

**SUPERION, LLC SUPPORT SERVICES AGREEMENT
CONTRACT NO. SAFE-2259LG- 170078**

This Superior, LLC Support Services Agreement ("Agreement") is entered into by and between **Superion, LLC (Superion)**, a Florida limited liability company, with its principal place of business at: 1000 Business Center Drive, Lake Mary, Florida 32746;

and
**County of Santa Fe
(Customer),**
with its principal place of business at
102 Grant Street
Santa Fe, NM 87504

I.

		Initial Quarterly Term	Initial Annual Term
	Qty	7/1/17-6/30/18	7/1/17-6/30/18
Retrofit Modification Option	34	\$ 937.13	\$ 3,748.50
Click2Gov -Employee Self Service Module	1	\$ 830.21	\$ 3,320.86
Click2Gov Core Module	1	\$ 450.07	\$ 1,800.29
Human Resources	1	\$ 1,301.57	\$ 5,206.28
QRep Administrator	1	\$ 93.96	\$ 375.86
QRep Catalogs for HR DEMAND	1	\$ 94.28	\$ 377.12
NAVI-Accounts Receivable	1	\$ 909.28	\$ 3,637.12
NAVI - Cash Receipts	1	\$ 583.88	\$ 2,335.54
NAVI-Code Enforcement	1	\$ 466.81	\$ 1,867.24
NAVI - GMBA w/Extended Reporting	1	\$ 2,516.49	\$ 10,065.97
Naviline-Land/Parcel Management	1	\$ 960.98	\$ 3,843.92
NAVI-Payroll/Personnel	1	\$ 1,519.02	\$ 6,076.10
NAVI - Planning/Engineering	1	\$ 2,939.20	\$ 11,756.81
NAVI-PURCHASING INVENTORY	1	\$ 1,505.33	\$ 6,021.33
NAVI - Tax Billing	1	\$ 7,943.27	\$ 31,773.08
Time and Attendance Interface -	1	\$ 582.36	\$ 2,329.45
Naviline - Asset Management I	1	\$ 599.09	\$ 2,396.35
NAVI-DMS - Document Management Services	1	\$ 308.67	\$ 1,234.67
Lockbox - Banks, payment collection, etc.	1	\$ 149.12	\$ 596.48
Total		\$ 24,690.74	\$ 98,762.96

		Initial Quarterly Term	Initial Annual Term
Application	Qty	7/1/17-6/30/18	7/1/17-6/30/18
Multi Agency or Jurisdictional CRIMES	1	\$ 407.23	\$ 1,628.93
FIELD INCIDENT REPORTING	25	\$ 1,572.64	\$ 6,290.55
Field Reporting Server Upgrade	1	\$ 1,716.66	\$ 6,866.62
FIELD INCIDENT REPORTING	50	\$ 3,145.28	\$ 12,581.10
FIELD INCIDENT REPORTING	25	\$ 1,512.26	\$ 6,049.05
Total		\$ 8,354.06	\$ 33,416.25

		Initial Annual Term
Application	Qty	10/1/17-9/30/18
Blended Web Learning Plan - NavLine	1	\$ 8,300.00
Total		\$ 8,300.00

