

**FIFTH AMENDMENT TO PROPRIETARY SOFTWARE MAINTENANCE  
AGREEMENT C-114342  
BETWEEN THE CITY OF LOS ANGELES  
AND  
CGI TECHNOLOGIES AND SOLUTIONS INC.**

This Fifth Amendment to Contract C-114342 is entered into between the City of Los Angeles, California, a municipal corporation (hereinafter referred to as the "City" or "Client") and CGI Technologies and Solutions Inc., a Delaware corporation (hereinafter referred to as "Contractor" or "CGI") with reference to the following facts:

**WHEREAS**, on or about September 1, 2008, the City and Contractor entered into a Proprietary Software Maintenance Agreement (City Contract No. C-114342) whereby Contractor agreed to provide AMS Advantage®, now CGI Advantage® software standard support and maintenance services ("Maintenance Agreement"); and

**WHEREAS**, the City (CFs 07-2186-S1 and S2) authorized the Controller to execute the contract on behalf of the City; and

**WHEREAS**, CFs 07-2186-S1 and S2 transferred the City Project Management Office and the project management function from the Controller to the Information Technology Agency; and

**WHEREAS**, pursuant to the First Amendment to the Proprietary Software Maintenance Agreement dated September 9, 2008, this contract recognizes the project structure approved in the above Council files; and

**WHEREAS**, the parties entered into a Second Amendment to the Proprietary Software Maintenance Agreement dated April 7, 2010, in order to update the Due Dates for maintenance fees for the initial Maintenance Period to reflect the new revised Go-Live date of 07/01/11.

**WHEREAS**, the parties entered into a Third Amendment to the Proprietary Software Maintenance Agreement, dated June 10, 2013, in order to provide Enhanced Maintenance Services.

**WHEREAS**, the parties entered into a Fourth Amendment, dated June 16, 2014, in order to add Maintenance Services for CGI Advantage Performance Budgeting.

**WHEREAS**, the parties desire to enter into this Fifth Amendment pursuant to Paragraph 8.C (Change Notices and Amendments) of the Proprietary Software Maintenance Agreement in order to provide eProcurement services on a subscription basis.

**NOW THEREFORE**, in consideration of the premises and of the covenants, representations and agreement set forth herein, the parties hereby covenant, represent and agree to amend the Maintenance Agreement as follows:

1. eProcurement Services are hereby added to the Maintenance Agreement. The Services to be provided, and the parties' obligations with respect to use of the eProcurement Services are more fully described in Attachment 1, *Scope of Services*, and Attachment 2, *Hubspan Terms of Service*, which are made a part of this Amendment.
2. Maintenance Term and Fees.

Section 1, Maintenance Term and Section 3, Maintenance Fees of Exhibit A are amended to include eProcurement subscription services provided as part of Maintenance services. This Table replaces the aforementioned sections in their entirety for Maintenance Services, Enhanced Maintenance Services, and eProcurement subscription services:

Payment Deliverable	Due Date	Maintenance Amount	Invoice Amount
CGI Advantage Financial Management Annual Standard Maintenance (July 2011 - June 2012)	07/01/11	\$500,000.00 Paid	\$500,000.00
CGI Advantage Financial Management Annual Standard Maintenance (July 2012 - June 2013)	07/01/12	\$500,000.00 Paid	\$500,000.00
CGI Advantage Financial Management Annual Standard Maintenance (July 2013 - June 2014)	07/01/13	\$500,000.00 Paid	
CGI Advantage Enhanced Maintenance Services (July 2013 - June 2014)	07/01/13	\$325,000.00 Paid	\$825,000.00
CGI Advantage Financial Management Annual Standard Maintenance (July 2014 - June 2015)	07/01/14	\$500,000.00	
CGI Advantage Performance Budgeting Annual Standard Maintenance (July 2014 - June 2015)	07/01/14	\$112,515.00	
CGI Advantage Enhanced Maintenance Services (July 2014 - June 2015)	07/01/14	\$325,000.00	\$937,515.00
CGI Advantage Financial Management Annual Standard Maintenance (July 2015 - June 2016)	07/01/15	\$500,000.00	
CGI Advantage Performance Budgeting Annual Standard Maintenance (July 2015 - June 2016)	07/01/15	\$112,515.00	
CGI Advantage Enhanced Maintenance Services (July 2015 - June 2016)	07/01/15	\$325,000.00	\$937,515.00
CGI eProcurement Annual Subscription (July 2016 – June 2017)**	07/01/16	\$137,505	\$137,505
<b>Total Payments for Software Maintenance</b>			<b>\$3,837,535.00</b>

Enhanced Maintenance Services are provided for CGI Advantage Financial Management as part of Amendment No. 3, Statement of Work No. 1. Enhanced Maintenance Services are not provided for CGI Advantage Performance Budgeting or the eProcurement services.

\*\*Annual fee includes eProcurement services for up to 40 Suppliers.

Enhanced Maintenance continues to be provided under Amendment No. 3. For avoidance of doubt, Performance Budgeting is not included in Enhanced Maintenance Services.

The City may buy maintenance services for the Software for subsequent Maintenance Periods in which CGI is offering maintenance services, at prices to be mutually agreed by the parties.

3. Except as amended herein, all other terms and conditions of the Maintenance Agreement and Amendments shall remain in full force and effect.

