

Product Supply and Lease Agreement No. _____
dated _____, 2024 (“Lease”)

Customer: City of Aurora				Provider: Insight Direct USA, Inc.			
Customer’s Initial Address for Notices: 44 East Downer Place Aurora, IL 60505				Provider’s Initial Address for Notices: 6820 South Harl Avenue Tempe, AZ 85283			
Customer’s Form of Organization: An Illinois home rule municipal corporation				Provider’s Form of Organization: An Illinois corporation			

Qty.	Mfr.	Products Type/Model/Feature	Description	Serial Number	Provider’s Basis	Periodic Payment

Base Term: ____ months.	Total:	\$	\$
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<p>Due Dates: Periodic Payments are due in advance on the first day of each Payment Period.</p> <p>Payment Period: Each calendar month during the Term.</p> <p>Product Location: _____</p>	<p>Base Term Commencement Date: The first day of the first whole Payment Period occurring on or after the last Acceptance Date for any Product.</p> <p>Outside Acceptance Date: _____, 20__</p> <p>Additional Purchase Terms: _____</p>
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Special Terms:

A. Assignment to HTE. Customer understands and expressly agrees that concurrently with Provider’s countersigning of this Schedule Provider has assigned this Lease, and sold the Equipment and all Periodic Payments due and to come due hereunder, to Huntington Technology Finance, a division of The Huntington National Bank (“**Huntington**”), as Assignee hereof, but such assignment is subject to any contrary notice that may be given by Provider or Huntington to Customer before the Acceptance Date. Huntington’s initial address for notices hereunder is 2285 Franklin Road, Suite 100, Bloomfield Hills, MI 48302. Customer agrees that pursuant to such assignment, it will remit all payments hereunder in the name of Provider or in such other name and/or to such other address as Huntington may from time to time specify in writing (including in any invoice), in all cases identifying itself as the source and this Lease as the application of funds.

1. Supply; Lease. Provider agrees to sell and supply to Customer, and subject to the terms hereof to lease to and finance for Customer, and Customer agrees to buy and lease and finance from Provider, the equipment and other goods described in this Lease and the costs of those software, services, consumables, and other nonhardware items described in this Lease and included in the Provider’s Basis (collectively, “**Products**”; Products that are equipment and other goods, together with all attachments, alterations, or additions thereto, whether or not required or permitted to be made hereunder, are “**Equipment**”). The Provider’s Basis is the cash price to Customer for the Products in the absence of the lease and financing thereof hereunder. If any Special Terms are specified above and inconsistent with the remaining provisions of this Lease, the Special Terms will control. Provider is the supplier and provider of the Products, except in those cases where Provider is reselling Products to be performed or provided directly to Customer by a manufacturer or other third-party licensor, supplier, or service provider (“**Third Party Provider**”). All Products are provided to Customer in accordance with the following provisions (“**Purchase Terms**”):

- (a) Any purchase orders, quotes, purchase, product or solutions agreements, specifications, invoices, statements of work, or other prior agreements or documents related thereto previously in effect between the parties as to the Products, including any master agreement, any other documents described herein as *Purchase Terms* (including any Additional Purchase Terms), or, in the absence thereof, Provider’s standard terms and pricing (available on request), including as to payment terms, indemnities, warranties, limitations, disclaimers, immunities, privileges, and other terms.
- (b) Any shipping, delivery, and installation of the Products is at Customer’s expense (unless otherwise provided in other Purchase Terms).
- (c) From delivery of any Product to Customer or, if earlier, to a carrier for shipment to Customer (and, in the case of Equipment, continuing until

the Equipment is returned to and received by Provider under this Lease, such period as to the Equipment, “**Possession Period**”), Customer will bear all risk and expense of non-delivery, whole or partial loss, theft, destruction or damage to the Equipment or other Products from any cause whatsoever, or any requisition or taking thereof (collectively, “**Loss**”).

- (d) Except as otherwise provided in this Lease and the other Purchase Terms, and until the Acceptance Date and the other conditions to the lease and financing of the Products under this Lease have occurred as provided in Section 2 below, Customer is responsible to Provider for the purchase of and payment of the Provider’s Basis for the Products, and the Products are provided **AS-IS** and in consideration of payment of the Provider’s Basis and applicable taxes due from Customer to Provider net 30 days from invoice.
- (e) The amounts and payment terms by which Customer will satisfy its obligation to pay Provider the Provider’s Basis for the Products under this Lease have been fixed by the parties to enable and facilitate Provider’s directly funding or financing or refinancing this Lease and are being relied on by Provider and will be relied on by Provider’s Assignee. Customer agrees to the terms of this Lease regardless of whatever interest rate may be imputable to this transaction if it becomes a lease and financing of the Products instead of a cash sale thereof (as further described in Section 2 below), and regardless of whatever proportion the sum of the gross Periodic Payments to be paid under such lease and financing hereunder may bear to the cash price of the Products (i.e., the Provider’s Basis), whether such ratio is at a premium, at par, or at a discount.

2. Conditions to Lease; Acceptance. On and as of the date Customer accepts the Products (“**Acceptance Date**”), but only if on or before the Outside Acceptance Date or, if no Outside Acceptance Date is specified in this Lease, one month from the date of this Lease, or such later date as may

be acceptable to Provider in its sole discretion: this Lease is executed by the parties, Provider receives a certificate of acceptance acceptable to Provider and executed by Customer ("**Acceptance Certificate**"), and Provider receives such other documents or assurances as Provider may reasonably require, then:

- (a) In lieu of Customer's purchasing and paying the Provider's Basis in cash for the Products, Provider will retain the accepted Products that are Equipment and relieve Customer of its obligation to pay (or assume Customer's obligation to pay) the Provider's Basis for all of the accepted Products, and, instead, lease and provide the use and possession of the accepted Products that are Equipment to Customer, and finance the other accepted Products for Customer, all on the terms hereof.
- (b) Notwithstanding anything to the contrary in any Purchase Terms, except for any provisions specifically constituting Provider Warranties under Section 10 below, all of Provider's obligations under the Purchase Terms will be deemed duly performed and satisfied by Provider or waived by Customer.

