



sentinel

2550 Warrenville Road  
Downers Grove  
Illinois 60515  
tel 630 769 4300  
fax 630 769 1399  
sentinel.com

## **MASTER SERVICES AGREEMENT**

This Agreement is made by and between Sentinel Technologies, Inc., (Contractor) with principal offices at 2550 Warrenville Road, Downers Grove, Illinois 60515, and City of Aurora (Customer) with principal offices at 44 E. Downer Place, Aurora, IL 60505.

Effective Date

Agreement No. 001 - Amended

In consideration of the mutual promises described herein and for other good and valuable consideration, the parties hereby agree as follows:

### **1. SERVICES**

Contractor agrees to provide qualified personnel to perform, for Customer, under Customer's direction, consulting services of the type and within the scope stated in the attached Appendix A (Project Scope) and Appendix B as said, Appendix A and B may from time to time be modified by mutual written agreement of the parties. Such services are hereinafter referred to as "Services" and will be provided and performed under and subject to the terms and conditions of this Agreement. In the event of a conflict between the provisions of Appendix A and B and the provisions of this Agreement, the provisions contained in Appendix A and B will prevail.

### **2. RATE OF PAYMENT FOR SERVICES**

Customer agrees to pay Contractor for Services and Expenses in accordance with the billing schedule contained in the attached Appendix B (Project Schedule), including any overtime rates set forth therein.

### **3. ADDITIONAL WORK**

After receipt of a Project Change Order or verbal direction by Customer which adds or changes the Services, Contractor may, at its discretion, take reasonable actions and make reasonable expenditures based on such order or Customer direction. Customer acknowledges such changes may affect the Project Scope and/or Schedule and Customer agrees to pay and reimburse Contractor for such action and expenditure on the same basis set forth in this Agreement for payments and reimbursements related to the Services.

### **4. INVOICES, PAYMENTS & CHARGES**

a. As full consideration for the performance of each Project, Customer shall pay Contractor the amount agreed upon and specified in Appendix B. Contractor shall invoice Customer for all Services actually performed by Contractor upon satisfaction of the completion or milestone dates or as otherwise specified in the Project Schedule. In absence of payment terms in Appendix B to the contrary, the following payment terms shall apply: With regard to invoices for services, Customer shall pay the invoiced amount within thirty (30) days after receipt of invoice. With regard to hardware or software product sales, Customer shall pay 50% of the invoiced amount upon agreement to purchase and 50% upon delivery for staging or to Customer location, whichever occurs first. Customer shall be responsible to pay applicable shipping charges.

b. In addition to the charges set forth on Appendix B of this Agreement, the Customer shall pay for all charges with respect to labor, including travel and materials, for support or maintenance services performed outside the scope of Services set forth on Appendix A, at the request of the customer, at Contractor's then applicable hourly service rates and minimum charges. Charges for labor shall include travel time to and from the Customer site and be computed to the nearest one quarter (1/4) hour.

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c. For products purchased pursuant to this agreement, Contractor agrees to provide storage at no additional charge for up to 120 days. If the storage period exceeds 120 days, Customer agrees to the following: a.) Customer will be responsible to pay a commercially reasonable rate for storage of purchased products from that point forward, b.) Customer will be invoiced and will be responsible to pay the unpaid balance for any products purchased from Contractor that have not been paid in full and, c.) Ownership will transfer from Contractor to Customer.

## **5. EMPLOYEES**

a. Customer acknowledges that Contractor has invested substantial time, effort and resources in the development and training of its employees, to enable them to provide the level of support and installation skills and services called for in this Agreement. Accordingly, during the term of this Agreement, and for a period of one (1) year following the termination of this Agreement for any reason, Contractor reserves the right to charge and Customer agrees to pay Contractor an amount equal to the affected employee's annual salary as paid by Contractor prior to hiring, if Customer hires, or retains in any capacity other than as an employee of Contractor, any employee of Contractor for each employee of Contractor so hired or retained.

b. Contractor acknowledges that Customer has invested substantial time, effort and resources in the development and training of its employees, to enable them to provide the level of support and installation skills and services called for in this Agreement. Accordingly, during the term of this Agreement, and for a period of one (1) year following the termination of this Agreement for any reason, Customer reserves the right to charge and Contractor agrees to pay Customer an amount equal to the affected employee's annual salary as paid by Customer prior to hiring, if Contractor hires, or retains in any capacity other than as an employee of Customer, any employee of Customer for each employee of Customer so hired or retained.

c. Neither Contractor nor Contractor's employees are, nor shall they be deemed to be, employees of Customer. Contractor shall be solely responsible for the payment of its employees' compensation, including employment taxes, worker's compensation and any similar taxes associated with employment of Contractor personnel. Upon receipt of written notice by Contractor that an employee of Contractor is not suitable to Customer, Contractor shall remove such employee from the performance of Services and replace such employee with another qualified individual within a reasonable period of time.

