



QUESTICA BUDGET MAINTENANCE AND SUPPORT AGREEMENT

This MAINTENANCE AND SUPPORT AGREEMENT (the “Agreement”) is made and entered into this 20th day of December, 2022 by and between QUESTICA SOFTWARE LTD., a corporation incorporated under the laws of Delaware, US (“**Questica**”) and the City of Santa Ana, CA, including, without limitation, all its subdivisions, departments, and constituent entities within its legal scope and jurisdiction (collectively, the “**Licensee**”).

BACKGROUND

1. On January 16, 2018, Questica and Licensee entered into a License and Services Agreement #A-2018-006.
2. Questica is the exclusive provider of Maintenance and Support Services for the Questica Budget product solution.
3. The Licensee wishes to receive Maintenance and Support Services for the licensed products, pursuant to the terms of this Agreement.
4. The Licensee wishes to receive Unlimited Licenses for the licensed products, pursuant to the terms of this Agreement

NOW THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration (the receipt and adequacy of which are hereby acknowledged), Questica and Licensee (collectively, the “**Parties**” and individually, a “**Party**”) agree as follows:

- 1. ORDER OF PRECEDENCE.** All terms from the original License and Services Agreement and any subsequent changes or amendments remain in full force unless specifically addressed within this Maintenance and Support Agreement.
- 2. PERMITTED USE.** Subject to the terms of this Agreement, Questica hereby grants to Licensee a perpetual, personal, revocable, non-transferable and non-exclusive license to use the Software, solely in executable code format, and the Documentation provided therewith, solely for Licensee’s own internal business purposes exclusively within the facilities and sites within the jurisdiction of the Licensee. If Licensee wishes to use the Software at or from an additional site or sites outside of its jurisdiction, Licensee agrees to obtain a separate license for such site(s). Licensee’s right to use the Software and the Documentation is limited to those rights expressly set out herein. Licensee shall not use the Software, in whole or in part, on behalf of or for the benefit of any other Person, including an affiliate of the Licensee, except as expressly provided herein.
 - 2.1. PERSONNEL WORK-AT-HOME RIGHTS.** Licensee’s personnel (its employees and contractors) may use the Software from their homes as an extension of the license granted to the Licensee, for business related purposes. Licensee personnel may not use the Software at home for personal purposes. For greater clarity, Licensee shall be responsible for the use of Questica by

any contractors, including any actions or omissions of such contractors, as though they were employees of Licensee. Licensee shall promptly deny access to the Software to (a) any employee or contractor who is no longer employed by License; or (b) any staff member who would not normally require the use of the Software in the at-work environment.

- 2.2. PERMITTED CUSTOMIZATIONS.** Questica also grants the Licensee a non-sublicensable, non-exclusive, non-transferable right to create, or to have created on its behalf, “Permitted Customizations” to the executable code components of the Software solely for internal use and only for use as part of and in conjunction with the related Software. “Permitted Customizations” is custom software or reports which are developed that access or interact with the Software or its associated database(s). The Licensee may only create Permitted Customizations that do not require the source code of the Software to create the Permitted Customizations.

Permitted Customizations Do Not Inhibit Questica’s Right to Innovate. Independently, Questica is continually innovating and improving the Software to meet the needs of its customers. The Licensee acknowledges that, while it has the ability to create its own Permitted Customizations, Questica must not be prevented from continuing to develop and enhance its software in any respect, even if such modifications may be similar to the Permitted Customizations in functionality, appearance or otherwise. Questica retains the right to (i) develop any modifications which may be similar to the Permitted Customizations; and (ii) integrate any or all of such modifications into its core product.

- 2.3. RESTRICTIONS ON USE.** Except as set forth herein, Licensee shall (a) not copy the Software except to copy it onto the site computers being used by Licensee and to make copies of the Software solely for backup, training, disaster recovery or testing purposes; (b) not copy any of the Documentation for any use outside the site; (c) not assign this Agreement or transfer, lease, export or grant a sub-Licensee of the Work or the license contained herein to any Person or organization except as and when authorized to do so by Questica in writing; (d) not reverse engineer, decompile or disassemble the Software; (e) not use the Work except as authorized herein; (f) take such precautions with respect to the Software, as it would take to protect its own proprietary software or hardware or information. For the purposes of this Agreement, “Person” includes an individual, corporation, partnership, joint venture, trust, unincorporated organization, the Crown or any agency or instrumentality thereof or any other judicial entity recognized by law.