3. Term; Non-Appropriations.

- (a) The initial term of the lease or financing of a Product ("**Initial Term**") begins on and as of the Base Term Commencement Date and continues for the Base Term (and also includes the period, if any, from the Product's Acceptance Date to the Base Term Commencement Date), unless terminated earlier as expressly provided herein. Any renewal term ("**Renewal Term**") begins at the end of, as applicable, the Initial Term or any preceding Renewal Term (the Initial Term and all Renewal Terms currently in effect, previously in effect, or which are to come into effect as provided in this Lease or by other written agreement of the parties, collectively, "**Term**"). Subsections (b) and (c) below as a result of Customer's being a governmental or similar public entity for which the enforceability of transactions of the kind hereby provided for are generally subject to moneys being duly appropriated on an annual basis.
- (b) Customer affirms its present intention to continue this Lease and the Term and pay all amounts hereunder for its entire scheduled period, and, to the extent permitted by law, to do all things lawfully within its power to obtain and maintain funds from which amounts hereunder may be paid, including allocating in its budget request for each fiscal year during the Term all amounts anticipated to become due in such fiscal year, and also using its best efforts and all reasonable and lawful means available to secure the appropriation of such amounts and any other amounts that may come due hereunder. While such appropriation is a governmental function for which Customer cannot contractually commit itself in advance (and no such a commitment is hereby made), Customer does reasonably believe moneys sufficient to make payments hereunder for the Term can and will lawfully be appropriated and available to permit Customer's continued use, possession, and benefit of the Products in the performance of its essential functions.
- (c) If Customer fails to appropriate sufficient moneys in any fiscal year for amounts due hereunder and other funds are not available therefor, Customer shall give Provider notice and written evidence of the non-appropriation at least 60 days before the end of the current fiscal year or, if the non-appropriation has not occurred by then, immediately upon the occurrence thereof. At the end of the fiscal year for which appropriations have been made, the Term and Customer's rights to the use, possession, and benefit of the Products hereunder will terminate, without penalty or fee to Customer, and Customer shall return all of the Products to Provider in accordance with Section 14 below on or before that date, and Customer shall in all events be pay all amounts due or to become due hereunder for which moneys shall have been appropriated or are otherwise available, and, for the avoidance of doubt, a ratable amount of the Periodic Payments for any period in which Customer fails to return the Products as required.

4. Periodic Payments. In accordance with Illinois' *Local Government Prompt Payment Act*, Customer will pay Provider the Periodic Payments, plus all applicable taxes, for the Term, at such address as Provider may specify in writing (including in any invoice), on the Due Dates. Provider will invoice Customer for Periodic Payments, but the sole remedy for any failure to invoice is that no late interest will accrue thereon under this section or applicable law until payment has been invoiced (or otherwise demanded in writing) in accordance with Illinois' *Local Government Prompt Payment Act*. Provider will apply payments received hereunder in such order and manner as Provider may determine in its sole discretion to any amounts due and outstanding hereunder. **From and after the Acceptance Date, all**

Products shall be deemed to have been received by Customer and, accordingly, Customer's obligation to pay Periodic Payments and other amounts under this Lease will be and remain, except to the limited extent provided in Sections 3(c) above and 22 below, fully earned as Customer's irrevocable, noncancelable, independent, absolute, and unconditional payment obligation, and not be subject to abatement, reduction, offset, recoupment, compensation, crossclaim, counterclaim, demand, notice, or any other defense whatsoever, arising under this Lease, any other Purchase Terms, or otherwise, or against Provider, Assignee, any Third Party Provider, or any other person. However, the foregoing does not limit Customer's enforcement of rights against Provider in a separate action at law for direct damages resulting from Provider's negligence, willful misconduct, or breach of this Lease or any Provider Warranties (as defined in Section 10 below), or any other written agreement between Provider and Customer. Periodic Payments and late interest for partial periods will be prorated on the basis of a 360-day year, 90-day quarter, or 30-day month, as applicable. Customer may prepay Periodic Payments at any time without penalty, fee, discount, or rebate, and no such prepayment will constitute a termination of this Lease or the Term. Amounts due to Provider hereunder that are not paid within 10 days of their due dates will bear interest, payable upon demand, at 12% per year, or such lesser rate as may be the maximum lawful rate (including as such rate may be established under Illinois' *Local Government Prompt Payment Act*), from their due dates.

5. Customer's End of Term Options. At the end of the Term, Customer has the right, but not the obligation, to exercise one of these options, but only if Customer gives irrevocable notice to Provider unequivocally electing one of these options ("**Exercise Notice**") and the Exercise Notice is received by Provider at least 90 days before the end of the Term:

- (a) **Purchase Option.** If no Event of Default is continuing at the time Provider receives the Exercise Notice or at the end of the Term, Customer may purchase all of the Equipment in which case: Customer will, on the last day of the Term, pay Provider the Fair Market Value price of the Equipment determined as of the date of the Exercise Notice, and all applicable Taxes; Customer will make all other payments required during the remainder of the Term; and, at the end of the Term, this Lease will terminate and Customer will be entitled to Provider's interest in the Equipment.
- (b) **Renewal Option.** If no Event of Default is continuing at the time Provider receives the Exercise Notice or at the end of the Term and Provider determines that no material adverse change in Customer's business or financial condition has occurred since the date of this Lease, Customer may renew the Term for a Renewal Term of 6 months or more as specified in the Exercise Notice in which case: the Periodic Payment will be the Fair Market Value rent of all of the Equipment for the Renewal Term; the parties will enter into a Lease supplement confirming the applicable Periodic Payment and Renewal Term; and all other provisions of this Lease will continue to apply (but the failure of the parties to enter into such a supplement will not condition or affect Customer's obligations during the Renewal Term).
- (c) **Return Option.** Customer may return all of the Equipment, in which case Customer will return the Equipment to Provider in accordance with Section 14 below within 10 days of the last day of the Term.