## **6. CONFIDENTIAL INFORMATION**

In connection with the performance of work hereunder, it may be necessary for Customer to disclose to Contractor certain information, which is considered to be confidential and proprietary to Customer. Contractor agrees that, for a period of two (2) years from the date of disclosure, it will maintain the confidentiality of all such information which is clearly identified as confidential at the time of first disclosure to Contractor by using the same degree of care that Contractor takes to hold in confidence its own proprietary information of a similar nature. Contractor shall not, however, be required to keep confidential any information which is or becomes publicly available without fault on the part of Contractor, is already in Contractor's possession prior to receipt from Customer, is independently developed by Contractor outside the scope of this Agreement or is rightfully obtained from third parties. Contractor shall also require each of the employees, whom it provides to perform Services for Customer, to also agree in writing to similarly maintain the confidentiality of Customer's information.

## **7. LIMITATION OF REMEDY**

CONTRACTOR SHALL NOT BE LIABLE FOR ANY DAMAGES CAUSED BY PERFORMANCE UNDER THIS AGREEMENT. THE SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF WARRANTY, EXPRESS OR IMPLIED INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS, AND THE SOLE REMEDY FOR CONTRACTOR'S LIABILITY OF ANY KIND INCLUDING, LIABILITY FOR NEGLIGENCE WITH RESPECT TO SUPPORT SERVICES FURNISHED UNDER THIS AGREEMENT AND ALL OTHER PERFORMANCES BY CONTRACTOR

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UNDER OR PURSUANT TO THIS AGREEMENT SHALL BE LIMITED TO THE RE-PERFORMANCE OF ANY DEFECTIVE SERVICE PROVIDED BY CONTRACTOR AND SHALL IN NO EVENT INCLUDE ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOST PROFITS.

The foregoing limitation of liability will not apply to claims for personal injury or damage to real property and/or tangible personal property caused by Contractor's negligence.

**8. INDEMNIFICATION**

Contractor and Customer shall each indemnify and hold the other harmless (except to the extent the indemnified party is compensated by insurance) against all losses, claims, damages or liabilities arising out of or based upon damage to property of the indemnified party or its subcontractors or suppliers, or bodily injury or death of any employee of the indemnified party or its subcontractors or suppliers, caused by or related to the performance of work under or pursuant to this Agreement, provided that the property damage, personal injury or death does not result from the sole negligence of the indemnified party.

**9. TERM AND TERMINATION**

a. The Initial Term of this Agreement shall be for one (1) year from the Effective Date unless terminated as provided herein. Contractor and Customer will then mutually agree to discontinue the Agreement, or to extend it for another annual or multi-year term. In the event the Term expires before the term of any purchase order executed pursuant to this Agreement, the Term shall be extended to the expiration date of such purchase order.

b. After providing Contractor with written notice of defective service and, providing Contractor has thirty (30) days to cure such deficiencies, Customer may terminate this Agreement upon thirty (30) days written notice to Contractor if Contractor fails to perform or otherwise breaches any of Contractor's obligations under this Agreement. In addition, if Contractor files a petition in bankruptcy, becomes insolvent, or dissolves, Customer may terminate this Agreement. In the event of such termination, Customer shall pay Contractor, in accordance with Appendix B, for the portion of the Project Schedule performed through the date of termination.

c. Contractor shall cease to perform Services under this Agreement on the date of termination. In the event of termination, Customer shall be liable to Contractor only for those services performed through the date of termination.

d. Contractor may terminate this Agreement upon written notice to Customer, if Customer fails to pay Contractor within sixty (60) days after Contractor notifies Customer in writing that payment is past due.

e. Upon the expiration or termination of this Agreement for any reason; each party will be released from all obligations to the other arising after the date of expiration or termination, except for those, which by their terms survive such termination or expiration.

**10. WARRANTY**

Contractor represents and warrants that each Project Scope shall be completed in a professional, workmanlike manner, with the degree of skill and care that is required by current, good and sound professional procedures and practices and in conformance with generally accepted professional standards for the completion of such Project Scope prevailing at the time. Further, Contractor represents and warrants that each Project Scope shall be completed in accordance with applicable specifications and shall be correct and appropriate for the purposes contemplated by this Agreement.

Product warranties and return policies are provided by the respective manufacturers or publishers of the Products sold under this agreement and Contractor makes no warranties whatsoever with regard to Products.



