legal requirements which are beyond the control of Customer; or
- b) CityView takes advantage of the insolvency laws of any jurisdiction; or
- c) CityView makes an assignment in bankruptcy or is adjudicated as bankrupt pursuant to section 7 of the United States Code; or
- d) CityView makes a general assignment for the benefit of its creditors; or
- e) CityView has a receiver, administrator or manager of its property, assets or undertakings appointed in such circumstances as would adversely affect the continuing use by Customer of the Software specified in the Contractual Services Agreement; or



- f) CityView is ordered by any Court of competent jurisdiction to be wound up; or
- g) CityView becomes insolvent; or
- h) CityView ceases doing business as a going concern.

2.5 Warranties of CityView: Provided Customer complies with the terms of the Software License and Support Agreement and all Supplements and Addendums thereto and pays the agreed Support and Maintenance fees, CityView will, to the extent that it is still supplying such services to other customers, warrant that the Escrow Materials and replacement Escrow Materials delivered under this Agreement will be complete, accurately reflect the most current version of the source code of the Programs used by Customer, incorporate all changes made to the Programs or the source code thereof from the previous time the Escrow Materials were delivered to CityView's Escrow Agent under this Agreement, and contain no passwords or other devices that would prevent or prohibit the use of the Escrow Materials at any time should an event in s.2(4) occur.

2.6 CityView's Intellectual Property: Customer acknowledges that the Escrow Materials are and shall remain solely CityView's property (tangible and intellectual). Customer furthermore acknowledges that any breach or violation of this Agreement would cause CityView irreparable harm and that legal remedies, in themselves, may not adequately remedy such breach or violation. CityView therefore shall be entitled to pursue, in addition to any legal remedy available to it, all equitable remedies (including injunctive relief and specific performance). Customer hereby warrants that it shall not attempt to access, except pursuant to the provisions of this Agreement, the Escrow Materials and replacement Escrow Materials delivered under this Agreement to CityView's Escrow Agent. Even in the event of access to the Escrow Materials by Customer pursuant to s.2(4), Customer acknowledges that it shall only be entitled to use the source code and documentation in the same manner in which Customer is permitted to use the object code of the Programs as specified in the License, with the additional license to modify the source code and convert it to executable object code. In particular, without restricting the generality of the foregoing, the release, modification, enhancement, or alteration of the Escrow Materials does not alter CityView's complete and sole ownership of all property rights in the Programs and Customer shall sign all written instruments to this effect if required by CityView or an agent acting on behalf of CityView. Customer furthermore acknowledges that any resultant modification or enhancement to the Escrow Materials shall become CityView's intellectual property and Customer shall sign all written instruments to this effect.

### SECTION 3: PAYMENT

3.1 Excepting the initial invoice that is due upon execution of this Agreement, all fees shall be paid within thirty (30) days after receipt of the invoice. Customer shall pay all applicable shipping charges and taxes, exclusive of CityView's income and corporate franchise taxes. If any invoice is not paid within thirty (30) days, Customer shall pay a late payment charge of 1% per month on the unpaid amount, together with the amount of the original invoice. Customer shall reimburse CityView for all reasonable costs incurred (including reasonable attorneys' fees) in collecting past due amounts owed by Customer.

### SECTION 4: TERMINATION AND DEFAULT

- 4.1 Termination: At Customer's option, this Agreement may be terminated by providing notice in writing to CityView at least thirty (30) days prior to an annual Escrow Services renewal date. Upon termination, CityView's Escrow Agent shall return all Escrow Materials to CityView and any and all rights enjoyed by Customer hereunder shall automatically and immediately terminate.
- 4.2 Remedy of Default: This Agreement may be terminated by either party if the other fails to perform or comply with any provision of this Agreement, provided that a party intending to terminate under this provision will provide written notice of the applicable default to the defaulting party, and termination based thereon will only be effected if the defaulting party fails to rectify the specified default within sixty (60) days after receipt of such notice. Upon the occurrence of an Event of Default by CityView and failure by CityView to remedy, if Customer elects not to terminate this Agreement, then the Customer shall be entitled to have access to the Escrow Materials currently in CityView's Escrow Agent's possession and the Escrow Materials will, subject to the provisions of s. 2(6) hereof, be released from the escrow restrictions forthwith.

### SECTION 5: GENERAL PROVISIONS

- 5.1 Assignment: Neither party hereto shall be entitled to assign that party's rights and obligations under this Agreement without the express written agreement of the other party, such agreement not to be unreasonably withheld.
- 5.2 Severability: Any provision of this Agreement which is prohibited by law or is unenforceable will be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.
- 5.3 Enurement: This Agreement will enure to the benefit of and be binding upon the parties and their respective successors and assigns.
- 5.4 Modification: This Agreement may not be modified except in writing by an authorized signatory of each party.
- 5.5 Non-Solicitation: The parties agree that during the term of this Agreement, and for a period of two (2) years thereafter, they will not, without the express prior written consent, directly or indirectly, solicit any person for employment, who is currently employed by the other party. In addition, any person who has been previously employed by either party, shall be prohibited from servicing or providing consultation within the scope of work contemplated by this Agreement for a minimum of two (2) year after their current employment.
- 5.6 Marketing: Customer agrees that CityView may publicly refer to Customer orally and in writing as a client of CityView. Any other reference to Customer by CityView requires the written consent of Customer.
- 5.7 Notification: All notices under this Agreement shall be in writing and delivered by overnight delivery service or certified mail, return receipt requested, to the address specified above. Either party may change its address by providing notice in accordance with this Section.
- 5.8 Governing Law: The Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia. This Agreement shall attach to the jurisdiction of a competent court within a mutually agreed upon region in the Province of British Columbia.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date set forth above.



CITY OF Norman

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

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

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

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

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

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

CityView

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

Name Printed: TODD RICHARDSON

Title: CHIEF FINANCIAL OFFICER