2. **TERM.** The Initial Term of this Agreement shall be July 1, 2017 through September 30, 2018 ("Initial Term"). Following the Initial Term, this Agreement can be renewed for successive one (1) year terms by payment of the then-current Quarterly Support Services Fee. Superion will invoice Customer when the Support Services Fees are due.
3. **SUPPORT SERVICES.** For so long as Customer has purchased Support Services and is current in its payments to Superion, Customer shall be entitled to receive, and Superion agrees to provide, the following services which are hereinafter referred to as "Support Services" for the Licensed Programs listed in Paragraph 1 hereof:
 - 3.1 **Program Fix Service.** Customer shall promptly report to Superion any errors or defects in the Licensed Program's which prevents the Licensed Programs from operating substantially in accordance with their documentation and shall further provide such information as may be required by Superion to replicate such errors or defects. Customer agrees to provide dial-in access to Customer's computer in order for Superion to investigate reported errors or defects. Superion will address any such replicable errors or defects with an effort commensurate with their severity and will deliver to Customer a remedial release or workaround as it becomes available. In the event the problem Customer reported as an error or defect was in fact not in the Licensed Programs, then Customer shall pay Superion, at Superion's then current list price therefor, for time spent as a result of Customer's report.
 - 3.2 **Software Upgrades and Updates.** Customer shall receive, at no additional cost, upgrades and updates to the Licensed Programs which are generally made available at no cost by Superion to customers who have purchased Support Services. Customer shall receive one original of any upgrade or update to the Licensed Programs delivered hereunder in electronic form or on media, according to the general form of distribution implemented by Superion. Customer agrees that any upgrades or updates provided by Superion shall be held by Customer upon all of the terms and shall be subject to all of the conditions contained in the license agreement granting Customer the right to use the Licensed Programs.
 - 3.3 **Telephone Support.** Superion shall make available a toll free telephone support line, twenty-four (24) hours a day, seven (7) days per week, for use by Customer's representatives who shall have received training on the Licensed Programs and who shall be relatively proficient in the operation of the Licensed Programs.
 - 3.4 **Exclusions.** Support Services do not include on-site services nor Licensed Programs that are not at the latest release level or the level immediately prior to the latest release, or for which Customer has not installed all distributed corrective code, or Licensed Programs that have been modified or customized, or that have been damaged by negligence, misuse, use with inappropriate software or equipment or by other external causes.
4. **SUPPORT SERVICES FEES.**
 - 4.1 Support Services Fees listed in Section 1 are quarterly fees and will be billed quarterly in arrears. Payment terms are net 30 days. Customer agrees that should Support Services Fees not be paid timely Superion may bill late fees equal to one and one half (1.5%) percent per month on the unpaid balance.
 - 4.2 Support Services Fees for Renewal Terms shall be billed quarterly in arrears and are subject to change upon each renewal date. Payment terms are net 30 days. Customer agrees that should Support Services Fees not be paid timely Superion may bill late fees equal to one and one half (1.5%) percent per month on the unpaid balance.
 - 4.3 Support Services Fees stated herein do not include sales (or equivalent) taxes. Taxes due, if any, will be added to Customer's invoice.
 - 4.4 Support Services Fees are not refundable in whole or in part, except in the event of Customer's termination for cause as provided in Paragraph 9.3 hereof.
5. **MODIFICATION MAINTENANCE SERVICES.** For so long as Customer has purchased Modification Maintenance Services and is current in its payments to Superion under this Agreement, Customer shall be entitled to receive, and Superion agrees to provide, the following service:

5.1 **Modified Program Compatibility.** For each non Licensed Program in library Superion MOD that was written by Superion or any Licensed Program that has had custom modifications performed by Superion at the customer's request, Superion will perform all necessary programming to ensure that the program is compatible with each new software release, version, or Program Temporary Fix made available by Superion.

6. MODIFICATION MAINTENANCE FEES.

6.1 Modification Maintenance Fees are determined on an annual basis. This determination is based upon the number of modified programs prior to each renewal period multiplied by the then current rate charged per program.

6.2 Modification Maintenance Fees are not refundable in whole or in part.

7. WARRANTIES AND REMEDIES. Superion warrants that the Support Services provided under this Agreement shall be performed professionally, in a workmanlike manner and by employees with appropriate skills and expertise. Except as provided in this paragraph, CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, IN THE EVENT HTE BREACHES THIS WARRANTY, IS TO TERMINATE THIS AGREEMENT PURSUANT TO THE TERMS OF PARAGRAPH 9 BELOW.

8. LIMITATION OF LIABILITY. Superion's liability to Customer for any losses or damages, whether direct or indirect, arising out of this Agreement, shall not exceed the Support Services Fees paid for the Initial Term or Renewal Term then in effect. In no event shall Superion be liable for any indirect, special, or consequential damages, or economic loss in connection with, or arising out of, this Agreement.

9. TERMINATION. This Agreement may be terminated as follows:

9.1 Upon Customer's failure to renew this Agreement at the expiration of the Initial Term or any Renewal Term.

9.2 By Superion, if Customer fails to pay Support Services Fees on or before the due date, then this Agreement shall terminate if non-payment continues for more than ten (10) days after receipt of notice in writing from Superion to Customer of such non-payment setting forth the sum then due and how such sum was determined.

9.3 Except as provided in Paragraph 9.2 hereof, by the non-breaching party, in the event this Agreement is breached by a party and that party fails to cure the breach within thirty (30) days after having been given written notice thereof.