- 3. OWNERSHIP AND COPYRIGHT.** Questica is the owner of all intellectual property rights in the Work, related written materials, logos, names and other support materials provided pursuant to the terms of this Agreement. No title to the intellectual property in the Work or in any magnetic media or other physical media provided therewith is transferred to the Licensee by this Agreement.

Questica shall defend Licensee against any claim that the Work infringes a patent, copyright, trademark or other intellectual property right of any third party and Questica will pay resulting cost, damages and reasonable legal fees finally awarded, provided that i) Licensee promptly notifies Questica in writing of the claim; and ii) Questica has sole control of the defense and all related settlement negotiations.

If such claim has occurred or in Questica's opinion is likely to occur, Licensee agrees to permit Questica at its option and expense, either to procure for Licensee the right to continue using the Work or to replace or modify the same so that it becomes non-infringing without loss of functionality.

Questica shall have no obligation to defend Licensee or to pay costs, damages or legal fees for any claim based upon use of other than a current unaltered release of the Work, if such infringement would have been avoided by the use of a current unaltered release thereof.

The foregoing states the entire obligations of Questica with respect to infringement or proprietary or intellectual rights of third parties.

- 4. LIMITED WARRANTY.** Questica warrants that so long as Product Maintenance and Support services are provided by Questica, that the Software, when properly installed, will perform substantially in accordance with the accompanying written materials. If the Software does not so perform during such period, Questica will correct, at no cost to Licensee, programming errors in the Software to make the Software so perform provided that i) the Software has been properly used by the Licensee in accordance with the documentation furnished by Questica to Licensee in connection therewith; ii) Licensee notifies Questica of the programming errors and describes the nature of the suspected errors and of the circumstances in which they occur; iii) Questica, using reasonable efforts, is able to confirm the existence of the programming errors; and iv) Licensee or any third party has not changed or modified the Software.

Licensee agrees that Questica shall not be liable to the Licensee or any other person, regardless of the cause, for the effectiveness or accuracy of the Software, the Documentation or any other related materials, or for any other special, indirect, incidental or consequential damages arising from or occasioned by the use of the Software, the Documentation or the related materials, or the failure or omission on the part of Questica to comply with its obligations under this Agreement.

The Licensee hereby agrees that Questica's maximum liability for any claim arising in connection with the Software, the Documentation or any related materials (whether in contract, tort, including negligence, product liability or otherwise) shall not exceed the total Maintenance and Support fees paid by the Licensee.

THE ABOVE EXPRESS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS (EXPRESS AND IMPLIED) AND THOSE ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE, INCLUDING BUT NOT LIMITED TO WARRANTIES OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO OTHER WARRANTIES OR CONDITIONS EXPRESS OR IMPLIED ARE GIVEN.

- 5. LIMITATIONS OF REMEDIES AND DAMAGES.** Subject to Section 10 hereof, Questica's entire liability and the Licensee's exclusive remedy under this agreement shall be i) if Questica is in breach of the Limited Warranty, to require Questica to replace any defective media or to correct any defects and make any modifications which are necessary to cause the Software to conform in all material respects to the Documentation; or ii) the termination of this agreement.

In the event of any such termination, Questica shall not be liable in the aggregate for any damages which exceed the amount paid hereunder by the Licensee to Questica as Maintenance and Support Fees. In no event, shall Questica be liable for indirect, special, incidental, or consequential damages, even if advised of the possibility of such damages.

6. **DISPUTE RESOLUTION.** In the event of any dispute arising out of or relating to and/or in connection with this Agreement, the parties' project managers shall use every reasonable effort to resolve such dispute in good faith within ten (10) business days. If the project managers have failed to resolve the dispute within such time frame, then the dispute shall be escalated to the next escalation level. At each escalation level, the designated executives shall negotiate in good faith to resolve the dispute.

