

CITY OF NAPLES, FLORIDA
AGREEMENT
(SERVICES)

Bid/Proposal No. **15-001**

Clerk Tracking No. 15-00041

Project Name: **Beach Parking Pay Stations**

THIS AGREEMENT (the "Agreement") is made and entered into as of the 1st day of April, 2015, by and between the City of Naples, a Florida municipal corporation, (the "CITY") and T2 Systems Canada, Incorporated, a Foreign Profit Corporation, registered to do business in Florida, located at: 330 - 4260 Still Creek Drive; Burnaby BC V5C 6C6 Canada (the "CONTRACTOR").

WHEREAS, the CITY desires to obtain the services of the CONTRACTOR concerning certain services specified in this Agreement (referred to as the "Project"); and

WHEREAS, the CONTRACTOR has submitted an (RFP) Request for Proposal No. 15-001 for provision of those services; and

WHEREAS, the CONTRACTOR represents that it has expertise in the type of services that will be required for the Project.

NOW, THEREFORE, in consideration of the mutual covenants and provisions contained herein, the parties hereto agree as follows:

ARTICLE ONE
CONTRACTOR'S RESPONSIBILITY

1.1. The Services to be performed by the CONTRACTOR are generally described as **Beach Parking Pay Stations** and may be more fully described in the Scope of Services, attached as **EXHIBIT A** and made a part of this Agreement.

1.2. The CONTRACTOR agrees to obtain and maintain throughout the period of this Agreement all such licenses as are required to do business in the State of Florida, the City of Naples, and in Collier County, Florida, including, but not limited to, all licenses required by the respective state boards and other governmental agencies responsible for regulating and licensing the services to be provided and performed by the CONTRACTOR pursuant to this Agreement.

1.3. The CONTRACTOR agrees that, when the services to be provided hereunder relate to a professional service which, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, it shall employ or retain only qualified personnel to provide such services.

1.4. The CONTRACTOR agrees to employ and designate, in writing, within 5 calendar days after receiving its Notice to Proceed, or other directive from the CITY, a qualified employee to serve as the CONTRACTOR's project manager (the "Project Manager"). The Project Manager shall be authorized

and responsible to act on behalf of the CONTRACTOR with respect to directing, coordinating and administering all aspects of the services to be provided and performed under this Agreement.

1.5. The CONTRACTOR has represented to the CITY that it has expertise in the type of services that will be required for the Project. The CONTRACTOR agrees that all services to be provided by CONTRACTOR pursuant to this Agreement shall be subject to the CITY's review and approval and shall be in accordance with the generally accepted standards of practice in the State of Florida, as may be applied to the type of services to be rendered, as well as in accordance with all published laws, statutes, ordinances, codes, rules, regulations and requirements of any governmental agencies which regulate or have jurisdiction over the Project or the services to be provided and performed by the CONTRACTOR. In the event of any conflicts in these requirements, the CONTRACTOR shall notify the CITY of such conflict and utilize its best professional judgment to advise CITY regarding resolution of the conflict.

1.6. The CONTRACTOR agrees not to divulge, furnish or make available to any third person, firm or organization, without CITY's prior written consent, or unless incident to the proper performance of the CONTRACTOR's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by the CONTRACTOR hereunder, and the CONTRACTOR shall require all of its employees, agents, sub-consultants and subcontractors to comply with the provisions of this paragraph. However, the CONTRACTOR shall comply with the Florida Public Records laws.

1.7 The CONTRACTOR agrees not to employ or offer to employ any Elected Officer or City Managerial Employee of the CITY who in any way deals with, coordinates on, or assists with, the services provided in this Agreement, for a period of 2 years after termination of all provisions of this Agreement. For purposes of this paragraph, the term "Elected Officer" shall mean any member of the City Council. For purposes of this paragraph, the term "City Managerial Employee" shall mean the City Manager, the Assistant City Manager, the City Clerk, and any City department head or director. If the CONTRACTOR violates the provisions of this paragraph, the CONTRACTOR shall be required to pay damages to the CITY in an amount equal to any and all compensation which is received by the former Elected Officer or City Managerial Employee of the CITY from or on behalf of the contracting person or entity, or an amount equal to the former Elected Officer's or City Managerial Employee's last 2 years of gross compensation from the CITY, whichever is greater.

1.8 The CONTRACTOR agrees not to provide services for compensation to any other party other than the CITY on the same subject matter, same project, or scope of services as set forth in this Agreement without approval from the City Council of the CITY.

1.9. Except as otherwise provided in this Agreement, the CONTRACTOR agrees not to disclose or use any information not available to members of the general public and gained by reason of the CONTRACTOR's contractual relationship with the CITY for the special gain or benefit of the CONTRACTOR or for the special gain or benefit of any other person or entity.

ARTICLE TWO CITY'S RESPONSIBILITIES

2.1. The CITY shall designate in writing a project coordinator to act as the CITY's representative with respect to the services to be rendered under this Agreement (the "Project Coordinator"). The Project Coordinator shall have authority to transmit instructions, receive information, interpret and define the CITY's policies and decisions with respect to the CONTRACTOR's services for the Project.

However, the Project Coordinator is not authorized to issue any verbal or written orders or instructions to the CONTRACTOR that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever:

- (a) The scope of services to be provided and performed by the CONTRACTOR;
- (b) The time the CONTRACTOR is obligated to commence and complete all such services; or
- (c) The amount of compensation the CITY is obligated or committed to pay the CONTRACTOR.

Any such modifications or changes ((a) (b) or (c)) shall only be made by or upon the authorization of the CITY's city manager as authorized by city council in the enabling legislation or in the CITY's procurement policies.

2.2. The Project Coordinator shall:

- (a) Review and make appropriate recommendations on all requests submitted by the CONTRACTOR for payment for services and work provided and performed in accordance with this Agreement;
- (b) Arrange for access to and make all provisions for the CONTRACTOR to enter the Project site to perform the services to be provided by the CONTRACTOR under this Agreement; and
- (c) Provide notice to the CONTRACTOR of any deficiencies or defects discovered by the CITY with respect to the services to be rendered by the CONTRACTOR hereunder.

2.3. The CONTRACTOR acknowledges that access to the Project Site, to be arranged by the CITY for the CONTRACTOR, may be provided during times that are not the normal business hours of the CONTRACTOR.

ARTICLE THREE TIME

3.1. Services to be rendered by the CONTRACTOR shall be commenced subsequent to the execution of this Agreement upon written Notice to Proceed from the CITY for all or any designated portion of the Project and shall be performed and **completed by July 1, 2015. Project Close Out shall be performed within 30 days of Final Completion.** Said contract after initial Project completion will be through September 30, 2017 with the mutually agreed upon option of three (3) one-year renewals. All prices for products, maintenance and services must be honored until September 30, 2017. Unless outlined in Exhibit A-1, pricing for years 3-5 will have no percentage price increases for products, maintenance and services and no percentage increase for balance of product line. Time is of the essence with respect to the performance of this Agreement.

3.2. Should the CONTRACTOR be obstructed or delayed in the prosecution or completion of its services as a result of unforeseeable causes beyond the control of the CONTRACTOR, and not due to its own fault or neglect, including but not restricted to acts of God or of public enemy, acts of government or of the CITY, fires, floods, epidemics, quarantine regulations, strikes or lock-outs, then

the CONTRACTOR shall notify the CITY in writing within 5 working days after commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which the CONTRACTOR may have had to request a time extension.

3.3. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the CONTRACTOR's services from any cause whatsoever, excluding those for which the CITY may be responsible in whole shall relieve the CONTRACTOR of its duty to perform or give rise to any right to damages or additional compensation from the CITY. The CONTRACTOR's sole remedy against the CITY will be the right to seek an extension of time to its schedule. This paragraph shall expressly apply to claims for early completion, as well as claims based on late completion.

3.4. Should the CONTRACTOR fail to commence, provide, perform or complete any of the services to be provided hereunder in a timely and reasonable manner, in addition to any other rights or remedies available to the CITY hereunder, the CITY at its sole discretion and option may withhold any and all payments due and owing to the CONTRACTOR until such time as the CONTRACTOR resumes performance of its obligations hereunder in such a manner so as to reasonably establish to the CITY's satisfaction that the CONTRACTOR's performance is or will shortly be back on schedule.

3.5 Liquidated Damages: Services to be rendered by the CONTRACTOR shall be commenced subsequent to the execution of this Agreement upon written Notice to Proceed from the CITY for all or any designated portion of the Project must be completed by the contract dates specified within the Notice to Proceed for construction. Should CONTRACTOR fail to complete the project within this timeframe, daily liquidated damages in an amount of \$100.00 per day will be assessed.

3.6 Bond. A Payment & Performance Bond with a surety insurer authorized to do business in this state as surety (check) one _____ has been recorded in the public records of the County, XXX prior to commencement of work, will be recorded in the public records of the County, or _____ is waived.

ARTICLE FOUR COMPENSATION

4.1. The total compensation to be paid the CONTRACTOR by the CITY for all Services is **\$309,570.00** and shall be paid in the manner set forth in the "Basis of Compensation", which is attached as **EXHIBIT B** and made a part of this Agreement.

ARTICLE FIVE MAINTENANCE OF RECORDS

5.1. The CONTRACTOR will keep adequate records and supporting documentation which concern or reflect its services hereunder. The records and documentation will be retained by the CONTRACTOR for a minimum of five 5 years from the date of termination of this Agreement or the date the Project is completed, whichever is later. The CITY, or any duly authorized agents or representatives of the CITY, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the 5 year period noted above; provided, however, such activity shall be conducted only during normal business hours. If the CONTRACTOR desires to destroy records prior to the minimum period, it shall first obtain permission from the CITY in accordance with the Florida Public Records laws.