9.4 If Customer terminates this Agreement and subsequently desires to reinstate Support Services, Superion's then-current policy with regard to reinstatement shall apply.

10. GENERAL TERMS. Choice of Law/Dispute Resolution. This Agreement shall be governed by laws of the State of New Mexico. Prior to either party commencing any legal action under this Agreement, the parties agree to try in good faith to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations, then either party may commence legal action against the other. Each party hereto agrees to submit to the personal jurisdiction and venue of the State of New Mexico for resolution of all disputes in connection with this Agreement.

11. APPROPRIATION OF FUNDS.

Customer believes that sufficient funds can be obtained to pay all amounts due to Superion throughout the term of this Agreement and hereby covenants and agrees that it will make appropriate requests for budget appropriations for the fiscal years in amounts as specified in this Schedule A. Customer further agrees that said funds, once appropriated, will be maintained and expended for the expressed purpose of acquiring from Superion the licenses and services set forth in this Schedule A.

In the event sufficient funds are not appropriated, budgeted or are otherwise legally unavailable, Customer shall immediately notify Superion in writing of such occurrence and Superion will respond with an amendment that this Agreement, or the appropriate executory portions thereof, is terminated. Should there be any premature termination of this Agreement, Customer shall be responsible to pay a) for any services delivered by Superion prior to the notice and b: for all software which has been delivered and accepted. Superion shall not be obligated to provide any services for which payment has not been appropriated.

Binding Agreement. The individual signing this Agreement for Customer warrants that he/she has been duly authorized to bind Customer to all rights, duties, remedies, obligations and responsibilities hereunder and that the Agreement is a valid and binding obligation of Customer.

Date

Santa Fe County Attorney
Date

Assignment. This Agreement and the rights, title, and interest herein, may not be assigned or transferred by Customer without the prior written consent of Superion, which consent may be withheld. Superion may assign its rights, title and interest herein by providing prior written notice to Customer.

Successors Bound. The terms and conditions of this Agreement shall extend and inure to the benefit and be binding on the respective successors and permitted assigns of Customer and Superion.

Force Majeure. Neither party shall be held responsible for failure to fulfill its obligations under this Agreement due to causes beyond its reasonable control.

Severability. If any term or provision of this Agreement or the application thereof to any entity, person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to entities, persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Notices. Any notice provided for herein shall be in writing and sent by registered or certified mail, postage prepaid, addressed to the party for which it is intended at the address set forth on the first page of the Agreement or to such other address as either party shall from time to time indicate in writing. Any notice given pursuant to this paragraph shall be deemed given when received or five (5) calendar days from the date of the mailing, whichever occurs first.

Headings. Numbered topical headings, articles, paragraphs, subparagraphs or titles in this Agreement are inserted for the convenience of organization and reference and are not intended to affect the interpretation or construction of the terms hereof.

Non-Hiring Statement. During the term of this Agreement and for a period of twenty-four (24) months after the termination of this Agreement, the Customer may not offer to hire or in any way employ or compensate any of the employees of Superion or persons who have been employed by Superion within the immediate past twenty-four (24) months without prior written consent of Superion.

Non-waiver. Waiver of any breach or default hereunder shall not constitute a continuing waiver or a waiver of any subsequent breach either of the same or of another provision of this Agreement.


Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to Support Services, and there are no representations, conditions, warranties, or collateral agreements, expressed or implied, statutory or otherwise, with respect to this Agreement other than as contained herein. This Agreement supersedes all previous communications, representations or agreements, either written or oral, between the parties. This Agreement may not be modified or supplemented in any way except by written agreement signed by persons authorized to sign agreements on behalf of Customer and of Superion. Preprinted conditions which vary from the terms and conditions herein, and which are contained in any purchase order or other document submitted hereafter by Customer, are of no force or effect.

The parties, each acting with due authority, have executed this Agreement by setting forth their respective signatures:

COUNTY OF SANTA FE, NM

SUPERION, LLC


Authorized Signature


DocuSigned by:

Authorized Signature

TONY FLORES DEPUTY COUNTY CLERK
Print Name & Title

Lisa Neumann Controller
Print Name & Title

9.6.17
Date

8/18/2017
Date

Approved as to form
Santa Fe County Attorney
By: 
Date: 8-22-17

Reviewed and Approved
for SIGNATURE
Don Moye 
Date 9-5-17