Escalation Level	Questica Management	Licensee Management	Period of Resolution Efforts
First Level	Customer Success Associate	Project Manager	10 business days
Second Level	Customer Success Manager	Finance Department Manager	10 business days
Third Level	President	Director of Finance or Treasurer	10 business days

7. **IRREPERABLE HARM.** Licensee acknowledges and agrees with Questica that the breach by it of any of the provisions of Sections 1- 4, 8 or 10 of this Agreement would cause serious harm to Questica which could not adequately be compensated for in damages and in the event of a breach by Licensee of any of such provisions, Licensee understands that an injunction may be issued against it restraining it from any further breach of such provisions, but such actions shall not be construed so as to be in derogation of any other remedy which Questica may have in the event of such breach.
8. **TERMS OF SERVICE.** Terms, provisions, or conditions on any purchase order, acknowledgement, or other business form or writing that Customer may use in connection with the provision of Services (or software) by Questica will have no effect on the rights, duties, or obligations of the parties hereunder, regardless of any failure of Questica to object to such terms, provisions, or conditions.
9. **FEES.** Licensee agrees to pay the fees as specified in **Appendix A**. The total amount to be expended under this Agreement shall not exceed \$231,804.31 during the term of this Agreement. This sum shall be comprised of \$205,404.31 for the three-year term with a contingency amount of \$26,400 for additional custom reporting needs.
10. **PRODUCT MAINTENANCE AND SUPPORT.** For the first year of this Agreement, upon paying the Licensee Fee and for each year thereafter, provided that Licensee continues to pay the Product Maintenance and Support Fees in accordance with the fees set out in Appendix A, Questica shall provide the Maintenance and Technical Support Services (the "**Services**") for the software as outlined in **Appendix B**, if the Licensee is not otherwise in breach of the provisions of this Agreement. If payment of the annual fee is not received by Questica before the first business day of the next additional year, Questica's obligation to provide the Services shall be terminated. Questica may, in its sole discretion, increase the Annual Product Maintenance or Support Fees upon 30 days prior written notice. It may elect not to increase these fees in any year, however no such waiver shall preclude Questica from applying the escalation to any subsequent year or part of a year, and from making the subsequent application as if all subsequent escalation had been duly made over the period since the last increase.
11. **ACCEPTANCE OF CUSTOM WORK.** Within fifteen (15) business days from the delivery of each individual Custom Work, the Customer/Licensee shall, in its sole discretion, review the Product

Customization and notify Questica whether it finds the Customizations satisfactory or unsatisfactory. If it is determined that the Customizations are unsatisfactory, then it shall state in writing the reasons for its determination, including identifying any nonconformance with the Licensee's specifications or expectations. Questica will promptly correct the deficiencies and reinstall the Customizations, and the approval procedure shall be reapplied until Licensee finally declares the Customizations satisfactory. In the absence of a written response within 15 Business Days after the delivery of the Customizations or once the Licensee has declared the Customizations satisfactory, the Customizations shall be considered 'Accepted'.

12. PAYMENT. Payment is required in the currency quoted. Terms are Net-30 days from the later of a) the date of receipt of invoice, or b) the invoice date.

13. CONFIDENTIAL INFORMATION. Each of the Parties shall use reasonable efforts (and, in any event, efforts that are no less than those used to protect its own confidential information) to protect from disclosure the confidential information only to its employees or agents who require access to it for the purpose of this Agreement or as otherwise provided in this Agreement. This Section shall survive the termination of the Agreement. For the purposes of this Section, "confidential information" means all data information which when it is disclosed by a Party is designated as confidential and shall include the Work and any other proprietary and trade secrets of Questica to which access is obtained or granted hereunder to Licensee; provided, however that confidential information shall not include any data or information which (a) is or becomes publicly available through no fault of the other Party, (b) is already in the possession of the Party prior to its receipt from the other Party, (c) is independently developed by the other Party, (d) is rightfully obtained by the other Party from a third party, (e) is disclosed with the written consent of the Party whose information it is, (f) is disclosed pursuant to court order, or other legal compulsion or (g) is subject to disclosure pursuant to federal and state public disclosure laws.

14. RESERVED

15. TERMINATION. This Agreement is effective as of the Effective Date and shall continue unless and until this Agreement is terminated. Licensee may terminate this Agreement if Questica is declared insolvent, has assigned this Agreement in violation of the terms and conditions herein, or has made an assignment for the benefit of creditors.