If one of the foregoing options is not exercised, the Term will automatically extend for successive 1-month Renewal Terms in which case Customer will continue to pay Provider rent at the rate of the total Periodic Payment previously in effect for all Products (or, if the Periodic Payments for the Base Term or Renewal Term previously in effect were not constant for all whole Payment Periods, at the rate of the sum of such Periodic Payments divided by the number of Payment Periods) (the "**Previously Effective Periodic Rate**"); and all other provisions of this Lease will continue to apply. Customer's purchase, renewal, and return options and the automatic renewal provisions provided for in this section apply at the end of the Initial Term and all optional or automatic Renewal Terms. If Customer fails to comply with the terms of any of the foregoing options elected by it, Provider may in its absolute discretion elect to terminate the Exercise Notice in which case the automatic renewal provision set forth above will apply as if no Exercise Notice were given, or Provider may proceed as otherwise permitted by this Lease, including exercising the remedies provided for in this Lease or at law. The foregoing applies following the noncompliance with any of the foregoing options notwithstanding the execution or entry into of any Lease supplement, bill of sale, purchase agreement, confirmation, or other documentation memorializing and/or confirming the exercise of the option or the terms of the exercise.

6. Taxes. Customer will pay Provider (or pay directly to the applicable taxing authority if instructed in writing by Provider) all taxes, fees, and assessments that may be imposed by any governmental entity or taxing authority on the Periodic Payments or any Products, or their purchase (by Customer), ownership, delivery, return, possession, operation, sale (by Provider to Customer), or rental, whether imposed on Provider or Customer or any of their affiliates or any Products, this Lease, or any related instrument ("**Taxes**"). Taxes include all license and registration fees, environmental fees, and all sales, use, personal property, business transfer, value added, goods and services, and other taxes, and governmental and transaction charges, together with any penalties, fines and interest thereon (except to the extent resulting from Provider's negligence or willful misconduct), that may be imposed during the Term or Possession Period or after the Term or Possession Period and relating to events or conditions occurring or existing during the Term or Possession Period. Customer will not be liable for: Taxes imposed on or measured by Provider's net income or tax preference items; overall business taxes that are in lieu of net income taxes; or Provider's corporate franchise or net worth taxes. If Customer is required by law or administrative practice to make any report or return with respect to Taxes, Customer will promptly give Provider notice and cooperate with Provider to ensure that such action is properly made and Provider's interests accurately reflected. Provider has no obligation to contest or preserve any right to contest Taxes. However, Customer may contest Taxes in its own name and at its own expense so long as, in Provider's opinion, the contest will not result in an encumbrance on any Equipment or otherwise jeopardize Provider's rights or interests in any Equipment.

7. Covenants. Customer will at all times before the expiration of the Term and Possession Period:

- (a) Procure, use, and benefit from the Products only for business purposes (except for incidental personal use by authorized users); and for the purposes for which they were designed and intended and in compliance with all applicable operating standards specified by the Product's manufacturer or reasonably specified by Provider.
- (b) Maintain the Equipment in good working order and condition, in accordance with the manufacturer's recommended engineering and maintenance standards, and, except for personal computers, at the manufacturer's current or minimum engineering change levels.
- (c) Keep the Equipment at the Product Location, except Customer may move Equipment to another of its business locations within the same state, but only if it notifies Provider of the removal within 30 days thereafter (however items intended for travel such as laptop computers may be temporarily removed from the Product Location without complying with the foregoing if they remain domiciled at the Product Location).
- (d) Affix to the Equipment any labels Provider may supply disclosing Provider's interest therein.
- (e) Except for personal computers, keep in effect a maintenance contract for the Equipment, if generally available, with Provider or the manufacturer or another party acceptable to Provider (and any such contract shall be independent of this Lease).
- (f) Make all alterations or additions to the Equipment that may be required (or supplied at no cost or under a maintenance agreement) by the manufacturer or other maintenance provider or which are otherwise required to comply with subsection (b) above or subsection (h) below.
- (g) Make no other alterations or additions to the Equipment except additions that do not impair the value or performance of the Equipment, are readily removable without damage to the Equipment, and do not result in an encumbrance on the Equipment.
- (h) Comply with all laws and regulations applicable to or affecting this Lease, the Products, or Customer, including maintaining all required insurance, and obtaining all governmental permissions necessary for it to so comply or that may be required of Provider in so complying, including complying with occupational safety and employment laws, including complying with laws relating to hazardous materials and the environment, including obtaining any licenses for Customer's business operations or operation of the Products, and including complying with all applicable U.S. and foreign export laws and regulations and anti-boycott laws applicable to the Products or any information provided with the Products or otherwise by Provider.
- (i) Furnish Provider, or make available on the internet through a free governmental website, Customer's annual certified or audited financial statements within 90 days of each fiscal year-end and Customer's quarterly financial statements within 45 days of each fiscal quarter-end, and Customer represents and warrants that all such financial statements

or other financial information will be prepared in accordance with generally accepted accounting principles and accurately present Customer's financial position as of the dates given.