**ARTICLE SIX
INDEMNIFICATION**

6.1. The CONTRACTOR agrees to indemnify and hold harmless the City from liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONTRACTOR and persons employer or utilized by the CONTRACTOR in the performance of the Contract. In no event will CONTRACTOR'S total liability arising under or in connection with this Agreement exceed, in the aggregate, an amount equal to the greater of the total value of products purchased by the City in the twelve months immediately preceding the occurrence of the acts or omissions giving rise to the most recent claim. This Section does not limit liability for bodily injury of a person or limit further any liability otherwise covered by the warranties for products or services.

**ARTICLE SEVEN
INSURANCE**

7.1. The CONTRACTOR shall obtain and carry, at all times during its performance under this Agreement, insurance of the types and in the amounts set forth in the document titled General Insurance Requirements, which is attached as **EXHIBIT C** and made a part of this Agreement.

**ARTICLE EIGHT
SERVICES BY CONTRACTOR'S OWN STAFF**

8.1. The services to be performed hereunder shall be performed by the CONTRACTOR's own staff, unless otherwise authorized in writing by the CITY. The employment of, contract with, or use of the services of any other person or firm by the CONTRACTOR, as independent contractor or otherwise, shall be subject to the prior written approval of the CITY. No provision of this Agreement shall, however, be construed as constituting an agreement between the CITY and any such other person or firm. Nor shall anything contained in this Agreement be deemed to give any such party or any third party any claim or right of action against the CITY beyond such as may otherwise exist without regard to this Agreement.

**ARTICLE NINE
WAIVER OF CLAIMS**

9.1. The CONTRACTOR's acceptance of final payment shall constitute a full waiver of any and all claims, except for insurance company subrogation claims, by it against the CITY arising out of this Agreement or otherwise related to the Project, except those previously made in writing and identified by the CONTRACTOR as unsettled at the time of the final payment. Neither the acceptance of the CONTRACTOR's services nor payment by the CITY shall be deemed to be a waiver of any of the CITY's rights against the CONTRACTOR.

**ARTICLE TEN
TERMINATION OR SUSPENSION**

10.1. The CONTRACTOR shall be considered in material default of this Agreement and such default will be considered cause for the CITY to terminate this Agreement, in whole or in part, as further set forth in this section, for any of the following reasons: (a) failure to begin work under the Agreement within the times specified under the Notice(s) to Proceed, or (b) failure to properly and

timely perform the services to be provided hereunder or as directed by the CITY, or (c) the bankruptcy or insolvency or a general assignment for the benefit of creditors by the CONTRACTOR or by any of the CONTRACTOR's principals, officers or directors, or (d) failure to obey laws, ordinances, regulations or other codes of conduct, or (e) failure to perform or abide by the terms or spirit of this Agreement, or (f) for any other just cause. The CITY may so terminate this Agreement, in whole or in part, by giving the CONTRACTOR at least 3 calendar days' written notice.

10.2. If, after notice of termination of this Agreement as provided for in paragraph 10.1 above, it is determined for any reason that the CONTRACTOR was not in default, or that its default was excusable, or that the CITY otherwise was not entitled to the remedy against the CONTRACTOR provided for in paragraph 10.1, then the notice of termination given pursuant to paragraph 10.1 shall be deemed to be the notice of termination provided for in paragraph 10.3 below and the CONTRACTOR's remedies against the CITY shall be the same as and limited to those afforded the CONTRACTOR under paragraph 10.3 below.

10.3. The CITY shall have the right to terminate this Agreement, in whole or in part, without cause upon 7 calendar day's written notice to the CONTRACTOR. In the event of such termination for convenience, the CONTRACTOR's recovery against the CITY shall be limited to that portion of the fee earned through the date of termination, together with any retainage withheld and any costs reasonably incurred by the CONTRACTOR that are directly attributable to the termination, but the CONTRACTOR shall not be entitled to any other or further recovery against the CITY, including, but not limited to, anticipated fees or profits on work not required to be performed.

ARTICLE ELEVEN CONFLICT OF INTEREST

11.1. The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder. The CONTRACTOR further represents that no persons having any such interest shall be employed to perform those services.

ARTICLE TWELVE MODIFICATION

12.1. No modification or change in this Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

ARTICLE THIRTEEN NOTICES AND ADDRESS OF RECORD

13.1. All notices required or made pursuant to this Agreement to be given by the CONTRACTOR to the CITY shall be in writing and shall be delivered by hand or by United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following CITY's address of record:

City of Naples
735 Eighth Street South
Naples, Florida 34102-3796
Attention: **A. William Moss**, City Manager

13.2. All notices required or made pursuant to this Agreement to be given by the CITY to the CONTRACTOR shall be made in writing and shall be delivered by hand or by the United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following CONTRACTOR's address of record:

T2 Systems Canada, Incorporated
330 – 4260 Still Creek Drive; Burnaby BC V5C 6C6 Canada
Attention: **Chris Chettle**, Executive Vice President & General Manager
FEI/EIN Number: On File (Canada)

13.3. Either party may change its address of record by written notice to the other party given in accordance with requirements of this Article.

ARTICLE FOURTEEN MISCELLANEOUS

14.1. The CONTRACTOR, in representing the CITY, shall promote the best interest of the CITY and assume towards the CITY a duty of the highest trust, confidence, and fair dealing.

14.2. No modification, waiver, suspension or termination of the Agreement or of any terms thereof shall impair the rights or liabilities of either party.

14.3. This Agreement is not assignable, in whole or in part, by the CONTRACTOR without the prior written consent of the CITY.

14.4. Waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement.

14.5. The headings of the Articles, Exhibits, Parts and Attachments as contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions in such Articles, Exhibits, Parts and Attachments.

14.6. This Agreement, including the Digital Iris Agreement dated March 3, 2015 at Exhibit E constitutes the entire agreement between the parties hereto and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matter set forth herein, and any such prior agreements or understanding shall have no force or effect whatever on this Agreement.

14.7. The CONTRACTOR shall comply fully with all provisions of state and federal law, including without limitation all provisions of the Immigration Reform and Control Act of 1986 ("IRCA") as amended, as well as all related immigration laws, rules, and regulations pertaining to proper employee work authorization in the United States. The CONTRACTOR shall execute the Certification of Compliance with Immigration Laws, attached hereto as **EXHIBIT D**.

14.8. To the extent that any provision in the Specifications or any other Contract Documents pertaining to this Project conflict with any provision of this Agreement, this Agreement controls. Notwithstanding the forgoing, the terms of the Digital Iris agreement prevail exclusively with respect to the Digital Iris services.

14.9 Dispute Resolution. Disputes under this Agreement shall be resolved through mutual consultation between the parties within 14 days after notice; and failing resolution through mutual consultation, through mediation within 30 days thereafter; and failing mediation, through Arbitration under the Florida Arbitration Code, by a single arbitrator. If the parties cannot agree on a mediator or arbitrator, within 14 days of failure of the previous method, they shall request the Chief Judge of the 20th Judicial Circuit to appoint a mediator, or an arbitrator, as the case may be. Time periods are waivable by mutual agreement of the parties, but shall not exceed 90 days for completion of the processes described herein, unless by mutual agreement. Costs of the mediator or arbitrator shall be shared equally.

14.10 Attorneys' fees. Except as otherwise provided herein, each party shall be responsible for its own attorneys' fees.

ARTICLE FIFTEEN APPLICABLE LAW

15.1. Unless otherwise specified, this Agreement shall be governed by the laws, rules, and regulations of the State of Florida, and by the laws, rules and regulations of the United States when providing services funded by the United States government. Any suit or action brought by either party to this Agreement against the other party relating to or arising out of this Agreement must be brought in the appropriate Florida state court in Collier County, Florida.

END OF ARTICLE PAGE

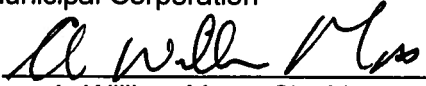
IN WITNESS WHEREOF, the parties hereto have executed this Agreement for the day and year first written above.

ATTEST:


CITY:

CITY OF NAPLES, FLORIDA,
A Municipal Corporation

By: 
Patricia L. Rambcsk, City Clerk


By: 
A. William Moss, City Manager


Approved as to form
and legal sufficiency:

By: 
Robert D. Pritt, City Attorney

CONTRACTOR:

T2 Systems Canada, Incorporated
330 – 4260 Still Creek Drive;
Burnaby BC V5C 6C6 Canada
Attention: **Chris Chettle**,
Executive Vice President & General Manager
FEI/EIN Number: On File (Canada)


Witness
Amee Cook
Printed Witness Name

By: 
Its: EMP & GENERAL MANAGER

(CORPORATE SEAL)

EXHIBIT A

SCOPE OF SERVICES

The Scope of Services to be provided under this Agreement are included in Exhibit A which is attached and made a part of this Agreement and those set out in the Bid, any Addendum(s) and Vendor's Submittal of (RFP) Request For Proposal No.15-001, titled Beach Parking Pay Stations herein referenced and made a part of this Agreement.

Additional Scope of Services, Warranty, and Cost information are included in Exhibit A-1 which is attached and made a part of this Agreement.

Scope of Work

T2 Systems Canada has partnered with Parker Systems to handle installation and maintenance support. Over the years, our companies have partnered to deliver quality installation services and facilitate on- site support services throughout Florida.