This Agreement may be terminated by Licensee upon thirty (30) days written notice of termination. In such event, Questica shall be entitled to receive and Licensee shall pay Questica compensation for all services performed by Consultant prior to receipt of such notice of termination, and a termination fee if cancelled prior to the 3 year term.

In the event that Licensee shall be in breach of any provisions of the Dispute Resolution Section outlined in this Agreement, Questica may provide notice of such breach to Licensee, who shall have thirty (30) days from the date of such notice to cure or rectify the said breach. Should Licensee fail to cure or rectify the said breach in the said thirty (30) days, Questica may terminate this Agreement. Such termination by Questica shall be in addition to and without prejudice to such rights and remedies as may be available to Questica including injunction and other equitable remedies.

The provisions of Sections 2, 3, 9, 10, and 12 herein shall survive the termination of this Agreement.

- 16. NOTICE.** Any notice or other communication required or permitted to be given hereunder or for the purposes hereof to any party shall be in writing and shall be sufficiently given if delivered personally to such party, or if sent by prepaid registered mail or if transmitted by facsimile transmissions to such Parties as detailed in the attached Quotation or at such other address or facsimile number as the Party to whom such notice is to be given shall have last notified (in the manner provided herein) the Party giving such notice. Any notice delivered to the Party to whom it is addressed as provided herein shall be deemed to have been given and received on the day it is delivered at such address, provided that if such day is not a Business Day, then the notice shall be deemed to have been given and received on the Business Day next following such day. Any notice mailed to a Party shall be deemed to have been given and received on the fifth Business Day next following the date of its mailing provided that no postal strike is then in effect or comes into effect within four (4) Business Days after such mailing. Any notice transmitted by facsimile shall be deemed given and received on the day of its transmission if such day is a Business Day and if not, then on the next day that is a Business Day.
- 17. FORCE MAJEURE.** Except as expressly provided otherwise in this agreement, dates and times by which any Party is required to render performance under this agreement or any schedule hereto shall be postponed automatically to the extent and for the period that such Party is prevented from meeting them by reason of any cause beyond its reasonable control (other than lack of funds), provided that the Party prevented from rendering performance notifies the other Party immediately and in detail of the commencement and nature of such cause and the probable consequences thereof, and provided further that such Party uses its reasonable efforts to render performance in a timely manner utilizing to such end all resources reasonably required in the circumstances, including obtaining supplies or services from other sources if same are reasonably available.
- 18. MEDIA RELEASES.** Neither party shall use the name, trademark or logo of the other party without the prior written consent of the other party. Notwithstanding the foregoing, Questica may use the Licensee's name and identify the Licensee as a Questica client in advertising, marketing materials, press releases and similar materials.
- 19. USE OF SUBCONTRACTORS.** Questica warrants that all persons assigned by it to the performance of this Agreement shall be employees or authorized subcontractors of Questica and shall be fully qualified to work under this Agreement. Questica shall ensure that an adequate number of appropriately qualified personnel are employed and available to satisfy its obligations as outlined in this Agreement.
- 20. EXPORT CONTROL.** The Software is intended for distribution only in the United States and Canada. Licensee agrees that it will not directly or indirectly, export or re-export the Software (or portions thereof) to any country, person, entity or end user subject to U.S. or Canadian export restrictions.
- 21. GOVERNING LAW AND JURISDICTION.** This Agreement shall be governed by the laws of the State of Delaware and the federal laws of the United States of America without regard to the conflict of law provisions thereof. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. Subject to Section 5 above, the parties attorn to the exclusive jurisdiction of the courts of Delaware in respect this Agreement.