- (j) Furnish Provider with opinions of counsel to Customer and resolutions, certifications of the names, titles, signatures, email addresses, and authority of those persons executing this Lease or related documents on behalf of Customer, and such other information and documents as Provider may reasonably request.
- (k) Not permit any Equipment to become an accession, a fixture, or real property.
- (l) Permit Provider to inspect the Equipment and Customer's applicable maintenance agreements and records at any reasonable time (subject to Customer's usual, reasonable security procedures).

8. Title. From and after the Acceptance Date the parties agree, unless this Lease gives Customer the option to purchase all of the Equipment at the end of the Term for a stated price of \$1, that: (a) they intend this Lease to be an operating lease; (b) by the parties' execution of this Lease, Customer acquires no ownership interest in the Equipment, whether vested or contingent; (c) Customer's interest in the Equipment is limited to that of a lessee only and Provider retains all the rights of owner therein; and (d) any provisions in this Lease indicating to the contrary are for precautionary purposes only. The Equipment will remain the personal property of Provider, even if the Equipment is physically attached to real property, at all times until: Customer is entitled to Provider's interest in the Equipment as expressly provided in this Lease; or Customer agrees to the purchase of the Equipment, under this Lease or by other written agreement of the parties, Customer pays the purchase price and applicable Taxes in connection with the purchase in full, and all other conditions to the purchase are fulfilled. Customer will otherwise keep the Equipment free of encumbrances (other than this Lease or encumbrances created by Provider). Customer has no right or interest in the Equipment except that identified in this Lease. Except as otherwise provided in this Lease with respect to the Equipment, upon the Acceptance Date all Products that are software will be the property of Customer or the Products' licensor or manufacturer.

9. Loss. Customer will give Provider notice within 10 days of any Loss ("**Loss Notice**"). Except as provided in this section, no Loss will condition, reduce, or relieve Customer's obligations under this Lease, including its obligation to pay Periodic Payments in full. If any Equipment is damaged but can be economically repaired, Customer will immediately place the damaged Equipment in good working order and condition. If any Equipment is subject to any other kind of Loss, and replacement equipment is then available for supply by Provider, Customer may in its Loss Notice elect to continue all Periodic Payments without interruption and purchase from Provider, at then applicable prices, for cash, and on Provider's standard terms, replacement equipment of identical model, manufacturer, configuration, features, and capacity, and upon delivery, installation, and acceptance by Customer thereof and payment by Customer therefor the replacement equipment will be replaced for the Equipment subject to the Loss, and Customer shall be entitled to Provider's interest in the Equipment subject to the Loss. If Customer does not place damaged Equipment in good working order and condition within 60 days of any economically repairable damage, or elect to and effect and pay for the replacement of any Equipment subject to any other kind of Loss (including if the replacement or Customer's acceptance of the replacement equipment is hindered by any cause, whether or not under the control of any person, other than the gross negligence of Provider), Customer will upon Provider's demand pay Provider the Remaining Compensation (as defined in Section 17 below), calculated by Provider as of the date of Loss, and in lieu of all Periodic Payments to become due after that date), and upon receipt of such amount and all other amounts then due under this Lease, this Lease will terminate and Customer will be entitled to Provider's interest in the Equipment.

10. Provider Warranties. As to Products manufactured, supplied, or licensed by a Third-Party Provider, Provider will assign and pass through to Customer all of the Third Party Provider's available representations, warranties, and promises, if any, as-is and without recourse, for and during the Term, and reasonably cooperate with Customer, at Customer's request and expense, in pursuing any such claims and obtaining for Customer the benefit of all such rights. Provider provides all Third Party Provider Products to Customer only in accordance with the Third Party Provider's applicable end user license agreements, terms of service, or similar documents. After the Acceptance Date, Provider makes the warranty of quiet enjoyment as to the Equipment provided in Section 22 below and, as to all other Products, Provider warrants the absence of any encumbrance on arising by, through, or under Provider. Provider also agrees to provide, any Product warranties

to be provided by Provider (as opposed to any Third Party Provider) in the Purchase Terms. Customer may communicate with any Third Party Provider of any Equipment and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations thereon or on any remedies. All of the foregoing warranties made by Provider, and any such obligation of Provider to assign, pass through, and cooperate with respect to representations, warranties, and promises made by Third Party Providers, are, collectively, the ***“Provider Warranties.”***

Notwithstanding anything to the contrary in this Lease or the provisions of any Purchase Terms, Provider Warranties, or related documents, on the Acceptance Date the Purchase Terms will be fully satisfied and thereby terminate, except that the Provider Warranties will survive and in all events be enforceable: (a) only under the exclusive terms thereof, in a separate action at law, and for direct damages; and (b) not by way of rescission, cancellation, or termination of this Lease, or so as to condition, limit, or affect Customer’s obligations or Provider’s rights under this Lease, or by way of any abatement, reduction, offset, recoupment, compensation, crossclaim, counterclaim, or any other defense whatsoever against Customer’s obligation to pay Periodic Payments and other amounts hereunder.

11. Disclaimers and Limitations. Without limiting Customer’s enforcement of rights against Provider in a separate action at law for direct damages resulting from Provider’s negligence, willful misconduct, or breach of this Lease or any Provider Warranties, from and after the Acceptance Date:

- (a) Customer accepts the Products from Provider and agrees to lease and finance the Products with Provider **AS-IS, WHERE-IS, and on a nonrecourse basis. Except as expressly provided in the Provider Warranties, Provider disclaims any and all representations or warranties, including with respect to any Products’ design, compliance with specifications, durability, quality, operation, or condition (whether discoverable or not), title, merchantability, workmanship, or fitness for particular purposes, as well as the status of this Lease for tax or accounting classification purposes, or issues regarding infringement by any person or any Products of the industrial or intellectual property rights of any person, or any patent, trademark, or copyright infringement or the like.**
- (b) Provider will have no liability to Customer, or its customers, or any other persons, for damages or specific performance arising out of this Lease or concerning any Products, including direct, indirect, special, or consequential damages, or damages based on strict or absolute tort liability, and also as to any programs or data residing on any Equipment or anywhere else at any time, including upon return to or repossession of any Equipment by Provider. If this Lease is governed by the Uniform Commercial Code—Leases (Article 2A), then the parties agree that this Lease is to be treated as, and they hereby agree that this Lease is, a *finance lease* as that term is used in Article 2A, regardless of any extent to which it does not meet the definition of that term.