T2 Systems Canada will assign a dedicated Project Manager to work with Parker Systems who will manage and all oversee all aspects of this deployment including on-site preparation, installation, training, and on-going monitoring. The Project Manager will be supported by our experienced project management team who have successfully overseen deployments in cities such as Miami Beach, Tampa, Houston and Milwaukee. In addition to coordinating the project, the Project Manager's responsibilities include:

High Level Discussion and Deliverables

Project planning will be overseen by a Project Manager working with Parker Systems and the City. With a contract in place, discussions will start at a high level about how the implementation of the project will roll out. During this time, T2 Systems Canada and Parker will identify key stakeholders playing a role in areas ranging from product training to installation.

Detailed Task Planning

With the key players identified, the PM will discuss the individual tasks that will be required. For example, the finance and administrative personnel will need to be familiar with product training, merchant account setup, and billing procedures. The parking operations personnel will need to know about training related to installation, day to day management and enforcement. All expectations and deliverables will be discussed with the relevant personnel.

Communication with Integration Partners

The Project Manager assigned by T2 Systems Canada will be the primary point person for the City to ensure a smooth deployment and integration with the other technology partners selected.

Installation

Parker Systems will be responsible for the installation of the LUKE II multi-space meters. Parker Systems' installers and service technicians are certified by T2 Systems Canada and will be fully equipped and prepared to manage the installation. The proposed scope of work considers Parker Systems supplying the necessary hardware (nuts, bolts, etc.), vehicles, tools

and installation equipment to efficiently commission the meters. Parker Systems will ensure all units will be properly programed and placed as per the City's instructions.

Timeline

T2 Systems Canada and Parker Systems after consultation with the City will agree on a timeline that will generally follow the Project Task timeline shown in Appendix H.

Training

T2 Systems Canada will provide in-depth training on an individual location basis or in a group setting as approved by the City. T2 Systems Canada can provide additional training, if needed or as requested determined by the City's need and provided based on practicality and reasonableness. T2 Systems Canada will provide a training program for technicians and staff responsible for:

- Installation, startup, and maintenance of the pay stations.
- Operations
- Collections
- Monitoring
- Enforcement
- Troubleshooting repairs

Copies of operating manual in English for installation, maintenance, and use (complete with wiring diagrams and specifications) will be provided at the time the pay stations are delivered .

In addition, all manuals are available in electronic form.

END OF EXHIBIT A

T2 Systems Canada, Inc.



Scope of Work

T2, and its approved local reseller Parker Systems (when applicable), will handle installation and maintenance support. T2 will assign a dedicated Project Manager to work with Parker Systems who will manage and all oversee all aspects of this deployment including on-site planning, installation, training, and on-going maintenance (if applicable). The Project Manager will be supported by our experienced project management team. In addition to coordinating the project, the Project Manager's responsibilities include:

High Level Discussion and Deliverables

Project planning will be overseen by a Project Manager working with Parker Systems and the City. Discussions will start at a high level about how the implementation of the project will roll out. During this time, T2 and Parker will identify key stakeholders playing a role in areas ranging from product training to installation.

Detailed Task Planning

With the key players identified, the PM will discuss the individual tasks that will be required. For example, the finance and administrative personnel will need to be familiar with product training, merchant account setup, and billing procedures. The parking operations personnel will need to know about training related to installation, day to day management and enforcement. All expectations and deliverables will be discussed with the relevant personnel.

Communication with Integration Partners

The Project Manager assigned by T2 will be the primary point person for the City to ensure a smooth deployment and integration with the other technology partners selected.

Installation

Parker Systems will be responsible for the installation of the LUKE II multi-space meters. Parker System's installers and service technicians are certified by T2 and will be fully equipped and prepared to manage the installation. The proposed scope of work considers Parker Systems supplying the necessary hardware (nuts, bolts, etc.), vehicles, tools and installation equipment to efficiently commission the meters. Parker Systems will ensure all units will be properly programed and placed as per the City's instructions.

Timeline

T2, Parker Systems and the City will agree on a timeline that will generally follow the Project Task timeline included in the proposal.

Training

T2 will provide in-depth training on an individual location basis or in a group setting as approved by the City. T2 can provide additional training, if needed or as requested determined by the City's need and provided based on practicality and reasonableness. T2 will provide a training program for technicians and staff responsible for:

- Installation, startup, and maintenance of the pay stations.
- Operations
- Collections

T2 Systems Canada, Inc.



- Monitoring
- Enforcement
- Troubleshooting repairs

Copies of operating manual in English for installation, maintenance, and use (complete with wiring diagrams and specifications) will be provided at the time the pay stations are delivered. In addition, all manuals are available in electronic form.

General Specifications of LUKE II Pay Stations

- Cabinet: 12-gauge cold rolled steel protected with an anti-corrosion coating
- 5 Year Anti-Corrosion Warranty Included
- Payment Options: Coins and credit cards
- Card Reader: Cards are not ingested – no moving parts. Reads Tracks 1, 2, and 3 of all magnetic stripe cards conforming to ISO 7810 and 7811. Reads and writes to chip-based smart cards conforming to ISO 7810 and 7816
- Printer: 2" receipt width. No receipts option available for visitors.
- Display: Color backlit LCD with 640 x 480 resolution
- Keypad: 38-key alphanumeric with tactile buttons
- Communications: Modem Kit-CDMA Verizon-L2 (V5) with Digital Connect Set-Up
- Environmental Requirements: -40°F to +140°F (-40°C to +60°C)* Relative humidity: up to 95%
- Power: 18 W Slim Line solar panel or 120 Volt AC
- Operational Modes: Pay-and-Display, Pay-by-Space, Pay-by-License Plate
- Audible Alarm: Senses shock and vibration
- PCI compliant and PA-DSS validated credit card data security
- Separate maintenance and cash vault compartments

Installation

T2, Parker Systems, and the City will identify the location for each pay station based on creating maximum operating efficiency. The City will prepare the ground for installation including all concrete or electrical (if applicable) based on the installation guide provided by T2. T2 and/or Parker Systems will install and commission each pay station at their specified location. The City and T2 and/or Parker System will complete a meter acceptance test (form provided within) after installation.



T2 SYSTEMS CANADA INC.

PRODUCT WARRANTY

This document describes the warranty services purchased by you ("Customer") from T2 Systems Canada Inc. ("T2") for hardware, software and firmware services for pay station products.

- All T2 products are covered under an initial one year limited warranty from defects in materials or workmanship.
- Continued warranty coverage may be purchased at the end of the first year through the extended warranty program.

If a product proves defective under normal use during the warranty period, T2 at its option will either repair or replace the product as described below. Spare, repaired or replacement parts will be covered under warranty for 90 days or to the end of the warranty period of the unit to which they are attached, whichever comes last.

EXCEPT AS OTHERWISE CONFIRMED IN WRITING BY T2, THERE ARE NO OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. T2 reserves the right to change the terms and conditions of warranty coverage upon notice from time to time. Warranty coverage will be suspended if Customer fails to pay for equipment and/or services under the terms listed on the quotation or Customer contract. T2 WILL NOT BE LIABLE FOR INCIDENTAL, INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES, LABOR COSTS, LOSS OF DATA OR LOSS OF REVENUE ARISING OUT OF OR IN CONNECTION WITH PRODUCT USE OR PERFORMANCE. T2'S RESPONSIBILITY TO REPAIR OR REPLACE THE DEFECTIVE PRODUCT IS THE SOLE AND EXCLUSIVE REMEDY PROVIDED TO CUSTOMER FOR BREACH OF THESE WARRANTIES.

Some provinces, states or countries do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation may not apply to you.

OVERVIEW OF WARRANTY SERVICES

T2's standard one-year limited warranty and extended warranty services include support and maintenance for hardware, software and firmware products as follows:

- access to 24 x 7 telephone and email support including free telephone support during business hours for setup, installation and support matters and discounted telephone support outside business hours.
- repair or replacement of defective parts, including free one way shipping.
- free software maintenance releases and upgrades (for the first year).

The one-year limited warranty commences seven days from the date the products are shipped to Customer. The warranty services also include the following specific hardware, software and firmware services listed below.



HARDWARE WARRANTY SERVICES

1. T2 may repair or replace defective parts with new parts or with reworked parts equivalent to new parts in performance.
2. If certain parts that T2 designates as "Customer replaceable" fail, T2 will provide the Customer with a replacement part. It will be the Customer's obligation to install the replacement part(s) and return the replaced part(s) in unaltered form to T2 as instructed.
3. Changing or tampering with electrical equipment bearing the Canadian Standards Association ("CSA") mark may result in loss of certification. Customers may re-certify at their own expense by contacting CSA International directly. This does not apply to out of box failures immediately following installation.

FIRMWARE WARRANTY SERVICES

1. **Firmware Updates.** Firmware support is available for device level software including printers, bill acceptors and coin acceptors. Firmware updates will be available via a download utility for installation by Customer. T2 will provide remote installation assistance where required.

Spare parts replacements can include installed firmware and where possible, the firmware version in the installed parts will be set at the same version level as the parts replaced. Otherwise, the firmware will be set to the most current version.

2. **Chargeable Firmware Upgrades.** Chargeable firmware upgrades, together with installation support, include:
 - firmware upgrades for new currency releases issued by governments.
 - firmware releases which add optional improvements to the product.
 - on-site assistance required by the Customer to install downloadable firmware upgrades.