- 22. MISCELLANEOUS.** This Agreement shall be governed by the laws of the State of Delaware, US. Except as otherwise provided herein, no term or provisions hereof shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the Party to, or waiver of, a breach by the other, whether expressed or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach.
- 23. AUTHORIZED RESELLER STATUS; OPTION TO PURCHASE AFFILIATE PRODUCTS.** Questica is a subsidiary of GTY Technology Holdings Inc. (“GTY”) and an authorized reseller of products and services produced and provided by other subsidiaries of GTY (such subsidiaries, “Questica Affiliates”). These products and services include software-as-a-service technology for the procurement and vendor supplier sourcing industry, digital services and payment technology through a software-as-a-service platform, software solutions for grants management and indirect cost reimbursement and related implementation and consulting services, software tools to streamline permitting and licensing services, and additional web-based budgeting preparation, performance, management and data visualization solutions (“Affiliate Products”). Questica Affiliates include Bonfire Interactive Ltd., Bonfire Interactive US Ltd., eCivis Inc., CityBase, Inc., Open Counter Enterprise Inc. and Sherpa Government Solutions LLC. In addition to the products and services that are the subject of this Agreement, Subscriber has the option to purchase from either Questica, as an authorized reseller, or Questica Affiliates, Affiliate Products on terms and conditions, including pricing, to be agreed upon in writing by Subscriber and Questica or Subscriber and the applicable Questica Affiliate.
- 24. HEADINGS; SEVERABILITY.** The headings and other captions in this Agreement are for convenience and reference only and are not to be construed in any way as additions or limitations of the covenants and agreements contained in this Agreement. In the event that any provision hereof is found invalid or enforceable pursuant to judicial decree or decision, any such provision shall be deemed to apply only to the maximum extent permitted by law, and the remainder of this Agreement shall remain valid and enforceable according to its terms.
- 25. TERM.** This agreement shall commence on January 16, 2023 for a three (3) year term, unless terminated earlier in accordance with Section 15, above.
- 26. INSURANCE.** Questica shall procure and maintain for the duration of the contract insurance against claims for security breaches, system failures, injuries to persons, damages to software, or damages to property (including computer equipment) which may arise from or in connection with the performance of the work hereunder by Questica, its agents, representatives, or employees. Questica shall procure and maintain for the duration of the contract insurance claims arising out of their services and including, but not limited to loss, damage, theft or other misuse of data, infringement of intellectual property, invasion of privacy and breach of data.
- 26.1. MINIMUM SCOPE AND LIMIT OF INSURANCE- Coverage shall be at least as broad as:**
- 26.1.1. Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01, or an equivalent form, covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

26.1.2. Automobile Liability: Insurance Services Office Form Number CA 0001, or an equivalent form, covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non- owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

26.1.3. Workers' Compensation Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury, disease, and policy limit.

26.1.4. Cyber Liability Insurance, with limits not less than **\$2,000,000** per occurrence or claim, **\$2,000,000** aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Questica in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, with the exception of patent infringement and misappropriation of trade secrets, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

26.1.5. Technology Professional Liability Errors & Omissions Insurance appropriate to the Consultant's profession and work hereunder, with limits not less than \$2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Questica in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

26.1.5.1. The Policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the Agency in the care, custody, or control of Questica. If not covered under Questica's liability policy, such "property" coverage of the Agency may be endorsed onto Questica's Cyber Liability Policy as covered property as follows:

If Questica maintains broader coverage and/or higher limits than the minimums shown above, the Licensee requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Licensee.

26.2. Other Insurance Provisions- The insurance policies are to contain, or be endorsed to contain, the following provisions:

26.2.1. Additional Insured Status- The Licensee, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Questica including materials, parts, or equipment furnished in connection with such work or operations. General

liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used). Please note, if there is an insured vs. insured exclusion on the Questica's policy, carefully review with Questica and their insurance carrier on whether being added as an additional insured onto Questica's policy removes the Licensee's ability to file suit against Questica and draw upon the policy should final adjudication in a lawsuit state that Questica shall pay damages to the Licensee.