To the fullest extent permitted by law, this Lease is to be governed solely by its terms and Customer waives any contrary terms of law.

12. Customer Warranties. Customer represents and warrants when it executes this Lease and when it executes the Acceptance Certificate, that: (a) it is duly organized and in good standing under applicable law in the jurisdictions of its organization and domicile and in which Products may be located or received with full power and authority to enter into this Lease; (b) this Lease is enforceable against Customer in accordance with its terms, subject to laws of general application affecting creditors’ rights generally; (c) this Lease does not breach or create a default under any instrument or agreement binding on Customer; (d) no proceedings exist before any court or administrative agency that would have a material adverse effect on Customer, this Lease, or the Products or the use, benefit, provision, supply, or performance thereof, nor has Customer been threatened with any such proceedings; (e) the financial statements and other financial information made available by Customer have been prepared in accordance with generally accepted accounting principles and accurately present Customer’s financial position as of the dates given; (f) Customer’s chief executive office is located at its address specified in this Lease; and (g) Customer has selected, investigated, evaluated, and approved the Products, their manufacturers, Provider, and all other Third Party Providers, including any whose maintenance, software, monitoring, or other services are being resold by Provider, all based solely on Customer’s own judgment or that of its advisors, none of whom are Provider or Assignee, or their affiliates or agents.

13. Net Lease. This Lease is a net lease of the Equipment and a net financing of the other Products. If and to the extent not expressly prohibited by law, Customer will indemnify Provider against and hold Provider harmless from all liabilities, damages, taxes, losses (including losses of tax benefits), penalties, expenses (including legal fees and disbursements and costs), claims, actions, and suits, whether based on a theory of strict liability or statutory or regulatory liability of Provider or otherwise (collectively, ***“Claims”***), directly or indirectly relating to any use, operation, selection, licensing, manufacture, provision or purchase or obtaining (by Customer or Provider), ownership by Provider or its successors and assigns (for strict liability in tort or for statutory or regulatory liability), leasing, financing possession, maintenance, delivery, return, relinquishment, or sale (by Provider to Customer) of any Products, including Claims relating to: (a) the condition of any Equipment arising or existing during the Possession Period, including undiscoverable defects; (b) infringement by Customer or the Products of any patent, trademark, copyright, or industrial or other intellectual property rights of any person; and (c) Customer’s contest of Taxes or Provider’s contest of Taxes at Customer’s behest. However, Customer will not be liable under this section: (x) after the Acceptance Date, for the net price of the Products included within the Provider’s Basis; or (y) to a person pursuant to this section for any Claims to the extent resulting from that person’s negligence or willful misconduct or breach of this Lease.

14. Surrender of Equipment. Whenever Customer is required or permitted to return Equipment, Customer will (or, at Provider’s request, Customer will have the manufacturer or Provider or another party acceptable to Provider), at Customer’s cost and expense (and at Provider’s regular rates, if performed by Provider), deinstall, inspect, and properly pack the Equipment, and return the Equipment to Provider by such common carrier as Provider may specify, to a destination within the continental USA specified by Provider, accompanied by the relocation inventory or similar form completed by the deinstaller. Provider is not required to accept any return of Equipment more than one month before the end of the Term. Any return of Equipment accepted by Provider releases Customer of its leasehold rights and possessory interest in the Equipment, but will not otherwise constitute a termination of the Term or this Lease or Customer’s related obligations. When received by Provider, the Equipment shall be: in good working order; reasonably clean and cosmetically good; in the same condition as when shipped to Customer, reasonable wear and tear excepted; free of password protection, data, and user-installed software; if applicable to the operation of the Equipment, free of consumables and of fuel, chemicals, or wastes and free of all toxic, hazardous, or dangerous materials not originally a part of the Equipment; and, except for personal computers, at the manufacturer’s minimum acceptable and current engineering level, and certified by the manufacturer as eligible for its maintenance contract, if generally available, at then prevailing rates without the need for Provider to incur any repair, rehabilitation, or certification expense (***“Maintenance Certified”***). Customer will be liable to Provider for all expenses Provider incurs or would incur in placing the Equipment in the condition required by this Lease, up to the Fair Market Value price of the Equipment. Any additions to the Equipment not removed before return shall become Provider’s exclusive property (lien free) or, at Provider’s option and Customer’s expense, removed and returned to Customer or sold, destroyed, or otherwise disposed of, all without any liability on the part of Provider or any other person to Customer or any other person, and the Equipment restored to its original condition.

15. Default. It is an ***“Event of Default”*** under this Lease if: (a) Customer’s failure to pay any Periodic Payment or other amount under this Lease when due continues for 10 days after notice; (b) Customer’s failure to observe any provision of this Lease continues for 30 days after notice; (c) a representation or warranty or statement made by Customer in this Lease or in any other instrument provided by Customer is incorrect in any material respect when made; (d) unless expressly permitted by Section 7(c) above, Customer relocates the Equipment or, unless expressly permitted by Section 19 below, Customer purports to assign or sublet any interest in the Equipment or any interest in or obligation under this Lease; (e) any Equipment is levied against, seized, or attached; (f) Customer is or becomes the subject of an insolvency event; or (g) a default or event of default on the part of Customer occurs under any other agreement at any time entered into between Customer and Provider or any Assignee.