SOFTWARE WARRANTY SERVICES

T2's software maintenance and support services include:

1. Replacement of defective media upon e-mail notification to T2. Emergency software may be provided in the course of troubleshooting and problem resolution.



2. Free software upgrades.

3. The services below are not covered under software warranty and will be charged separately:
 - Installation / update services.
 - Backup and recovery of software, other computer programs, or data.
 - On-site services.
 - System restoration (i.e. reloading of software, and data).
 - Additional copies of software media.
 - Training queries and consulting services.

CUSTOMER RESPONSIBILITIES

1. **Proper Maintenance.** Before contacting T2 for warranty services, Customer should ensure it is following proper operation and maintenance of the hardware, firmware and software in accordance with T2's recommendations and requirements in the product documentation and user manuals. Products must also be in compliance with IEEE standards for electrical power and grounding quality. Customers should inform T2 of changes in product locations.

2. **Customer Efforts.** Use reasonable efforts to assist T2 in diagnosing and performing repairs, including but not limited to: making Customer personnel available on site to perform reasonable troubleshooting and remedial corrective maintenance activity; providing direct phone or electronic contact between T2's phone agent and Customer personnel; providing remote access to the defective equipment.

3. **Computer Requirements.** Ensure that the software is installed on a computer that meets or exceeds the minimum requirements as outlined in the BOSS and EMS / IRIS User Guides. The Customer acknowledges that upgrades to the software and increases in the size of databases may require upgrades to the computer hardware. Customer is responsible for any computer upgrades that may be required.

4. **Software Responsibilities.** For software issues, Customer is responsible for installation, testing and operation of software and all upgrades. For all T2 software, the customer is responsible for operating its equipment, providing back-up equipment and services upon product failure, isolating and documenting software problems, safeguarding all programs' data and removable storage media and reloading programs and data.

5. **Replication of Problems.** Customer may be asked to (i) replicate software problems at the Customer's site utilizing the unaltered version of the software experiencing the problem, and (ii) provide a copy of an unaltered version of the defective software to T2.

6. **Isolating Problems.** Remove all features, parts, options, alterations and attachments not supplied by T2 as part of the products to help diagnose where the problem is occurring.



7. **On Site Assistance.** If on site assistance is required, Customer should not permit anyone other than T2 or a T2 certified reseller to perform service on products under warranty, unless directed by T2.

EXCLUSIONS

Items not covered under warranty. Certain service activities and materials are not covered by T2's warranty and will be charged to the Customer at the prevailing hourly rate for the service requested. These include, but are not limited to, warranty claims in connection with:

- Alterations or attachments not provided by T2, approved by T2 in writing, or compatible with T2's standard interfaces.
- Third party delivered services or attachments (other than Digital Connect) that could include electrical and networking interfaces (GSM, CDMA, Wi-Fi and Ethernet).
- Any negligence, misuse, or abuse by Customer or a third party including theft or vandalism.
- Failure to perform regular cleaning, inspection, adjustment or preventive maintenance activities or to follow proper procedures for operation in accordance with T2 recommendations as set out in the user manuals and documentation
- Movement of products by anyone other than T2 or a certified T2 reseller.
- Failure to adhere to T2 installation or site preparation standards.
- Damage resulting from extreme weather conditions, such as flooding, lightning, fires or any act of force majeure.
- Hardware upgrades as a result of changes in rules or regulations outside of T2's control (for example, changes to PCI Data Security Council requirements).
- Training issues not covered in the user manuals which are charged on an hourly basis. Arrangements for training can be made through your Regional Sales Manager or local authorised Reseller.
- Unless otherwise agreed in writing, T2 shall not assume the warranty obligations of any other party.
- Batteries, locks and keys are limited to a 30-day replacement warranty. USB keys may be replaced within 90 days of purchase. Any services requested in connection with locks or lock components are charged on an hourly basis. All other consumable items are excluded from warranty coverage.

OBTAINING WARRANTY SERVICES

1. **Obtaining warranty service.** To obtain warranty service for T2 products located in North America, please contact T2 Customer Service using one of the following options:

Phone: 888.687.6822

E-mail: support@digitalpaytech.com

Web: support.digitalpaytech.com

A T2 support specialist will determine if the product is experiencing a problem covered under



warranty. T2 will repair or, at its discretion, exchange defective products or parts.

2. **Software warranty service.** Customers must provide the hardware configuration and serial number of the system running the software with the problem, its physical location, the name, release and version number of the operating system software and a description of the problem.
3. **Returning parts or products.** Parts or products under warranty which T2 deems to be defective should immediately be returned for replacement, together with the Return Merchandise Authorization ("RMA") number issued to you. Parts or products must be packaged in accordance with T2 instructions with the RMA number clearly visible. All return shipping costs are the responsibility of the Customer. T2 will notify you when we ship the replacement part or product and all defective parts or products must be returned to us within 30 days of such notice to avoid any charges. Late return of defective parts will result in you being invoiced for the full amount of the replacement part issued to you. T2 will repair all defective parts received outside of the 30 day time period and will return them to you. Returned defective parts or products which do not require immediate replacement will be repaired and returned to you at no charge. If returned parts are defective due to any of the exclusions outlined above, you will be charged for the full value of the replacement part issued.



METER ACCEPTANCE TEST

Meter # _____ S/N (last 4) _____ Test Date: _____

METER SYSTEMS ACCEPTANCE

Cabinet and Pedestal		Yes	No
1	Unit and solar panel are free of manufacturing defects.		
Physical Security and Lock		Yes	No
2	All locks work properly with associated keys.		
LCD Display		Yes	No
3	Color LCD screen operates properly.		
4	All instructions and rates provided through the LCD display (all languages).		
Keypad and Instruction Panel		Yes	No
5	The unit has a functioning keypad.		
6	There is an audible feedback when buttons are pressed.		
Receipt Slot		Yes	No
7	The receipt slot is protected with a sliding door.		
Coin Slot/Acceptor		Yes	No
8	Coin slot accepts all U.S coins.		
9	Accurately recognize quarters only.		
10	Returns rejected coins or slugs immediately via the coin return outlet.		
Coin Compartment		Yes	No
11	All coin deposits properly fall into a locked, secured canister.		
12	The coin canister is secure when removed.		
Credit Card Reader and Operation		Yes	No
13	The credit card reader properly accepts and processes city-approved cards.		
14	The credit card reader properly operates in real-time, online processing mode.		



Printer		Yes	No
15	The printer properly prints tickets with all fields filled as programmed.		
16	Audit summary reports print properly.		

Modem and Wireless Communication		Yes	No
17	Modem shows communication.		

METER SOFTWARE ACCEPTANCE

Software Capabilities		Yes	No
18	Rates configured in BOSS appear properly on screen and can be remotely updated to the pay stations.		
19	Password access at the pay station works properly.		
20	Sleep timer operates correctly.		
21	Accurately displays custom message on screen.		
22	Accurately displays custom message on receipt.		

Local Offline Communications		Yes	No
23	Receive credit card transactions using a USB Key.		
24	Upload bad credit card data list using a USB Key.		

METER SERVICES ACCEPTANCE

Online Credit Card Transaction		Yes	No
25	Remote real-time credit card authorization – meter sends and receives transaction info accurately.		

Online Reporting		Yes	No
26	EMS / IRIS shows test transactions online for reporting purposes.		

Monitoring and Alarming		Yes	No
27	Maintenance conditions such as low paper and shock send text messages to mobile phones set up in EMS / IRIS and show status of these conditions online.		



Unit Pricing

Solar LUKE II Pay Station: \$7,978

Includes: 38K-Solar-CxCx-x-P, 38-Key Keypad, 18W Single SlimLine Solar Panel, Coin Acceptor, Credit Card Reader, 2 Inch Thermal Printer, P-Label (set of 2), coin shutter, Modem Kit-CDMA Verizon-L2 (V5), Digital Connect Activation Fee, one coin canister, shipping, installation, and one time set up fees

AC Powered LUKE II Pay Station: \$7,458

Includes: 38K-120 V-CxCx-x-P, 38-Key Keypad, Coin Acceptor, Credit Card Reader, 2 Inch Thermal Printer, P-Label (set of 2), coin shutter, Modem Kit-CDMA Verizon-L2 (V5), Digital Connect Activation Fee, one coin canister, shipping*, installation, and one time set up fees

- 15 spare coin canisters included in initial order of 30 meters. Each additional spare coin canister is \$300 per canister.
- Shipping and installation is based on 30 unit initial order. Add \$250 / meter on unit orders less than 10.

EMS / IRIS Services

EMS / IRIS Core (Real Time CC Processing, Alerts, Reports)	\$ 35.00
Digital Connect (2000 transactions/month/unit)	\$ 20.00
Extra transactions charged at \$0.02/transaction	
Value Card Processing	\$ 5.00
T2/customer branded mag-stripe card authorization	
Coupons	\$ 5.00
Extend-By-Phone	\$ 5.00
+ \$0.25 per add-time transaction (payable by parker)	
Pay by Phone Integration	\$ 5.00
Digital API (Read)*	\$ 5.00
Digital API (Write)*	\$ 5.00

*Digital API Read and Write are required for integrations with third party systems. Digital API (Read) pulls information from the EMS / IRIS system which customers can then inject into their own systems and Digital API (Write) pushes information into the EMS system.

For example, to use Pay by Phone Integration and enforce via stall report, a customer would select the following EMS / IRIS Services:

- EMS / IRIS Core
- Pay by Phone Integration

For the same application, but with the ability enforce via T2 handheld, a customer would select the above mentioned services as well as Digital API (Read), which would allow stall data to be pulled from EMS / IRIS into the handheld device.