## 11. GENERAL PROVISIONS

- a. Customer. Customer represents that it has the authority to enter into this Agreement.
- b. Contractor. Contractor retains the right to subcontract any support service described herein to subcontractor(s) of Contractor's choosing, provided that such subcontractor(s), shall possess the technical qualifications to perform service and is approved in advance by the Customer.
- c. Severability. In the event any provision of this Agreement shall be deemed to be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not, in any way, be affected or impaired thereby. The parties agree to replace any invalid provision with a valid provision, which most closely approximates the intent and economic effect of the invalid provision.
- d. Assignment. Neither party may assign or transfer this Agreement or any of the other rights or obligations under this Agreement, without the prior written consent of the party desiring to assign its rights. Any attempted assignment or transfer without such consent shall be null and void.
- e. Waiver or Delay. A waiver of any default, hereunder, or of any term or condition of this Agreement shall not be deemed to be a continuing waiver or a waiver of any other default or any other term or condition, but shall apply solely to the instance to which such waiver is directed.
- f. Notices. All notices, requests and other communications hereunder shall be in writing, and shall be addressed to the Contractor and Customer representative designated below, and shall be considered given when (a) delivered personally, (b) sent by confirmed telex or facsimile (FAX), (c) sent by commercial overnight courier with written verification receipt, or (d) three (3) days after having been sent, postage pre-paid, by first class or certified mail.

For Customer, Name and Address:

City Clerk  
City of Aurora  
44 E. Downer Place  
Aurora, IL 60505

For Contractor, Name and Address:

Sentinel Technologies, Inc.  
2550 Warrenville Road  
Downers Grove, IL 60515

g. Survival of Obligations. Except as otherwise provided, any obligations and duties which by their nature extend beyond the expiration or termination of this Agreement, including, without limitation, Sections under Indemnity, Confidentiality, Survival of Obligations, Rights of Materials and Taxes shall survive the expiration of this Agreement.

h. Governing Law. This Agreement shall be construed in accordance with, and all disputes hereunder shall be governed by, the laws of the State of Illinois, excluding its conflict of law rules. The parties agree that the Circuit Court of Kane County, Illinois, and the United States District Court for the Northern District of Illinois shall be the sole and exclusive venues for any action, suit or proceeding arising out of or related to this agreement, including without limitation any such action, suit or proceeding regarding the enforceability, performance, failure to perform, breach, termination or any other matter arising under or related to this Agreement. By executing this Agreement, Customer waives any right to object that either of those courts are not the proper venue for any such action, suit, or proceeding, and waives any right to object that those courts do not have or cannot properly exercise personal jurisdiction over Customer.



i. Entire Agreement Modification. This Agreement including its Exhibits, is the complete, final, and exclusive statement of the terms of the agreement between the parties and supersedes any and all other prior and contemporaneous negotiations and agreements, whether oral or written, between them relating to the subject matter hereof. This Agreement may not be varied, modified, altered, or amended except in writing signed by the parties.

j. Taxes. Unless otherwise stated, Contractor's prices do not include sales, use, excise, value added, occupational or similar taxes. In addition to the prices set out in Appendix B, the amount of any present or future sales, use, excise, value added, occupational or similar tax applicable to the Services provided hereunder shall be paid by Customer or, in lieu thereof, Customer shall provide Contractor a tax exemption certificate acceptable to the taxing authorities.

## 12. RIGHTS OF MATERIALS

Customer shall own, upon payment of all fees incurred, any deliverables, including software programs, source and object code, files, tapes, disks, and related user documentation, originally developed solely for Customer under this Agreement. Such deliverables shall be owned by Customer for its own internal use. Contractor does not convey nor does Customer obtain any right in materials proprietary to Contractor which Contractor may utilize or provide pursuant to the Services, or other materials not developed solely for and paid in full for under this Agreement except as otherwise agreed upon in writing by the parties. Contractor shall be free to use its general knowledge, skills, and experience and any ideas, concepts, know-how and techniques related to Contractor's consulting and used in the course of providing the Services on other engagements. The parties will cooperate with each other to execute any documents necessary to achieve the objectives of this section.

## 13. POSSESSION AFTER TERMINATION OF AGREEMENT

No later than five (5) days after the termination of this Agreement for any reason, Customer shall return to Contractor any and all of Contractor's equipment located on Customer's property and used in connection with providing the support services. Contractor may physically take possession of any such equipment not delivered to Contractor after the expiration of such five (5) day period. Customer hereby authorizes Contractor and its agents to enter onto any location at which any such equipment is located for purposes of taking possession thereof.

In witness whereof, the parties hereto have signed this Agreement as of the date signed below.

CUSTOMER:

City of Aurora

Signature: Edward L. Phillips

Printed Name: Edward L. Phillips

Title: Director of Purchasing

Date: 10-18-2013

CONTRACTOR:

Sentinel Technologies, Inc.

Signature: Michael Reynolds

Printed Name: MICHAEL REYNOLDS

Title: Director, Governance, Compliance } Contracts

Date: 10-17-2013