

# Hardware Support Level 2 Maintenance Agreement

This Agreement is made and entered into on this the day of 2012 by and between The NET Data Corporation, hereinafter referred to as "Seller", with principal place of business in Sulphur Springs, Texas, and Johnson County, hereinafter referred to as "Buyer", with its principal place of business in **Cleburne, Johnson County, Texas**.

Seller agrees to furnish to Buyer the services set out below on the terms and conditions of this agreement.

## A.

A1. This agreement shall be in effect from October 1, 2012 thru September 30, 2013 and applies to *Hardware Support Maintenance* services provided by the Seller. During the term of this contract Seller agrees to provide;

Hardware 1- 800 support for the following;

- iSeries Access Installation and questions\*
- RVI Installation and questions\*
- NETD Online Installation and questions\*
- Printer configuration to the i5 and questions\*
- Assist IBM CE during Hardware/Software iSeries 400 problems
- Once a month dial-in to check for system messages and backup
- \* This does not cover the physical installation of PC's and/or PC operating systems.

Additionally, NET Data will provide;

- Two onsite updates for PTF's and/or OS/400 Upgrades per year
- Disaster Recovery Services (defined below)
- Free installation of i5/iSeries/400 equipment purchased from NET Data

A2. Disaster Recovery Services (DRS)

A. DISASTER DEFINED. A "Disaster" is defined as any unplanned event or condition (excluding an act of terrorism) that renders the Customer unable to use their IBM iSeries/400 computer equipment.

B. EQUIPMENT. Whenever Customer declares a disaster, NET Data will provide a fully operational, re-locatable computer system equal to or better than the existing iSeries/400 configuration in use by the County.

C. ON-SITE SERVICES. NET Data will deploy two (2) representatives on-site to assist in establishing a working computer environment at the designated relocation area.

D. EQUIPMENT USAGE. The Customer may utilize the IBM iSeries/400 supplied by NET Data for up to thirty (30) calendar days or the install of the replacement iSeries/400 whichever is first.

E. AVAILABILITY. NET Data guarantees that the Customer will have the use of the IBM iSeries/400 within forty-eight (48) hours after initial notification.

F. MULTIPLE DISASTER CONSIDERATION. Customer's rights of immediate and exclusive use of NET Data's DRS, as provided herein, shall be subject to the possibility that one or more other subscribers ("other affected subscribers") could declare a disaster and require use of the same DRS at the same time as Customer. In this event, all Recovery Resources shall be available on a priority use basis except for those designated by NET Data, in its reasonable discretion, as available on a shared use basis. Access to and use of NET Data's DRS during disasters shall depend upon the order in which disasters are declared. NET Data shall maintain records of its receipt of disaster declarations, which shall be the exclusive basis for determining the order in which disasters are declared.

A3. In consideration of the above-mentioned services, Buyer will pay to Seller an annual rate of **\$10,000. The sum of 10,000 shall be divided into quarterly** payments of **\$2,500**. Such fee shall be paid in quarterly payments for a period not to exceed one year from October 1, 2012. Such fee shall be paid in cash to Seller at Sulphur Springs, Hopkins County, Texas.

A4. Buyer, recognizing that other services may be needed from Seller, agrees to pay standard hourly billing rates (not to exceed \$150.00 per hour) and expenses in return for other services rendered when such services are specifically requested by the Johnson County IT Department and the dollar amount of the charges are authorized by the IT Department.

## B.

B1. This "Agreement" may also be known as the "Contract" and such terms may be used interchangeably.

B2. This Agreement will be governed by and construed according to the laws of the State of Texas. Venue for any action or claim arising out of the Agreement shall be Johnson County, Texas.

B3. The remedy provision of the Agreement which may be exercised against Johnson County is termination of the contract therefore, all references in the Agreement of any kind to any remedial

payments or any additional charges, including but not limited to all references wherever found to additional charges to Johnson County are hereby deleted.

B4. To the extent, if any, that any provision in this Agreement is in conflict with Texas Government Code §552.001 *et seq.*, as amended (the "Open Records Act"), the same shall be of no force and effect. Furthermore, it is expressly understood and agreed that Johnson County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Open Records Act to any software, or any part thereof, or other items or data furnished to Johnson County whether or not the same are available to the public. It is further understood that Johnson County, its officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that Johnson County, its officers and employees shall have no liability or obligations to NetData for the disclosure to the public, or to any person or persons, of any software, or a part thereof, or other items or data furnished to Johnson County by NetData in reliance on any advice, decision or opinion of the Attorney General of the State of Texas.

B5. Under the Constitution and laws of the State of Texas, public property is exempt from forced sales and liens may not attach thereto. Therefore, any security interest filed by any person or is filed subject to all the rights and interests of Johnson County.