Additional EMS / IRIS Services available.

Extended Warranty Pricing



Annual Extended Full Hardware and Software Warranty (per pay station) – Year 1	included
Annual Extended Full Hardware and Software Warranty (per pay station) – Year 2-5	\$675.00

Details of T2's Warranty and Extended Warranty are included in the scope of services section. A summary of this warranty coverage is as follows:

- The City will contact T2 by telephone for all supported related services. T2's telephone support will be available 24 hours / 7 days a week with response timelines as outlined in T2's warranty.
- Warranty includes advanced hardware replacement provided for parts not functioning properly.
- Warranty includes software updates at no charge.
- The City will be responsible for all on-site Level 1 related service. Level 1 related services are documented in T2's troubleshooting and maintenances manual and include:
 - Responding to Jams (Coin, Printer)
 - Coin Collections
 - Replenishment (Paper)
 - Uploading configurations
 - Preventative maintenance as outlined in T2's Maintenance Manual schedules.
 - Hardware troubleshooting (trying known good parts)
 - Break Fix (part swaps)

Onsite Preventative Maintenance and Support Pricing (optional)

Annual Onsite Maintenance (per pay station per month)	\$37.50
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Parker systems will provide preventative maintenance and on-site support for Level 2 services, when required. Level 2 services are defined as on-site services the City requires after being unable to correct issues using the Level 1 troubleshooting procedures outlined in the product manuals. Level 2 labor services would include:

- Upgrading Pay Station hardware to address problem's not solved by Level 1 troubleshooting activities
- Pay Station hardware/software upgrades for new features
- Pay Station upgrades for bug fixes
- Telecommunication troubleshooting
- Enabling and gathering logging files for support
- Upgrades for new currency (such as US Mint releasing new bills or coins)

For reported problems requiring on-site service reported during regular business hours, the City will contact T2. T2 will then contact Parker Systems to provide on-site support within 24 hours after being contacted by T2. For reported problems requiring on-site service reported on evenings, weekends, and holidays, on-site service will be provided on the next business day.

A full breakdown of Parker Systems can be found in their Support and Maintenance Agreement for Digital Payment Technologies' Pay Stations (attached).

Price Escalations

All pricing is firm for the first three years. So long as no unforeseeable events happen to communication protocols, EMS / IRIS pricing will remain firm for the term of the agreement. If the City maintains warranty



at all times (after the initial one year free warranty period), warranty pricing will remain firm during the term of the agreement. Pay station purchase pricing will increase 5% annually during years 3 - 5.

EXHIBIT B

BASIS OF COMPENSATION

As consideration for providing the Services as set forth in the Agreement, the CITY agrees to pay, and the CONTRACTOR agrees to accept payment on a time and reimbursement cost basis as indicated in Exhibit B-1, which is attached and made part of this Agreement.

Retainage of (10%) ten percent will be a part of said agreement and future payments.

END OF EXHIBIT B

EXHIBIT C

GENERAL INSURANCE REQUIREMENTS

The Contractor shall not commence work until he has obtained all the insurance required under this heading, and until such insurance has been approved by the Owner, nor shall the Contractor allow any subcontractor to commence work until all similar insurance required of the subcontractor has also been obtained and approved by the Owner.

Certificates of insurance must be issued by an authorized representative of the insurance company at the request and direction of the policyholder and must include sufficient information so as to identify the coverage and the contract for Owner's improvements for which they are issued. Certificates of insurance must be issued by a nationally recognized insurance company with a Best's Rating of no less than B+VII, satisfactory to the Owner, and duly licensed to do business in the state of said Contract.

The Contractor shall procure and maintain, during the life of this Contract, Workmen's Compensation Insurance for all of his employees to be engaged in work under this Contract, and he shall require any subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work, unless such employees are covered by the protection afforded by the Contractor's insurance. In case any employees are to be engaged in hazardous work under this Contract, and are not protected under this Workmen's Compensation statute, the Contractor shall provide, and shall cause each subcontractor to provide, adequate coverage for the protection of such employees. It is acceptable to use a State-approved Workmen's Compensation Self-Insurance fund.

The Contractor shall take out and maintain during the life of this Contract, Public Liability and Property Damage and shall include Contractual Liability, Personal Injury, Libel, Slander, False Arrest, Malicious Prosecution, Wrongful Entry or Eviction, Broad Form Property Damage, Products, Completed Operations and XCU Coverage to be included on an occurrence basis, and to the full extent of the Contract to protect him, the Owner, and any subcontractor performing work covered by this Contract from damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this contract, whether such operations be by himself or by a subcontractor, or by anyone directly or indirectly employed by either of them. The Contractor shall also maintain automobile liability insurance including "non-owned and hired" coverage. The entire cost of this insurance shall be borne by the Contractor.

The amount of such insurance shall be no less than \$1,000,000 annual aggregate for bodily injury and property damage combined per occurrence.

The City of Naples must be named as Additional Insured on the insurance certificate and the following must also be stated on the certificate. "These coverage's are primary to all other coverage's the City possesses for this contract only." The City of Naples shall be named as the Certificate Holder. The Certificate Holder shall read as follows:

The City of Naples
735 Eighth Street South
Naples, Florida 34102

No City Division, Department, or individual name should appear on the Certificate.
No other format will be acceptable.

The Certificate must state the bid number and title.

When using the ACORD 25 – Certificate of Insurance only the most current version will be accepted.

The City of Naples requires a copy of a cancellation notice in the event the policy is cancelled. The City of Naples shall be expressly endorsed onto the policy as a cancellation notice recipient.

[If other insurance or insurance requirements or any waivers, attach as Exhibit C-1through C-__]

EXHIBIT D

CERTIFICATION OF COMPLIANCE WITH IMMIGRATION LAWS

The undersigned is the **Executive Vice President and General Manager of the T2 Systems Canada, Incorporated** company ("the CONTRACTOR"), and hereby certifies to the following:

1. The CONTRACTOR is in full compliance with all provisions of the Immigration Reform and Control Act of 1986 ("IRCA"), as well as all related immigration laws, rules, regulations pertaining to proper employee work authorization in the United States.

2. The undersigned has verified that the CONTRACTOR has obtained and maintains on file, and will continue to obtain and maintain on file, all documentation required by law, including but not limited to, Form I-9, Employment Eligibility Verification, for all persons employed by or working for the CONTRACTOR in any capacity on any project for the City of Naples (CITY). All such persons have provided evidence of identity and eligibility to work to the CONTRACTOR in accordance with the IRCA and related law. The undersigned hereby affirms that no person has been or will be employed by the CONTRACTOR to work on projects for the CITY who is not authorized to work under law. The undersigned further affirms that the CONTRACTOR's files will be updated by written notice any time that additional employees work on projects for the CITY.

3. The CONTRACTOR will have its contractors, subcontractors, suppliers and vendors who are involved in projects for the CITY to sign a written acknowledgment that they too are in compliance with immigration law. It is understood that failure to do so could result in the CONTRACTOR being liable for any violation of the law by such third parties.

4. The CONTRACTOR will fully cooperate with and have its contractors, subcontractors, suppliers and vendors to fully cooperate with, all inquiries and investigations conducted by any governmental agency in connection with proper compliance with the laws pertaining to appropriate work authorization in the United States.

5. The undersigned, on behalf of the CONTRACTOR, acknowledges that this Certification may be relied upon by the CITY, its officers, directors, employees, and affiliates or related persons and entities.

6. If it is found that the CONTRACTOR has not complied with the laws pertaining to proper employment authorization, and any legal and administrative action ensues against the CITY, the CONTRACTOR will indemnify, defend and hold the CITY harmless along with their officers, directors, employees, and affiliated or related persons and entities.

7. The CONTRACTOR acknowledges that the CITY by their authorized representatives shall have the right, at any time, upon 24 hours notice, to examine the CONTRACTOR's books and records to confirm that the CONTRACTOR is in compliance with the terms of this certification.

Executed this 8th day of APRIL, 2015.

By: 

EXHIBIT E

Digital IRIS Agreement which is attached and made part of this Agreement.

END OF EXHIBIT E



DIGITAL IRIS Customer Agreement

THIS DIGITAL IRIS CUSTOMER AGREEMENT GOVERNS THE PROVISION AND USE OF THE DIGITAL IRIS SERVICES, WIRELESS DATA SERVICES AND DIGITAL IRIS-RELATED SUPPORT SERVICES PURCHASED BY YOU ("CUSTOMER") FROM T2 SYSTEMS CANADA INC. ("T2").

BY SIGNING THIS AGREEMENT, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND AND AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT.

IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A CORPORATE OR OTHER LEGAL ENTITY YOU HEREBY REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, AND "CUSTOMER" SHALL MEAN SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY OR YOU OR SUCH ENTITY DO NOT AGREE TO THE TERMS AND CONDITIONS SET OUT IN THIS AGREEMENT, YOU MUST NOT ACCEPT THIS AGREEMENT AND NEITHER YOU NOR SUCH ENTITY MAY USE THE SERVICES.

