



Support Agreement

Client: <u>County Of Monterey</u>	Client ID No.: <u># 2763</u>
Address: <u>1590 Moffett Street</u>	Purchase Order No.: _____
<u>Salinas, CA 93905</u>	Purchase Order Date: _____
<u>United States</u>	Date Fiscal Year Begins: _____
Date: <u>August 5, 2016</u>	County Code: _____
	Sales Tax Percentage: _____

This Software Support Agreement ("Agreement") is entered into by and between QSI 2011, Inc. d/b/a Questys Solutions (hereinafter referred to as "QSI") and County Of Monterey (hereinafter referred to as "Client"). The parties hereto mutually agree that the provisions herein shall apply to the Questys software purchased from QSI or its distributors/resellers and in consideration of the charges as set forth herein and on the Order Form that is attached to this Agreement.

A. TERMS AND FEE

- The Agreement shall commence on September 1, 2016 ("Commencement Date") and continue for a thirty-six (36) month period ("Agreement Term").
- The initial term of this Agreement shall be for thirty-six (36) months from the Commencement Date, subject to the early termination provisions of this Article A. The Client may cancel this Agreement without penalty by providing written notice of cancellation to QSI at least thirty (30) days prior to the commencement of each period that begins with the Commencement Date or any subsequent anniversary thereof. This agreement may be renewed by Client on each anniversary of the Commencement Date; however the renewal terms shall be for a duration of not less than twelve (12) months. Notwithstanding anything in this Agreement, all obligations of Client to make payments hereunder are subject to the appropriation of sufficient funds for such payments by the legislative or other responsible client body. Failure of required appropriation of funds to make such payments shall relieve Client from the obligation to make any further payments required in this Agreement and contract may be terminated without the penalties related to payment terms specified in this Agreement.
- QSI may immediately terminate this Agreement or any license upon written notice if Client breaches this Agreement. Termination of this Agreement shall not limit either party from pursuing any other remedies available to it, including injunctive relieve, nor shall such termination relieve Client's obligation to pay all fees that accrued prior to such termination.
- The total annual fee for services provided under this Agreement and any renewal terms are outlined below:

Level	Support	Fee	
SILVER	Response Time: No later than 5:00 PM on the next available business day, provided that the initial request is received during the available support period of 8:00 AM to 5:00 PM Pacific Time	N/A	
GOLD	Products covered: CMx, LSx, WFX, WebClient, Questys Link API, and Infolinx Records Management Response Time: Within 4 hours during the available support period 6:00 AM to 6:00 PM Pacific Time	9/1/16 – 8/31/17	\$109,096.14
		9/1/17 – 8/31/18	\$111,278.06
		9/1/18 – 8/31/19	\$113,503.62



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Under no circumstances will the cost of support for the same software increase by more than ten percent (10%) in successive renewal terms.

5. The fees listed in this Agreement do not include taxes. If QSI is required to pay sales, use, property, value-added, or other federal, state or local taxes based on any licenses granted in this Agreement, the provision of services hereunder, or on Client's use of QSI software, then such taxes shall be billed to and paid by Client. This shall not apply to taxes based on QSI's income.

B. RESPONSIBILITIES OF QSI AND EXCLUSIONS

QSI offers services at the following levels:

1. SILVER LEVEL SUPPORT

QSI shall maintain the software in good operating condition and repair software malfunctions in a professional and responsive manner. Specifically, QSI shall:

- a. Provide software bug fixes as necessary.
- b. Provide new releases of software manufactured by QSI within sixty (60) days from official release. New releases will be made available as electronic downloads at no charge. Only QSI developed software in new releases will be provided at no charge. Any additional third-party products that may be made available within the QSI software will not be provided free of charge. These third-party products will be disabled in the QSI software if the client chooses not to purchase them. QSI guarantees a minimum of one new release annually.
- c. Access to the Questys Online Knowledge Base.
- d. Unlimited e-mail, online, and phone technical support for users and administrators with a response time no later than 5:00 PM on the next available business day, provided that the initial request is received during the available support period of 8:00 AM Pacific Time to 5:00 PM Pacific Time, excluding weekends and QSI holidays (the "Silver Level Support Period"). The response time guarantee is calculated from the time that the support request is received. If the support request is received outside the Silver Level Support Period, the response time guarantee clock begins at 8:00 AM Pacific Time on the following business day.

2. GOLD LEVEL SUPPORT

- a. Client will receive all benefits of the SILVER LEVEL plan in addition to the benefits listed below:
- b. Unlimited e-mail, online, and phone technical support for users and administrators with a response time not to exceed four (4) hours during the available support period of 6:00 AM Pacific Time to 6:00 PM Pacific Time, excluding weekends and QSI holidays (the "Gold Level Support Period"). The response time guarantee is calculated from the time that the support request is received. The four-hour response time shall be limited to available hours within the Gold Level Support Period.