B6. Limitations for the right to bring an action, regardless of form, shall be governed by the laws of the State of Texas, Texas Civil Practice and Remedies Code §16.070, as amended, and any provision to the contrary is hereby deleted.

B7. It is understood and agreed that Johnson County will not be subject to arbitration; therefore, any paragraph or provision requiring arbitration is hereby deleted.

B8. The parties agree that under the Constitution and laws of the State of Texas, Johnson County cannot enter into an Agreement whereby Johnson County agrees to indemnify or hold harmless any other party; therefore, all references of any kind to indemnifying, holding or saving harmless for any reason whatsoever are hereby deleted.

B9. Johnson County shall be responsible for the acts or failure to act of its employees, agents or servants, provided, however, its responsibility shall be subject to the terms, provisions and limitations of the Constitution and laws of the State of Texas, particularly the Texas Tort Claims Act.

B10. In the event of any conflict between either the terms and provisions of this addendum and the terms and provisions of those contractual provisions tendered by **NetData**, this addendum shall control.

B11. NetData agrees to take affirmative action to ensure that applicants are employed and treated during employment without regard to their race, religion, color, sex, national origin, age or handicap.

B12. No officer, member or employee of Johnson County, and no member of its governing body and no other public officials of the governing body of the locality or localities in which the project is situated or being carried out who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project shall participate in any decision relating to this Contract which affects his/her personal interest, have any personal or pecuniary interest, direct or indirect, in this Contract or the proceeds thereof.

B13. Services provided under this Agreement shall be provided in accordance with all applicable state and federal laws.

B14. NetData certifies that pursuant to Section 231.006 of the Texas Family Code that the individual or business entity named in this Contract is not ineligible to receive the specified payment(s) and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate. **NetData** states that it is not ineligible to receive State or Federal funds due to child support arrearages.

B15. To activate any "duty" of Johnson County prescribed by this contract or any contract between Johnson County and **NetData**, such **NetData** must send written notice by certified mail return receipt requested to the County Judge of Johnson County specifically requesting the County take the specific action and citing the contract paragraph from which the duty emanates.

B16. Termination of the contract by either party (in accordance with the terms of the contract) does not relieve NetData or NetData's bonding company of obligations or liabilities incurred pursuant to the contract.

B17. Johnson County does not waive any constitutional, statutory or common law immunities, including but not limited to those provided by the Texas Tort Claims Act.

B18. Payment to NetData of the Contract amount shall be paid on a quarterly basis beginning January 2013. Payment is due as set forth in Texas Gov't Code Section 2251.021 and past due payments shall bear interest as set forth in Texas Gov't Code Section 2251.025.

**Sec. 2251.021. TIME FOR PAYMENT BY GOVERNMENTAL ENTITY. (a)**

Except as provided by Subsection (b), a payment by a governmental entity under a contract executed on or after September 1, 1987, is overdue on the 31st day after the later of:

- (1) the date the governmental entity receives the goods under the contract;
- (2) the date the performance of the service under the contract is completed; or
- (3) the date the governmental entity receives an invoice for the goods or service.

**Sec. 2251.025. INTEREST ON OVERDUE PAYMENT. (a)** A payment begins to accrue interest on the date the payment becomes overdue.


(b) The rate of interest that accrues on an overdue payment is the rate in effect on September 1 of the fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of:

- (1) one percent; and
- (2) the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.


B19. This contract may be terminated without cause by Johnson County upon the giving of written notice to NetData 90 days in advance of the termination date of the Contract. This contract may be terminated without cause by NetData upon the giving of written notice to Johnson County 90 days in advance of the termination of the contract.

B20. No payment shall be due to NetData pursuant to this contract beyond the date of termination except for services specifically requested in writing by County after the notice of termination is delivered.

APPROVED AS TO FORM AND CONTENT:


  
\_\_\_\_\_  
Judge Roger Harmon as  
Johnson County Judge

1-14-13  
~~12-31-12~~  
\_\_\_\_\_  
Date

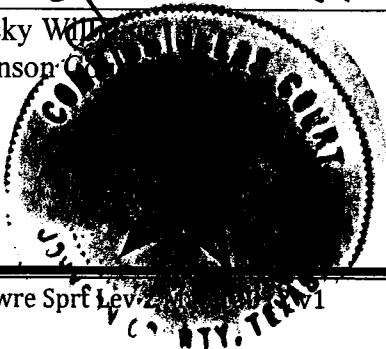
  
\_\_\_\_\_  
Tory Humphries or Scott Stahl  
President / Vice President

\_\_\_\_\_  
Date

Attested by:

  
\_\_\_\_\_  
Becky Williams  
Johnson County Clerk

1-14-13  
\_\_\_\_\_  
Date



# Maintenance Agreement for RVI Imaging and Related Services

This Agreement is made and entered into on this the 31<sup>st</sup> day of **December**, 2012 by and between The NET Data Corporation, hereinafter referred to as "Seller", or as "NetData" with principle place of business in Sulphur Springs, Texas, and Johnson County, hereinafter referred to as "Buyer" or "County", with its principal place of business in Cleburne, Texas.