- 26.2.2. Primary Coverage-** For any claims related to this contract, the **Questica's insurance coverage shall be primary, with the exception of the Cyber/Errors and Omissions coverage.** Coverage for commercial liability shall be at least as broad as ISO CG 20 01 04 13 as respects the Licensee, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Licensee, its officers, officials, employees, or volunteers shall be excess of Questica's insurance and shall not contribute with it.
- 26.2.3. Notice of Cancellation-** Questica shall provide notice of cancellation to Licensee upon receipt from its insurer(s).
- 26.2.4. Waiver of Subrogation-** Questica hereby grants to Licensee a waiver of any right to subrogation which any insurer of Questica may acquire against the Licensee by virtue of the payment of any loss under such insurance. Questica agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Licensee has received a waiver of subrogation endorsement from the insurer.
- 26.2.5. Self-Insured Retentions-** Self-insured retentions must be declared to and approved by the Licensee. The Licensee may require Questica to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Licensee.
- 26.2.6. Acceptability of Insurers-** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A-VII, unless otherwise acceptable to the Licensee.
- 26.2.7. Claims Made Policies-** If any of the required policies provide coverage on a claims-made basis:
- 26.2.7.1.** The retroactive date must be shown and must be before the date of the contract or the beginning of contract work.
 - 26.2.7.2.** Insurance must be maintained and evidence of insurance must be provided for at least (5) years after completion of the contract of work.
 - 26.2.7.3.** If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, Questica must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.
- 26.2.8. Verification of Coverage-** Questica shall furnish the Licensee with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause). However, failure to obtain the required documents prior to the work beginning shall not waive the Questica's obligation to provide them. The Licensee reserves the right to require complete, certified copies of all required endorsements required by these specifications, at any time.

26.2.9. Subcontractors- Questica shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Questica shall ensure that Licensee is an additional insured on insurance required from subcontractors.

26.2.10. Special Risks or Circumstances- Licensee reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

[Signatures on the following Page]

IN WITNESS WHEREOF the Parties have duly executed this Agreement as of the Effective Date.

ATTEST:

CITY OF SANTA ANA

Clerk of the Council

Kristine Ridge
City Manager

APPROVED AS TO FORM:

SONIA R. CARVALHO
City Attorney

RECOMMENDED FOR APPROVAL:

By: Jose Montoya

Jose Montoya
Assistant City Attorney

KD
Kathryn Downs (Dec 8, 2022 15:02 PST)

Kathryn Downs
Executive Director
Finance and Management Services

QUESTICA SOFTWARE LTD.

Authorized Signature: Wendie Leest

Authorized Name: Wendie Leest

Title: Director, Customer Success

APPENDIX A – Order Form

Fixed Price Items

Description	Qty	Total
Questica Budget Framework – All Modules		\$ 65,134.77
Operating Licenses from 50 to	Unlimited	
Personnel Planning from 10 to	Unlimited	
Capital Licenses from 50 to	Unlimited	
Read-Only	Unlimited	
Performance Measures	Included	
Allocations	Included	
Statistical Ledger	Included	
OpenBook Transparency	Included	

Professional Services

Consulting Package		
Scope of Work – Appendix C	Included	\$ 3,600.00
Contingency for Services		\$ 26,400.00
Scope to be determined as requested by Santa Ana (to be billed T&M)		

Annual Maintenance & Support	\$ 57,364.88
Unlimited Licenses (one-time license cost)	\$ 15,000.00
Discount - Unlimited Licenses (one-time license cost)	- \$ 5,000.00
Incremental Annual Maintenance & Support	\$ 7,500.00
Discount – Consulting Package	- \$ 3,600.00
Total Fixed 1st Year Price:	\$ 75,134.77

Year 1	\$75,134.77	Software Maintenance from January 17 th , 2023 to January 16 th , 2024
Year 2	\$65,134.77	Software Maintenance from January 17 th , 2024 to January 16 th , 2025
Year 3	\$65,134.77	Software Maintenance from January 17 th , 2025 to January 16 th , 2026

Pricing Notes:

- Pricing valid through: December 20, 2022
- Above pricing in US dollars
- Applicable Taxes Extra
- Consulting Package Work required by: March 27, 2023
- Professional Services Items: **This is an estimate only. All work to be invoiced monthly on Time & Materials basis.**
- Fixed Price Items:
 - Terms of Payment:
 - Software License
 - To be charged in full on the Quote Acceptance Date
 - Annual Maintenance:
 - Year 1 to be charged on a pro-rated basis based on time from Quote Acceptance Date to the anniversary date of the master agreement, due on Quote Acceptance Date

CONTINGENCY INCLUSION: \$26,400.00 available at Santa Ana's discretion for custom reporting/integrations, training, consulting, etc

Termination Fee

In the event the Licensee cancels this Agreement prior to the end of the 3-year term, the Licensee shall pay Questica a one-time termination fee of \$7,500. This fee is subject to the provisions stated in Section 15 of this Agreement.