1. DEFINITIONS. In this Agreement:

- (a) "Activation Date" means the first date that each pay station unit is enabled by T2 to connect to the Services.
- (b) "Affiliate" means, in respect of an entity, any entity which directly or indirectly controls, is controlled by, or is under common control with such entity. "Control" for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of an entity.
- (c) "Agreement" means this Digital Iris Customer Agreement, including all Sales Quotes.
- (d) "Confidential Information" means and includes any written or orally or visually disclosed information relating to the disclosing party's business identified as "confidential" or which the receiving party should reasonably know is confidential or not generally known to the public, including, without limitation:
 - (i) all know-how, technology and other proprietary information owned, licensed, used or developed by the disclosing party, including proprietary rights protected by trade secret and other intellectual property rights, and
 - (ii) all information relating to the disclosing party's business, the Services, and to all other aspects of the disclosing party's structure, personnel, operations, financial matters, marketing, commercial strategies, customer lists, customer data, contractual records, correspondence, products, programs, devices, concepts, inventions, designs, methods, data, and items provided to the disclosing party by third parties subject to restrictions on use or disclosure.
- (e) "Documentation" means the documentation, help files, user manuals, handbooks and any other written or electronic material relating to the Digital Iris Services provided by T2 to its customers from time to time.
- (f) "T2 System" means, in respect of the Digital Iris Services, the entire physical operation(s), located at the T2 facilities designated by T2 from time to time to host the Digital Iris Services, including all networks and servers, hardware and software utilized in the provision of the Digital Iris Services located behind the Point of Access.
- (g) "Effective Date" means the date on which Customer first accepts this Agreement.
- (h) "Digital Iris Services" means the Digital Iris services subscribed to by Customer as set out in the Sales Quote(s).



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- (l) "Fees" means the fees for the Services as set out in the Sales Quote(s), and any other amounts payable under this Agreement, as calculated from the Activation Date.
- (j) "Non-Conformity" means the failure of the Digital Iris Services software to perform according to the Documentation.
- (k) "Point of Access" means T2's border router(s) which is (are) used to establish connectivity from the T2 System to T2's Internet service provider and the public Internet.
- (l) "Representatives" means, in respect of a party, the directors, officers, employees, agents and contractors of such party.
- (m) "Sales Quote(s)" means the sales quote forms executed by Customer from time to time setting out the details of the Services subscribed to by Customer, including applicable fees, which upon execution by Customer will be incorporated by reference into and form an integral part of this Agreement.
- (n) "Services" means the Digital Iris Services, Wireless Data Services, Support Services and/or any additional services.
- (o) "Support Services" means Digital Iris technical support services purchased by Customer, as described in the pay station warranty description, as amended from time to time.
- (p) "System Availability Period" means, in respect of the Digital Iris Services, twenty-four (24) hours per day, seven (7) days per week excluding the System Maintenance Period.
- (q) "System Maintenance Period" means, in respect of the Digital Iris Services, scheduled maintenance periods during which Digital Iris Services access will not be available to Customer due to required system maintenance, upgrades, and other hosting requirements for the T2 System.
- (r) "Wireless Data Services" means the third party wireless data services, if any, purchased by Customer from T2 for the purpose of enabling communications between the T2 System and Customer's parking pay stations.

All other terms defined in this Agreement shall have the meanings ascribed thereto.

- 2. **TERM.** This Agreement shall commence on the Effective Date and remain in full force and effect until terminated in accordance with its terms.
- 3. **DIGITAL IRIS SERVICES.**
 - (a) Subject to the terms of this Agreement, T2 will supply the Digital Iris Services subscribed to by Customer, and Customer is granted a limited, non-exclusive, non-transferable right to access and use Digital Iris Services software, solely as necessary for Customer's use of the Digital Iris Services for its internal business purposes.
 - (b) T2 will provide Customer with one (1) administration account (login and password) to access the Digital Iris Services on the T2 System.
 - (c) T2 will provide the Digital Iris Services in accordance with the following standards:
 - (i) T2 is classified under the PCI Security Standards as a Level 1 Service Provider. The Digital Iris Services will remain in compliance with current PCI security standards at all times;
 - (ii) T2 will be responsible for delivery of access to the Digital Iris Services on the T2 System only up to and including the Point of Access, and is not responsible for any failure due to



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Customer's telecommunications connections, facilities (including internal local area networks (LAN)) or local infrastructure;

- (iii) T2 will use all reasonable efforts to ensure the Digital Iris Services will be available during the System Availability Period;
- (iv) T2 will provide Customer with at least 48 hours prior electronic notice of any scheduled System Maintenance Period;
- (v) T2 shall have the right to implement updates and upgrades to any software used in providing the Digital Iris Services, in its sole discretion;
- (vi) T2 will respond to incidents that have been reported by Customer within the response times set out in the T2 Support Services description; and
- (vii) in the event of a T2 System failure, T2 will use commercially reasonable efforts to complete data recovery requests using the most recent version of the backup data, databases, applications and configuration pieces required to restore Customer data.

4. RESTRICTIONS ON USE OF DIGITAL IRIS SERVICES.

- (a) Customer shall use the Digital Iris Services only for the parking pay stations identified in the Sales Quote(s), and only in accordance with the Documentation and any other instructions issued by T2 from time to time. Failure to use the Services in accordance with instructions provided by T2 may result in failure of all or any part of the Services, and/or accidental loss of data or data integrity. If Customer does not understand the requirements for the proper use of the Digital Iris Services, Customer must contact T2 for additional information.
- (b) Customer may make copies of the Documentation solely for its own internal purposes in conjunction with its use of the Digital Iris Services. Copyright and other proprietary rights in the Documentation shall remain vested in T2. Customer may not remove any title, trademark, copyright and/or restricted rights or proprietary notices or labels from, or otherwise modify the Documentation, and all copies of the Documentation must include all such notices and labels.
- (c) Customer shall restrict access to the Digital Iris Services to its employees or contractors, solely as required for its internal business purposes. Without limiting the generality of the foregoing, Customer may not sell, rent, loan or otherwise grant any rights in or to the Digital Iris Services, or permit any other party to do so.
- (d) Customer agrees not to:
 - (i) Introduce any kind of malware, including but not limited to viruses, worms, Trojan horses or other harmful code that may damage the operation of the Digital Iris Services or the T2 System;
 - (ii) use the Digital Iris Services in any manner which could damage, disable, overburden or impair any part of the T2 System, or interfere with any other customer's ability to use the Digital Iris Services or the T2 System;
 - (iii) attempt to gain access to other customers' accounts through any manner of hacking or password mining or other means;
 - (iv) attempt to embed the Digital Iris Services within another website;
 - (v) attempt to use such methods as SQL Injection, Cross Site Scripting, Remote File Inclusion, Cross Site Request Forgery and any other methods not authorised by T2 to gain access to the T2 System or the Digital Iris Services;



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- (vi) attempt a Denial of Service (DOS) attack of any kind;
- (vii) use the Digital Iris Services or the T2 System to transmit SPAM, junk email or other unsolicited email of any kind; or
- (viii) in connection with the Services, engage in conduct that would constitute a criminal or quasi-criminal offence, that could give rise to civil liability, intellectual property rights infringement, or privacy rights violations, or that would otherwise violate any applicable local, provincial, state, federal or international law, or accepted Internet protocol.

5. WIRELESS DATA SERVICES.

- (a) If purchased by Customer, T2 will provide the Wireless Data Services, supplied by T2's underlying third party wireless data services carrier, to Customer. Customer acknowledges and agrees that (i) Customer has no contractual relationship with the third party wireless data services carrier, (ii) Customer is not a third party beneficiary of any agreement between T2 and the carrier, and (iii) that the wireless data services carrier shall have no liability of any kind whatsoever to Customer, or any party deriving rights through Customer, whether for breach of contract, warranty, negligence, strict liability, tort, or otherwise.
- (b) Customer shall use the Wireless Data Services only in connection with the Digital Iris Services and parking pay stations identified in the Sales Quote(s).
- (c) Customer agrees that it will at all times comply with and abide by all terms and conditions established by T2 from time to time for the use of and access to the Wireless Data Services, and acknowledges that the Wireless Data Services may be restricted or cancelled by T2 or the underlying data services carrier if there is a reasonable suspicion of abuse or fraudulent use of the services.
- (d) Customer may not resell the Wireless Data Services to any other person.
- (e) Customer has no property right in any wireless number assigned to it in connection with the Wireless Data Services, and understands that such number can be changed.
- (f) Customer will provide T2 with prompt notice of any suspected abuse or fraudulent use of the Wireless Data Services of which it becomes aware.

6. SUPPORT SERVICES.

T2 will provide the Support Services in accordance with the Digital Iris technical services description, as amended from time to time. Support Services are limited to those set out in the services description, and expressly exclude any additional services required to correct any Non-Conformities resulting from the causes described in Subsection 11(b). Any additional technical support may be agreed by T2 on a case-by-case basis, and shall be charged on a time and materials basis at T2's then-standard rates therefor.

7. FEES AND PAYMENT.

- (a) Customer agrees to pay to T2 the Fees plus all applicable taxes in accordance with this section.
- (b) The initial invoice will be issued on or about the Activation Date and the first month's Fees will be prorated to reflect such date. Except as otherwise set out in the Sales Quote(s), T2 will issue monthly invoices for Fees thirty (30) days in advance of each month of the calendar year. Payment terms are net thirty (30) days from the date of invoice and payable to T2 as set out in the Invoice.



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- (c) Customer shall pay interest on any invoiced amounts which are unpaid after 30 days at a rate of 1.5% per month (18% per annum, effective rate) or the maximum amount allowed by law (whichever is less), from the date such amounts become due and payable. Customer also agrees to pay all costs incurred by T2 to collect any overdue amounts.
- (d) Without limiting any other rights and remedies which T2 may have, T2 shall also have the right to suspend or terminate any or all of the Services upon notice but without any liability to Customer or any other party, if any Fees or other amounts owing by Customer to T2 remain unpaid after 60 days, including any charge backs for NSF checks.
- (e) All Fees are exclusive of all taxes, duties and levies of any kind, including any sales, use, excise, value-added and other applicable taxes, withholdings, and governmental charges (collectively, "Taxes"). Customer shall pay all applicable Taxes, other than taxes on T2's income. If T2 pays any such amounts on behalf of Customer, Customer shall reimburse T2 upon presentation of proof of payment.