16. Remedies. If an Event of Default is continuing, or if at any time during the continuance of an Event of Default Provider has with or without notice to Customer declared the occurrence of the Event of Default, Provider may in its absolute discretion exercise any one or more of these remedies:

- (a) terminate this Lease;

- (b) take possession of or render unusable any Equipment wherever located, and/or render any other Products unusable, without notice or process of law (but without breaching the peace and subject to any applicable law), and without liability for damages occasioned by such actions (except for direct damages to the extent caused by Provider's negligence or willful misconduct);
- (c) require Customer to return the Equipment to a location designated by Provider in accordance with Section 14 above and there surrender control of the Equipment to Provider as though the Term had expired (and such actions will not constitute a termination of this Lease);
- (d) declare all or, in one or more declarations, any portion of the Remaining Compensation (as defined in Section 18 below), calculated by Provider as of the date of the declaration, due and payable (and in lieu of all Periodic Payments to thereafter become due);
- (e) proceed by court action to enforce performance by Customer of this Lease and/or to recover all damages and expenses suffered by Provider as a consequence of any Event of Default; and
- (f) exercise any other right or remedy available at law or in equity.

Upon Provider's full receipt of the entire Remaining Compensation under subsection (d) above, plus all other amounts that are or become due under this Lease, this Lease will terminate and Customer will be entitled to Provider's interest in the Equipment. Upon a declaration of the entire Remaining Compensation or Remaining Periodic Payments (as defined in Section 18 below) being due and payable under subsection (d) above, any later Periodic Payments coming due under this Lease before the then effective expiration date of the Term will cease.

To the extent permitted by state law, Customer will also reimburse Provider for all expenses incurred by Provider in enforcing this Lease. Provider's sole obligation to mitigate its damages is that if it repossesses any Equipment pursuant to this section Provider will lease, sell, or otherwise dispose of the Equipment in a commercially reasonable manner, with or without notice, and at public or private sale, and apply the net proceeds (after deducting all expenses of disposition), if any, to the amounts owed to Provider; but Customer will remain liable to Provider for any deficiency that remains after any such disposition. With respect to any notice of sale required by law, 10 days' notice is reasonable notice.

The remedies provided in this Lease are in addition to all other rights or remedies now or hereafter existing under this Lease, or at law or in equity, and may be enforced concurrently therewith, and from time to time.

17. Remaining Compensation. "**Remaining Compensation**" means, as Provider's anticipated benefit of its bargain and profit from this Lease (to which it will specifically be entitled), as liquidated damages and not as a penalty, and in addition to all Periodic Payments, taxes, late interest, and other amounts due and outstanding under this Lease, or (except for Periodic Payments) that become due after the date the Remaining Compensation is declared due, the following, together with related taxes:

- (a) 105% of the Provider's Basis minus 70% of the Periodic Payments (excluding Taxes) having come due since the Base Term Commencement Date, or
- (b) if greater, the Present Value (as defined in Section 24 below) of: the Periodic Payments scheduled to become due through the last day of the then effective Term ("**Remaining Periodic Payments**"); plus Provider's estimate of the Fair Market Value price of the Equipment on the last day of the Term, or
- (c) if (and only if) this Lease gives Customer the option to purchase all of the Equipment at the end of the Term for a price which is (or is limited to) a stated sum certain, including an amount stated as a percentage of the Provider's Basis, the Present Value of: the Remaining Periodic Payments; plus the sum so stated.

18. Assignment By Provider. Provider may unqualifiedly assign this Lease and any Equipment, in whole or in part, including granting or assigning any encumbrance or other interest in this Lease or any Equipment, with Customer's prior acknowledgment thereof (not to be unreasonably withheld or delayed), to any person ("**Assignee**"). No assignment will relieve Provider of its obligations under this Lease, including any obligation for Provider Warranties. **Customer and Provider acknowledge that any such assignment will not materially change their respective obligations under this Lease.** Customer will unless otherwise directed absolutely, independently, and unconditionally pay all amounts due under this Lease to Assignee without abatement, reduction, offset, recoupment, compensation, crossclaim, counterclaim, notice, demand, or any other defense whatsoever, arising hereunder, otherwise, or against any person. No Assignee will be obligated to perform any of Provider's obligations under this Lease, including the Provider Warranties, other than those obligations expressly

undertaken by Assignee in writing. Customer will not permit this Lease to be amended or any of its terms waived without the consent of Assignee. Assignee will have all of Provider's rights, powers, benefits, and privileges hereunder, to the extent of the assignment, including the right to make further assignments. Assignee and Provider do not make any statement, representation, warranty, or promise made by the other, and are not agents of one another (even if they are affiliated or closely connected by ownership, contract, or otherwise). Assignee will not be liable for Provider's action or inaction or breach of this Lease or any Provider Warranties or other agreements with Customer, nor will any action or inaction or such breach by Provider affect the obligations of Customer to Assignee under this Lease. Provider may provide copies of this Lease or related documents or information concerning Customer and its obligations thereunder to any Assignee, prospective Assignee, affiliate, or other person.

19. Assignment By Customer. Without Provider's prior written consent, not to be unreasonably withheld: Customer cannot (including in connection with a sale of all or some of Customer's assets) assign any interest in this Lease or assign, sublet, or license any interest in or benefit of any Products. No such assignment, sublease, or license will discharge or diminish Customer's obligations under this Lease, and Customer will continue to be primarily, absolutely, unconditionally, and independently liable for the full and prompt observance of all of its obligations under this Lease following any such assignment, sublease, or license.

20. Counterparts. This Lease and any related documents may be executed in one or more counterparts. If there is only one such counterpart of a document, it will be the original, otherwise, one counterpart will be marked as and be the original and each other counterpart will be marked as and be a duplicate. No security interest in this Lease or any related document may be perfected by possession except by possession of the original counterpart.