Payment Terms

Maintenance and Support fees are due in full in advance of the renewal period. Questica will issue a corresponding invoice a minimum 30 days prior to the renewal date.

Additional Services

Additional professional services can be purchased at Questica's then current rate, which at the execution date of this Agreement is \$225/hr. Any additional services requested shall be in writing and signed by Licensee's City Manager before they are performed by Questica.

APPENDIX B – Maintenance, Technical Support

- 1) Product Maintenance.** On an as-available basis, Questica will provide enhancements, modifications or upgrades to the Software as Questica may from time to time make available to its Licensees generally (“Updates”) but excluding any New Product (a “New Product” being a solution which, in Questica’s determination and subject to general industry standards, does not replace the Software licensed hereunder.) Updates do not include:

- A) Platform extensions including product extensions to (i) different hardware platforms; (ii) different windowing system platforms; (iii) different operating system platforms
- B) New applications
- C) Services associated with the application or installation of Updates

Installation of Updates is the responsibility of the Licensee. If requested, Questica will assist with the installation of Updates at its then current rates, including the testing of any site-specific customizations. Questica will provide a quote for any required rework associated with customizations resulting from the upgrade.

- 2) Technical Support Services.** Comprehensive Phone and e-mail based Technical Support of a reasonable nature. A technical support incident or problem is a single user defined problem seeking resolution. It must be related to the original intent and design of the software. Support Services include the support of Questica supplied integrations that have not been modified by the Licensee. Each support incident is deemed closed when a remedy, workaround, or recommendation for the installation of a current maintenance release has been offered, and a commercially reasonable effort has been made to restore operation to the original intent and design of the software. Technical Support does not include:

- A) Custom Programming Services.
- B) On-site support.
- C) Software Installation or re-installation.
- D) Update Installation, or data and report updates required to support Updates.
- E) Licensee developed interfaces, API interactions, or customizations.
- F) Licensee developed reports.
- G) End-User Training or Re-Training.
- H) Licensee Hardware Issues.
- I) Correction of data issues derived from user error or product misuse.
- J) Changes to Questica developed custom reports or product customizations (including Questica supplied custom business rules or customized user screens) that are outside the scope of the accepted specification, scope of work, or authorized change requests.
- K) Corrections to Questica developed custom reports or customizations beyond six months from the date of delivery. (the upgrade protection period)
- L) Changes to integration functionality made necessary due to licensee server modifications/replacement, or changes by upgrades or changes to the integrated financial system software or hardware.

Questica may at its sole discretion, periodically make reasonable modifications or changes to the Technical Support Services and/or Product Maintenance Services and/or Hosting Services provided.

Licensee is responsible for ensuring that its personnel have sufficient training to attain and maintain competence in the operation of the Software.

Technical Support is available through Questica's normal business hours, Monday through Friday, 8:00am through 8:00pm, Eastern Standard Time. Extended coverage is available for an additional fee. Questica will provide an initial response to all properly submitted support requests within two (2) business hours of initial submission.

APPENDIX C – Scope of Work (SOW)

Consulting Package

Questica's standard review, equating to approximately 16 hours of services provided by a member of Questica's Budgeting & Implementation Consulting team. The deliverables of which shall be:

- Initial discovery meeting: Questica consultant chairs conversation to determine focus areas etc.
- Product demo: walkthrough of new features, tailored to outcome of initial discovery meeting.
- Review distributed budgeting (useful with unlimited licenses)
- Deep dive:
Includes consideration of the new features of the 2021 version: calendars, user tasks, notifications, discussions, and enhanced navigation through global search and explorer trees.
- Change management: document package to assist with understanding of change management concerns to resolve before "Go Live" with a broader set of users.
- Configuration: any immediate changes possible through the user interface (excludes custom programming and reports).
- Questica Help guide: focused list of material for further review.
- Output document: noting all findings and a plan for unresolved/unimplemented items.

Limit of effort:

Neither training sessions nor ad hoc reporting are implicitly included in-scope. Training not available within this scope may be purchased at the standard services rate.

END OF MAINTENANCE AND SUPPORT AGREEMENT

2022-12-05 - QUESTICA BUDGET MAINTENANCE AND SUPPORT AGREEMENT - (CAO Sig. 12.8.22)

Final Audit Report

2022-12-08

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