8. OWNERSHIP.

- (a) Customer acknowledges that T2 has developed and uses valuable technical and non-technical information, trade secrets, know-how and the like in the supply of the Services. Customer agrees that, except for the limited right to use the Services as set out in this Agreement, all rights, title and interest in and to the Services, the Digital Iris software, the T2 System, Documentation, and any other hardware, software, equipment and materials used by T2 in conjunction with the delivery of the Services, shall remain vested in T2 or its third party suppliers.
- (b) Each party recognizes and acknowledges the great value of the goodwill associated with the name and trademarks of the other party, and the identification of the proprietary party's goods or services therewith. Each party agrees that it obtains no rights, title or interest of any kind in or to any of the trademarks, tradenames, logos, service marks or other markings belonging to the other party or its suppliers.
- (c) The parties acknowledge that at all times Customer will remain the owner of its transaction data. T2 shall not at any time use Customer's data or disclose Customer's data to any third parties, except that T2 may store, back-up and archive Customer's data.

9. CONFIDENTIALITY.

- (a) Each party agrees to hold all Confidential Information of the other party in strictest confidence, not to make use thereof other than for the performance of this Agreement, to disclose such Confidential Information only to its Representatives who are under an obligation of confidentiality with respect thereto and who require such information for the performance of their duties, and not to disclose such Confidential Information to any third parties, except with the disclosing party's prior written consent; provided, however, that the foregoing restrictions shall not apply to Confidential Information of the other party:
 - (i) that is now or hereafter in the public domain through no action or failure to act on the part of the receiving party or its Representatives;
 - (ii) that was received by or was available to the receiving party from a third party without any obligation of confidentiality to the disclosing party;
 - (iii) that is independently developed by or for the receiving party by persons who have not had access to the Confidential Information of the disclosing party;
 - (iv) that is disclosed with the written consent of the disclosing party; or



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- (v) that is disclosed pursuant to the requirement of a governmental agency or is required by operation of law, regulation or court order, provided that whenever possible prompt notice is given by the receiving party to the disclosing party prior to such disclosure so that the disclosing party may seek a protective order or other remedy.
- (b) Each party agrees to protect and safeguard Confidential Information of the other party from loss, theft, destruction and inadvertent disclosure using the same degree of care as it uses to protect its own confidential information of a like nature, but in no event less than a reasonable standard of care.
- (c) Each party shall hold the other party's Confidential Information in trust for the other party and all right, title and interest in and to such Confidential Information shall remain with the disclosing party.
- (d) Upon termination of the Services, or otherwise upon the request of a disclosing party, the receiving party will promptly destroy all full and partial copies of the disclosing party's Confidential Information in its possession or control, and certify such destruction in writing; provided, however, that the receiving party may retain one (1) copy for its internal archival purposes only, which copy shall remain subject to the obligations of confidentiality set out in this Section 9.

10. CUSTOMER LIABILITY.

- (a) Customer shall be solely responsible for, and shall hold T2, its third party suppliers, and their respective Representatives harmless from any loss, damage or liability arising in connection with:
 - (i) Customer's inputs, selection and use of the Services, and all data, reports, statements and other content transmitted, posted, received or created on the T2 System through Customer's account, even if transmitted, posted, received or created by a third party;
 - (ii) Customer's or its Representative's use, misuse, failure to use, or inability to use the Wireless Data Services or any other data services required for the use of the Digital Iris Services, including any abuse, fraudulent use or unauthorized access thereto, and
 - (iii) Any breach by Customer and/or its Representatives of any of the terms and conditions of this Agreement.

11. LIMITED WARRANTY.

- (a) T2 warrants to Customer that, for the duration of this Agreement, the Digital Iris RIS Services will substantially conform to the specifications set out in the Documentation, as revised by T2 from time to time.
- (b) The foregoing warranty shall not apply to Non-Conformities that result from any cause beyond the reasonable control of T2 including, but not limited to:
 - (i) Customer's failure to:
 - (A) prepare and maintain a technical environment that meets the specifications provided by T2 from time to time,
 - (B) provide necessary communications mechanisms (including connections to pay station units) as specified by T2 from time to time, or
 - (C) maintain pay station units in good repair in accordance with T2's recommendations and requirements for operation, maintenance and repair;



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- (ii) the use of the Digital Iris Services in combination with apparatus, systems, products or services where such combination was not provided, proposed, recommended or approved by T2, or contemplated in the Documentation;
 - (iii) unauthorized modifications or repairs to any equipment supplied by T2 (including pay station units) by Customer or any person not approved by T2; or
 - (iv) failures relating to Customer's computing environment including, without limitation, electrical failure, Internet connection problems, communications problems, or data or data input, output, integrity, storage, back-up, and other external and/or Infrastructure problems, which, as between Customer and T2, shall be deemed to be under Customer's exclusive control and sole responsibility.
- (c) T2 shall have no responsibility and provides no representations or warranties with respect to any third party hardware, software or services, whether supplied in connection with this Agreement or otherwise.
- (d) If Customer notifies T2 in writing of a breach of the foregoing limited warranty, T2 shall, at its cost and expense, promptly, diligently and in good faith continue to completion, using commercially reasonable efforts accounting for the circumstances, the correction or bypassing, in T2's reasonable discretion, of the Non-conformity within the period required under the Support Services or such other period as may be mutually agreed by both parties depending on the nature and severity of the Non-conformity.

12. EXCLUSION OF WARRANTIES.

- (a) EXCEPT AS EXPRESSLY PROVIDED IN SECTION 11, THE SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OR REPRESENTATION OF ANY KIND. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, T2 AND ITS THIRD PARTY SUPPLIERS HEREBY DISCLAIM ALL OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, WHETHER ARISING UNDER STATUTE, FROM A COURSE OF DEALING, USAGE, CUSTOM OF THE TRADE OR OTHERWISE, REGARDING THE SERVICES, THE DOCUMENTATION, OR ANY OTHER PRODUCTS OR SERVICES PROVIDED OR FAILED TO BE PROVIDED UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, DURABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCESSIBILITY, PRIVACY OF FILES OR SECURITY.
- (b) T2 DOES NOT WARRANT THAT THE SERVICES OR ANY OTHER PRODUCTS OR SERVICES PROVIDED HEREUNDER WILL BE UNAFFECTED BY BUGS, VIRUSES, ERRORS OR OTHER PROGRAM LIMITATIONS, NOR DOES T2 WARRANT THAT CUSTOMER'S USE THEREOF WILL BE UNINTERRUPTED, ERROR-FREE OR WILL MEET ALL OF THE CUSTOMER'S REQUIREMENTS. IN ADDITION, THE WIRELESS DATA SERVICES ARE NOT GUARANTEED AGAINST EAVESDROPPERS, HACKERS, DENIAL OF SERVICE ATTACKS OR INTERCEPTORS AND NEITHER T2 NOR THE UNDERLYING WIRELESS DATA SERVICES CARRIER CAN GUARANTEE THE PRIVACY OR SECURITY OF WIRELESS TRANSMISSIONS.
- (c) THIS LIMITED WARRANTY GIVES THE CUSTOMER SPECIFIC LEGAL RIGHTS. THE CUSTOMER MAY HAVE OTHER RIGHTS, WHICH VARY FROM LOCATION TO LOCATION, DEPENDING UPON THE APPLICABLE LAW OF SUCH LOCATION.



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13. LIMITATION OF LIABILITY AND DAMAGES