21. Interest Rate Limitations. The parties intend to comply with applicable usury laws. Accordingly, they agree that if any payments required to be made under this Lease would otherwise be considered the collection of interest in excess of the maximum amount permitted by applicable law: Customer will not be obligated to pay the excess; any excess which may have been collected will be credited to Customer's other obligations to Provider or refunded; and this Lease will be considered to have been amended so as to eliminate Customer's obligation to pay such excess.

22. Quiet Enjoyment. So long as no Event of Default is continuing, Provider will not interfere with Customer's quiet enjoyment of the Equipment. If a failure by Provider to materially observe the foregoing warranty of quiet enjoyment continues for 10 days after notice, Customer may in its absolute discretion exercise any one or more of the following remedies (which shall be its exclusive remedies for such failure): (a) by notice terminate this Lease (including its obligation to pay Periodic Payments) as it relates to such Equipment; or (b) proceed in a separate action at law to recover all direct damages suffered by Customer resulting from such failure.

23. Fair Market Value. "**Fair Market Value**" is the price or rent, as applicable, that would be obtained at arm's length between informed and willing parties, neither under compulsion to contract, for the sale or lease of Equipment assuming the Equipment is: in installed, continued, and uninterrupted use by the buyer or lessee; in the condition required by this Lease and, except for personal computers, Maintenance Certified (as defined in Section 14 above); and being sold with the software necessary for its use. Fair Market Value will be determined by Provider, but if Customer objects in writing to Provider's determination within 10 days after Provider communicates its determination to Customer's representative in writing or by email, then Fair Market Value will at Customer's expense be determined by an independent appraiser selected by Provider and reasonably satisfactory to Customer.

24. Present Value. "**Present Value**" is the present value of the amount in question discounted to the date present value is to be determined at the Present Value Rate on the last day of the complete week most recently reported on the date of determination or on the Base Term Commencement Date, whichever is less, compounded with the same periodicity as the Payment Period. The "**Present Value Rate**" is three-fifths of the annualized daily prime rate of interest, as described in Federal Reserve Statistical Release H.15 – Selected Interest Rates (available, for example, at <http://www.federalreserve.gov/Releases/H15/data.htm>), or any successor publication of the US Federal Reserve System, but if there is no such publication, the lowest prime rate published in *The Wall Street Journal*.

25. Further Assurances. Customer will promptly execute such documents and take such further action as Provider may from time to time reasonably request in order to carry out the intent of this Lease or protect or perfect the

rights, interests, and remedies of Provider reasonably intended to be created thereunder. Provider and its affiliates and any present and prospective Assignees may file financing statements to give public notice of their interests or anticipated interests hereunder.

26. Miscellaneous. With respect to any person, an *insolvency event* means the appointment, election, nomination, or other institution of any administrator, examiner, administrative receiver, compulsory manager, trustee, or liquidator (or any similar official contemplated by the law of any jurisdiction) with respect to the person or its assets, or the person making or seeking an assignment for the benefit of creditors or any arrangement or composition with its creditors, or the person being or becoming insolvent, or committing any act of bankruptcy, or being or becoming the subject of a petition or proceeding under any bankruptcy, reorganization, arrangement of debts, insolvency, or receivership law, or the person seeking to effectuate a bulk sale of its inventory, equipment, or assets, or any action being taken with a view to the person's termination or the termination of its business, and, if any of the foregoing events is not voluntary and not acceded to by the person, it continues for 60 days. The term *software* includes all forms of intangible rights. The terms *hereunder*, *herein*, *hereof*, and similar terms refer to this Lease as a whole, and not just to the provision containing the term. The term *including* and similar terms mean inclusion without limitation.

Time is of the essence. The indemnities, immunities, and other rights and provisions of this Lease will survive its performance, expiration, or termination. Any waiver or failure of a party to require strict observance of this Lease, will not constitute a waiver of any other breach of the same or any other provision of this Lease or any other agreement. This Lease will not be binding upon a party until executed by both parties, except that when this Lease is signed by Customer the obligation of Customer to pay the cash price for the Products in accordance with Section 1 above, and the provisions of Sections 6 above and 13 above, and the definitions and other general provisions of this Lease, will be binding and apply to the extent any Product is shipped or provided to or performed for Customer by Provider even before this Lease is executed by Provider. This Lease cannot be amended except in an instrument executed by both parties. This Lease binds and benefits the parties' successors and permitted assigns. The page numbering of this Lease may be exclusive of attachments, if any. In this Lease, as the context may require, the singular includes the plural and vice versa, and terms of one gender may refer to any gender.

Notices, consents, approvals, and waivers hereunder must be in writing. Notices will be deemed given when delivered to the receiving party's address set forth in this Lease. A party may change its address for notice by notice.

A provision of this Lease that is or becomes invalid will be ineffective only to the extent of the invalidity, without affecting the remainder of such provision or this Lease. In any proceeding relating to this Lease, a party may produce a reliably made facsimile of an instrument rather than the original and such facsimile will be considered the original. Each party acknowledges that it has received and reviewed all of the pages of this Lease and that none of its provisions are missing or illegible.

Provider will not be liable to Customer for any alleged loss or damages resulting from the delivery of the Products being delayed by acts of Customer, acts of civil or military authority, governmental priorities, fire, floods, epidemics, quarantine, energy crises, strikes, labor trouble, war, riots, accidents, shortages, delays in transportation, or any other causes beyond the reasonable control of Provider.

27. Software. The Products may contain software in which the parties have no ownership or other proprietary rights. Where required by Provider or a software owner or manufacturer or Provider, Customer will enter into a license or other agreement for the use of the software and the provision of the Products. Any such agreement will be separate and distinct from this Lease, and Provider will have no rights or obligations thereunder unless otherwise agreed by it in writing. Any rent attributable to Provider's

financing of software Products will be paid under this Lease as rent subject to the provisions of Section 4 above regardless of Customer's dissatisfaction with, or the failure or quality of, the Products.