Seller agrees to furnish to Buyer the services set out below on the terms and conditions of this agreement.

## A.

A1. This agreement shall be in effect October 1<sup>st</sup>, 2012 through September 30<sup>th</sup> 2013, and applies to the following applications purchased from Seller for RVI imaging and related services.

*Mugshot  
County Clerk  
Public Works  
District Clerk  
JP1  
JP2  
JP3  
P4*

A2. During the term of this contract Seller agrees:

- a) To correct any errors found during such one year period in the software system which the Buyer has agreed to purchase from Seller for use on the i series computer hardware.
- b) To make all changes in the aforesaid software system necessitated by changes in the law enacted during the term of this agreement.
- c) To provide to the Buyer all enhancements made to this software system by Seller for distribution to all clients of Seller.
- d) To provide Buyer 1-800 telephone support to assist in the productive use of the software systems.

A3. In consideration of the above-mentioned services, Buyer will pay to Seller the sum of \$ 36,900<sup>00</sup>. Such payments shall be for services rendered beginning the 15th day of

October 2012. Such fee shall be paid in cash to Seller at Sulphur Springs, Hopkins County, Texas.

A4. Buyer, recognizing that other services may be needed from Seller, agrees to pay standard hourly billing rates (not to exceed \$100.00 per hour) and expenses in return for other services rendered when such services are specifically requested by the Johnson County IT Department and the dollar amount of the charges are authorized by the IT Department.

**B.**

B1. This "Agreement" may also be known as the "Contract" and such terms may be used interchangeably.

B2. This Agreement will be governed by and construed according to the laws of the State of Texas. Venue for any action or claim arising out of the Agreement shall be Johnson County, Texas.

B3. The remedy provision of the Agreement which may be exercised against Johnson County is termination of the contract therefore, all references in the Agreement of any kind to any remedial payments or any additional charges, including but not limited to all references wherever found to additional charges to Johnson County are hereby deleted.

B4. To the extent, if any, that any provision in this Agreement is in conflict with Texas Government Code §552.001 *et seq.*, as amended (the "Open Records Act"), the same shall be of no force and effect. Furthermore, it is expressly understood and agreed that Johnson County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Open Records Act to any software, or any part thereof, or other items or data furnished to Johnson County whether or not the same are available to the public. It is further understood that Johnson County, its officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that Johnson County, its officers and employees shall have no liability or obligations to NetData for the disclosure to the public, or to any person or persons, of any software, or a part thereof, or other items or data furnished to Johnson County by NetData in reliance on any advice, decision or opinion of the Attorney General of the State of Texas.

B5. Under the Constitution and laws of the State of Texas, public property is exempt from forced sales and liens may not attach thereto. Therefore, any security interest filed by any person or is filed subject to all the rights and interests of Johnson County.

B6. Limitations for the right to bring an action, regardless of form, shall be governed by the laws of the State of Texas, Texas Civil Practice and Remedies Code §16.070, as amended, and any provision to the contrary is hereby deleted.

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B9. Johnson County shall be responsible for the acts or failure to act of its employees, agents or servants, provided, however, its responsibility shall be subject to the terms, provisions and limitations of the Constitution and laws of the State of Texas, particularly the Texas Tort Claims Act.

B10. In the event of any conflict between either the terms and provisions of this addendum and the terms and provisions of those contractual provisions tendered by **NetData**, this addendum shall control.

B11. NetData agrees to take affirmative action to ensure that applicants are employed and treated during employment without regard to their race, religion, color, sex, national origin, age or handicap.

B12. No officer, member or employee of Johnson County, and no member of its governing body and no other public officials of the governing body of the locality or localities in which the project is situated or being carried out who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project shall participate in any decision relating to this Contract which affects his/her personal interest, have any personal or pecuniary interest, direct or indirect, in this Contract or the proceeds thereof.

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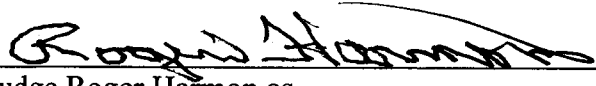
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APPROVED AS TO FORM AND CONTENT:

  
\_\_\_\_\_  
Judge Roger Harmon as  
Johnson County Judge

1-14-13  
Date

~~Tory Humphries~~ or Scott Stahl  
President / Vice President

12-31-12  
Date

Attested by:

Becky Williams  
Becky Williams  
County Clerk

1-14-13  
Date