- (a) TO THE MAXIMUM EXTENT PERMITTED BY LAW T2'S, ITS THIRD PARTY SUPPLIERS' AND THEIR RESPECTIVE REPRESENTATIVES' TOTAL COLLECTIVE LIABILITY ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, AND/OR ANY PRODUCTS OR SERVICES DELIVERED OR FAILED TO BE DELIVERED UNDER THIS AGREEMENT, SHALL BE LIMITED TO THE ACTUAL DIRECT DAMAGES SUFFERED BY CUSTOMER, NOT TO EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER FOR THE PRODUCT OR SERVICE GIVING RISE TO THE CLAIM. TOTAL AGGREGATE LIABILITY FOR ALL CLAIMS SHALL BE LIMITED TO AN AMOUNT EQUAL TO THE TOTAL FEES ACTUALLY PAID BY CUSTOMER TO T2 FOR THE SERVICES DURING THE SIX MONTHS IMMEDIATELY PRECEDING THE MOST RECENT CLAIM. IN NO EVENT WILL T2 OR ITS THIRD PARTY SUPPLIERS BE LIABLE IN ANY WAY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR AGGRAVATED DAMAGES OF ANY KIND WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF USE, DATA, INCOME, BUSINESS, PROFIT, GOODWILL, ANTICIPATED REVENUE, FAILURE TO REALIZE EXPECTED SAVINGS, OR OTHERWISE.
- (b) WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, DUE TO THE NATURE OF INTERNET AND WIRELESS TRANSMISSIONS, CUSTOMER AGREES THAT NEITHER T2 NOR THE UNDERLYING WIRELESS DATA SERVICES CARRIER SHALL BE LIABLE FOR ANY LOSS, COSTS OR DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH: ANY LACK OF PRIVACY OR SECURITY OF WIRELESS TRANSMISSIONS, WIRELESS DATA SERVICES INTEROPERABILITY, ACCESS OR INTERCONNECTIONS WITH THE T2 SYSTEM OR THE DIGITAL IRIS SERVICES, WIRELESS DATA SERVICE DEFECTS, SERVICE LEVELS, DELAYS OR INTERRUPTIONS; ANY INTERRUPTION OR ERROR IN ROUTING OR COMPLETING CALLS OR OTHER TRANSMISSIONS; LOST OR ALTERED MESSAGES OR TRANSMISSIONS; OR UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF CUSTOMER'S CONTENT, DATA, PROGRAMS CONFIDENTIAL INFORMATION OR SYSTEMS.
- (c) NO ACTION, REGARDLESS OF FORM, ARISING OUT OF THIS AGREEMENT MAY BE BROUGHT BY CUSTOMER MORE THAN TWELVE (12) MONTHS AFTER THE FACTS GIVING RISE TO THE CAUSE OF ACTION HAVE OCCURRED, REGARDLESS OF WHETHER THOSE FACTS BY THAT TIME ARE KNOWN TO, OR OUGHT REASONABLY TO HAVE BEEN DISCOVERED BY, CUSTOMER.
- (d) THE FOREGOING LIMITATIONS SHALL APPLY REGARDLESS OF THE CAUSE OF ACTION, WHETHER ARISING UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, AND REGARDLESS OF WHETHER T2, ITS THIRD PARTY SUPPLIERS AND/OR THEIR REPRESENTATIVES KNEW, OR SHOULD HAVE KNOWN ABOUT THE POSSIBILITY OF SUCH DAMAGES.
- (e) CUSTOMER AGREES THAT THE LIMITATIONS OF LIABILITY SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THIS AGREEMENT, WITHOUT WHICH T2 WOULD NOT HAVE ENTERED INTO THIS AGREEMENT AND/OR AGREED TO PROVIDE THE SERVICES UNDER THE CURRENT TERMS (INCLUDING FEES).
- (f) BECAUSE THE LAWS OF SOME LOCATIONS DO NOT ALLOW THE LIMITATION AND/OR EXCLUSION OF LIABILITY, THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO ALL CUSTOMERS

14. TERMINATION.

- (a) Either party may terminate this Agreement without cause by written notice to the other party, which termination shall be effective as of the last day of the calendar month following the month in which notice of termination is received.



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- (b) Either party may terminate this Agreement if the other party breaches any of its representations or warranties, or any other material obligation under this Agreement, and fails to remedy such breach within thirty (30) days of receipt of notice from the non-breaching party. T2 shall also have the right to suspend performance of all or any of the Services, without liability, pending the rectification of any breach by Customer.
- (c) Either party may terminate this Agreement, immediately upon written notice, if the other party makes an assignment for the benefit of its creditors or becomes bankrupt or makes an application for relief under the provisions of any statute now or hereafter in force concerning bankrupt or insolvent debtors, or if a receiving order or receivership order is made against the other party, or any action whatsoever, legislative or otherwise be taken to effect the winding up, dissolution, suspension of operations or liquidation of the other party.
- (d) In addition, Customer may, upon written notice to T2 terminate (i) the Wireless Data Services and/or (ii) any of the Individual Digital Iris Services, if T2 breaches any of its obligations in respect of the terminated Services and fails to cure such breach within 30 days after receipt of a written request from Customer to do so.
- (e) Without limiting any other remedies available under this Agreement, at law or in equity, in the event of the termination of this Agreement or any of the Services for any reason:
 - (i) T2's obligation to provide the affected Services will terminate;
 - (ii) All unpaid amounts due in respect of the terminated Services up to and including the effective date of termination shall, at T2's option, become immediately due and payable;
 - (iii) Subject to T2's right to set-off any amounts owing by Customer to T2 pursuant to (ii), above, T2 will refund to Customer any Fees which have been prepaid by Customer for any unused portion of the terminated Services;
 - (iv) Customer must destroy any copies of the Documentation in Customer's possession in any form and on any media, and certify to T2 in writing that it has done so;
 - (v) Customer may request T2 to provide a copy of all of Customer's data in a CSV file format at T2's standard fee therefor, as established by T2 from time to time; and
 - (vi) T2 may destroy, in its sole discretion, Customer's data remaining on the T2 System after either:
 - (A) receiving confirmation that Customer has a copy of any remaining data;
 - (B) providing Customer with a copy of any remaining data pursuant to Subsection 14 (e) (v) ; or
 - (C) 60 days after the expiration or termination of this Agreement, and
 - (vii) Sections 1, 4, 7, 8, 9, 10, 11, 12, 13, 14(e), 15, 16(c) and 16(i) shall survive the expiration or termination of this Agreement until such time as the parties may agree to the release of the obligations contained therein.

15. DISPUTE RESOLUTION.

Dispute Resolution. In the event of any dispute arising out of this Agreement, the parties shall use commercially reasonable efforts to negotiate a settlement in good faith satisfactory to both



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parties. If they do not reach a solution within a period of 60 days (or such other longer period as the parties may agree), then either party may, on written notice to the other party, refer the dispute for settlement by arbitration before a single arbitrator in accordance with the rules of the American Arbitration Association. The costs of the arbitrator will be borne equally by the parties, but they will otherwise bear their respective costs incurred in connection with the arbitration. The parties shall select the arbitrator promptly and use commercially reasonable efforts to conduct the arbitration hearing no later than three (3) months after the arbitrator is selected. The arbitrator may not award punitive or exemplary damages against either party or any other relief in excess of the limitations set forth herein. The judgment and award of the arbitrator will be final and binding on each party. Judgment upon the award may be entered in any court having jurisdiction, or application may be made to such court for judicial acceptance of the award and/or an order of enforcement as the case may be. No action, regardless of form, arising out of or in connection with this Agreement may be brought by Customer more than twelve (12) months after the occurrence of the event giving rise to the cause of action, regardless of whether the Customer was aware or ought reasonably to have been aware of the event.

16. **GENERAL PROVISIONS**

- (a) **Assignment.** Customer may not assign or transfer any of its rights or obligations under this Agreement to any person without the express prior written consent of T2.
- (b) **Entire Agreement.** Customer acknowledges that this Agreement (including the Sales Quote(s)) comprises the entire understanding and agreement between parties regarding the Services and supersedes all prior written and oral agreements, purchase orders, representations, understandings, promises, descriptions or other communications between the parties regarding the Services. T2 may change, modify, add or remove portions of this Agreement at any time. T2 will notify Customer of any changes to this Agreement by posting notice of such changes on the T2 web site (www.digitalpaytech.com), by email, or by sending notice to Customer in accordance with subsection 16(g), below. Customer's continued use of the Services following notice of such change means that Customer agrees to and accepts the Agreement as amended. If Customer does not agree to any modification of this Agreement, Customer must immediately stop using the Services and notify T2 that it is terminating this Agreement.
- (c) **Injunctive Relief.** Each party acknowledges and agrees that a breach of the obligations under Section 8 ("Ownership") and Section 9 ("Confidentiality") would cause irreparable harm and significant injury to the affected party that would not be adequately compensated by an award of money damages and, in addition to any other remedy available at law or in equity, and notwithstanding the provisions of Section 15, the affected party will be entitled to seek and obtain temporary and permanent injunctive relief from any court of competent jurisdiction to prevent breaches hereunder, without showing or proving any actual or threatened damage.
- (d) **Enurement.** This Agreement shall be binding upon and enure to the benefit of T2, Customer and their respective successors and permitted assigns.
- (e) **Force Majeure.** Neither party shall be liable for delay or failure in performance (other than the making of payments) resulting from acts beyond the control of such party, including, but not limited to acts of God, acts of war, riot, fire, flood, or other disaster, acts of government, strike lockout, power failures, or the inability to use or the failure of any third party telecommunications carrier or other services, which events or conditions prevent in whole or in part the performance by such party of its obligations hereunder or which renders the performance of such obligations so difficult or costly as to make performance commercially unreasonable. In such event, the party affected shall be excused from performance on a day-to-day basis to the extent of the delay, and



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the other party shall likewise be excused from the performance of its obligations on a day-to-day basis to the extent such party's obligations related to the performance are so delayed.

- (f) Independent Contractors. The parties are independent contractors. Nothing herein shall be construed to create any legal partnership, joint venture, agency or any other relationship between the parties.
- (g) Notices. All communications and notices provided for herein shall be in writing and shall be deemed to have been given when delivered personally to the recipient, by email, or by registered or certified mail with return receipt requested, postage prepaid, and addressed to the applicable signatory at the address appearing on the Sales Quote(s) or at such other address as either party may designate by notice to the other.
- (h) No Waiver. No delay or failure to take any action or exercise any rights under this Agreement shall constitute a waiver or consent unless expressly waived or consented to in writing. A waiver of any event does not apply to any other or subsequent event, even if in relation to the same subject-matter.
- (i) Publicity. Except as expressly permitted in Section 9 ("Confidentiality"), neither party shall issue any press release, or otherwise publicly identify the other as a customer or supplier, in any marketing materials or otherwise, without the express prior authorization of the other party.
- (j) Severability. If any provision contained in this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, it shall be deemed severed from this Agreement and the remaining provisions of this Agreement shall not be in any way affected or impaired thereby and shall continue in full force and effect.

T2 SYSTEMS CANADA INC.

XXX

Per: _____

Per: _____

Name: _____

Name: _____

Title: _____

Title: _____