28. Facsimiles. In any proceeding relating to this Lease or any related document or any Products, a person may produce a reasonable textual or graphical representation on paper of a document, however created, stored, accessed, or communicated, including documents that are manually executed (or, *if* electronic signatures are agreed to by the parties as described in Section 29 below, electronically executed), and including photocopies or other representations made by scanning or printing electronic files, database entries, or other electronic records, rather than the original document, if any, and such paper representation will be considered a true and valid original of the document for all evidentiary purposes.

29. Electronic Signatures. An electronic signature on this Lease or any related documents by a party will be as valid and effective as its manual signature, and electronic signatures are agreed to for purposes of this Lease, *if*: both parties agree to the use of a party's use of an electronic signature on that or any other document relating hereto, including where one party's electronic signature on a document is manually or electronically accepted by the other party.

30. Applicable Law. The terms hereof are governed without regard to conflicts of law principles by the law of the State of Illinois. The provisions of the United Nations Convention on the International Sale of Goods do not apply to this Lease. The exclusive forums for any litigation arising out of this shall be the United States District Court for the Northern District of Illinois (Eastern Division) or the Circuit Court of the Sixteenth Judicial Circuit, Kane County Illinois. The parties waive any objection relating to improper venue or *forum non conveniens* or otherwise to the conduct of any proceeding in any such courts.

31. Entire Agreement. This Lease constitutes the entire agreement of the parties relating to its subject matter and supersedes any other agreements previous hereto, but: the Purchase Terms will to the limited extent provided herein remain in effect until the Acceptance Date; and, on the Acceptance Date, this Lease will finally and entirely supersede and merge the Purchase Terms (except to the extent of the Provider Warranties to survive as provided in Section 10 above).

32. Information and Data. As a public body, Customer's records are governed by Illinois' Freedom of Information Act ("**FOIA**"), which provides that any public records in its possession are subject to inspection by the public. Therefore, unless a statutory exemption applies, records relating to this Lease are considered public records under FOIA and therefore not confidential. Customer agrees that while the Products and their use, possession, and benefit are provided to Customer in connection with Customer's performing of its governmental functions, Provider is not itself performing a governmental function on behalf of Customer. Nonetheless, Provider agrees to provide reasonable cooperation with Customer, at Customer's request and at no out-of-pocket or material expense to Provider, in Customer's responding to FOIA requests.

Provider expressly acknowledges and agrees that as between Customer and Provider, Customer is the owner of and has exclusive rights, title and interest in and to the data resident within any Equipment before its return hereunder ("**Customer Data**"). During the Possession Period, if Provider shall have the right to access and use Customer Data, any such access and use shall be solely: (a) as necessary to perform this Lease, and (b) for trend analysis that may assist Provider in the provision of its services in its business generally, provided that no such trend analysis shall result in the disclosure of any personal or confidential information about or from Customer or its employees or customers. Provider will not retain, use, disclose, sell, or otherwise process Customer Data for any purpose other than the specific purpose of performing this Lease. However, nothing in this paragraph will limit Customer's obligation, as more particularly provided in Section 14 above, as to placing any Equipment to be returned in the Return Condition, including as to the removal of all Customer Data.

City of Aurora (Customer)

By: _____

Name/Title: _____

Date: _____

Insight Direct USA, Inc. (Provider)

By: _____

Name/Title: _____

Date: _____

**Acceptance Certificate
for Product Supply and Lease Agreement No. ____ (“Lease”)**

Customer:
City of Aurora

Provider:
Insight Direct USA, Inc.

This Acceptance Certificate is made by Customer pursuant to the above-referenced Lease between Customer and Provider. Capitalized terms used in this Acceptance Certificate without definition are defined in the Lease.

Customer certifies:

1. The Products to which this Acceptance Certificate applies (“**Accepted Products**”) are all of the Products described or referred to in the Lease (any Accepted Products that under the Provider Agreement or a Third Party Provider agreement, if any, are to be provided after the Acceptance Date being “**Future Products**”).
2. The Accepted Products (other than any that are Future Products) have been duly performed, procured, received, evaluated, inspected, and installed (if installable). With respect to Future Products to be provided or performed by a Third Party Provider, Customer will rely solely on the Third Party Provider for the provision and performance thereof, and, as between Customer and Provider, Customer finally waives all further right to receive, evaluate, inspect, or reject such Future Products. Customer unconditionally and irrevocably accepts all of the Accepted Products, including any that are Future Products (whether the Future Products are to be provided or performed by a Third Party Provider or Provider itself) for all purposes of the Lease and all related documents and finally waives, as against Provider, all rights of rescission, cancellation, or termination of the Lease, and all rights that may condition, limit, or affect Customer’s obligations to Provider or Provider’s rights against Customer under the Lease, and all rights of abatement, reduction, offset, recoupment, compensation, crossclaim, counterclaim; provided, however, the foregoing does not limit Customer’s enforcement of rights against Provider in a separate action at law for direct damages resulting from Provider’s negligence, willful misconduct, or breach of the Lease or any Provider Warranties, or any written agreement between Provider and Customer other than the Lease; but such waivers in all events do include Customer’s waiver of any defense whatsoever against Provider Customer may have to its obligation to pay Periodic Payments and other amounts under the Lease.
3. No Event of Default or event that with notice or the lapse of time would constitute an Event of Default is continuing.
4. Customer’s billing address (if different from its address stated above) is _____.
5. Equipment’s Product Location: _____.

City of Aurora (*Customer*)

By: _____

Name/Title: _____

Acceptance Date: _____, 20____ (*Customer must fill in.*)