"Response time" is defined as the period of time elapsed between the initial contact by Client personnel to QSI and the acknowledgement by QSI to Client that a support case has been opened. Response time is limited to, and counted in, hours available within the support periods defined elsewhere in this Agreement.

This Agreement specifically excludes the following:

- Cost of any and all hardware and third party (non-QSI developed) software.
- The cost of repairs of any and all hardware and third party (non-QSI developed) software.
- Major software updates or upgrades, installation of software updates or upgrades, conversion of data, training of Client personnel or any other on-site or off-site professional services unless specifically



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outlined below and specifically related to the Questys Software Products. These additional products and services are available at standard QSI billing rates.

C. RESPONSIBILITIES OF CLIENT

1. Client equipment shall include hardware, software, and communications components necessary for remote communications and diagnostics.
2. Client shall notify QSI's service personnel upon system failure by calling QSI's service line at 877-362-6246 or e-mail to techsupport@questys.com.
3. Client personnel shall not perform maintenance or attempt repairs to QSI supplied software except by prior written agreement with QSI.
4. Alterations in or modifications to the QSI software may not be made without prior written consent of QSI.
5. Fees shall be payable when invoiced and are non-refundable. All fees shall be deemed overdue if they remain unpaid thirty-one (31) days after they become payable.

D. DISCLAIMERS

QSI'S OBLIGATIONS AND WARRANTIES UNDER THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED. IN NO EVENT SHALL QSI BE LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, REVENUE, DATA, OR USE, INCURRED BY CLIENT OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, ARISING FROM THE PROVISION OF SERVICE HEREUNDER, EVEN IF THE OTHER PARTY OR ANY OTHER PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. LIABILITY OF QSI IN ANY AND ALL OTHER CATEGORIES AND FOR ANY AND ALL CAUSES, INCLUDING BREACH OF ANY EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION SHALL, IN THE AGGREGATE, NOT EXCEED ONE MONTH'S AVERAGE BILLING TO USER TAKEN OVER THE 12 MONTHS PRECEDING THE MONTH IN WHICH THE DAMAGE OR INJURY IS ALLEGED TO HAVE OCCURRED, BUT IF THIS AGREEMENT HAS NOT BEEN IN EFFECT FOR 12 MONTHS PRECEDING SUCH DATE, THEN OVER SUCH FEWER NUMBER OF PRECEDING MONTHS THAT THIS AGREEMENT HAS BEEN IN EFFECT.

E. GOVERNING LAW AND AMENDMENTS

This Agreement shall be governed by the laws of the State of California and constitutes the entire agreement between QSI and Client with respect to the furnishing of maintenance and/or support to QSI software as defined in this Agreement. No provision of this Agreement shall be deemed waived, amended, or modified by either party unless such waiver, amendment or modification be in writing and signed by a duly authorized representative of the party against whom it is sought to enforce the waiver, amendment, or modification. In the event any provision of the Agreement is held to be invalid or unenforceable, the remaining provisions of the Agreement will remain in full force and effect. The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach.

The terms stated in this Agreement shall prevail over any conflicting terms in any purchase order or other instrument covering the services subscribed to as issued by Client.



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F. PAYMENT AND SIGNATURE:

This Order Form is subject to the terms and conditions above, which constitutes the Software Support Agreement between the Client and QSI.

Select Quantity	Agreement Level	Support	Fee
1	GOLD	Fee for Months One (1) through Twelve (12)	\$109,096.14
1	GOLD	Fee for Months Thirteen (13) through Twenty-four (24)	\$111,278.06
1	GOLD	Fee for Months Twenty-five (25) through Thirty-six (36)	\$113,503.62

*Applicable Taxes will be billed to Customer unless exemption is certified. () Check if Non-taxable.

Payment is due on or before the start of each annual renewal period.

Executed by Client:

Name: ERIC A. CHATHAM
 Signature: *Eric A. Chatham*
 Title: INTERIM DIRECTOR ITD
 Date: 11/29/14

**Executed by QSI 2011, Inc.
 d/b/a Questys Solutions ("QSI"):**

Name: Bryce Harward
 Signature: *Bryce Harward*
 Title: Executive Vice President
 Date: October 24th, 2016

Rebecca M. Cenicerros
 APPROVED AS TO FORM
 Rebecca M. Cenicerros
 DEPUTY COUNTY COUNSEL
 COUNTY OF MONTEREY
Nov 18, 2014

Reviewed as to fiscal provisions
J. M. W.
 Auditor-Controller
 County of Monterey
11-23-16