*[Signature page follows.]*

**IN WITNESS THEREOF**, the Parties hereto have caused this Fourth Amendment to be executed by their duly authorized representatives.

THE CITY OF LOS ANGELES  
A Municipal Corporation

CGI Technologies and Solutions Inc.

By: \_\_\_\_\_  
STEVE RENEKER  
General Manager  
Information Technology Agency

By: \_\_\_\_\_  
DANIEL A. KEENE  
Senior Vice President

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**  
Michael N. Feuer, City Attorney

Attest: Holly L. Wolcott, City Clerk

By: \_\_\_\_\_  
LAUREL L. LIGHTNER  
Assistant City Attorney

By: \_\_\_\_\_  
Deputy

Date: \_\_\_\_\_

## Attachment 1

### Scope of Services

**1. Effective Date of this Work Request:**

This Work Request is effective as of July 1, 2016 through June 30, 2017.

**2. Services to be Performed:**

Commencing on the Effective Date, CGI will provide CGI Advantage PunchOut services on a hosted, annual renewable basis for up to forty (40) suppliers pursuant to the terms of this Attachment 1 and the terms of the Hubspan Terms of Service attached hereto as Attachment 2. CGI and Hubspan will support up to one (1) PunchOut and one (1) Purchase Order connection per supplier.

**3. Fees:**

The services specified in Section 2 of this Attachment are granted for up to forty (40) suppliers for \$137,505 and will be invoiced on July 1, 2016, effective through June 30, 2017. All maintenance services after June 30, 2017 are subject to future agreements and escalation pricing.

CGI will invoice the City annually in advance, and the City will pay such invoice within thirty (30) days of receipt of invoice.

**4. Increases in Suppliers:**

The City acknowledges that the recurring fees being charged by CGI are based on up to forty (40) suppliers. The City may increase the number of suppliers during the Contract Year, applicable incremental fees will be prorated for the remainder of the Contract Year, and are defined in the table below (all prices are subject to future escalation pricing). A "Contract Year" is each consecutive 12 month period ending on each anniversary of the Effective Date.

# of Suppliers	Annual Recurring Fee	# of Suppliers	Annual Recurring Fee	# of Suppliers	Annual Recurring Fee	# of Suppliers	Annual Recurring Fee
1	\$4,635.00	31	\$108,768.00	61	\$204,558.00	91	\$300,348.00
2	\$9,270.00	32	\$111,961.00	62	\$207,751.00	92	\$303,541.00
3	\$13,905.00	33	\$115,154.00	63	\$210,944.00	93	\$306,734.00
4	\$18,540.00	34	\$118,347.00	64	\$214,137.00	94	\$309,927.00
5	\$23,175.00	35	\$121,540.00	65	\$217,330.00	95	\$313,120.00
6	\$26,883.00	36	\$124,733.00	66	\$220,523.00	96	\$316,313.00
7	\$30,591.00	37	\$127,926.00	67	\$223,716.00	97	\$319,506.00
8	\$34,299.00	38	\$131,119.00	68	\$226,909.00	98	\$322,699.00
9	\$38,007.00	39	\$134,312.00	69	\$230,102.00	99	\$325,892.00
10	\$41,715.00	40	\$137,505.00	70	\$233,295.00	100	\$329,085.00
11	\$44,908.00	41	\$140,698.00	71	\$236,488.00	101	\$331,969.00
12	\$48,101.00	42	\$143,891.00	72	\$239,681.00	102	\$334,853.00
13	\$51,294.00	43	\$147,084.00	73	\$242,874.00	103	\$337,737.00
14	\$54,487.00	44	\$150,277.00	74	\$246,067.00	104	\$340,621.00
15	\$57,680.00	45	\$153,470.00	75	\$249,260.00	105	\$343,505.00
16	\$60,873.00	46	\$156,663.00	76	\$252,453.00	106	\$346,389.00
17	\$64,066.00	47	\$159,856.00	77	\$255,646.00	107	\$349,273.00
18	\$67,259.00	48	\$163,049.00	78	\$258,839.00	108	\$352,157.00

19	\$70,452.00	49	\$166,242.00	79	\$262,032.00	109	\$355,041.00
20	\$73,645.00	50	\$169,435.00	80	\$265,225.00	110	\$357,925.00
21	\$76,838.00	51	\$172,628.00	81	\$268,418.00	111	\$360,809.00
22	\$80,031.00	52	\$175,821.00	82	\$271,611.00	112	\$363,693.00
23	\$83,224.00	53	\$179,014.00	83	\$274,804.00	113	\$366,577.00
24	\$86,417.00	54	\$182,207.00	84	\$277,997.00	114	\$369,461.00
25	\$89,610.00	55	\$185,400.00	85	\$281,190.00	115	\$372,345.00
26	\$92,803.00	56	\$188,593.00	86	\$284,383.00	116	\$375,229.00
27	\$95,996.00	57	\$191,786.00	87	\$287,576.00	117	\$378,113.00
28	\$99,189.00	58	\$194,979.00	88	\$290,769.00	118	\$380,997.00
29	\$102,382.00	59	\$198,172.00	89	\$293,962.00	119	\$383,881.00
30	\$105,575.00	60	\$201,365.00	90	\$297,155.00	120	\$386,765.00

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5. **Third Party Services:**

The services include third party services that are provided to the City pursuant to the terms of Attachment 2. CGI does not itself give or make any warranty of any kind with respect to the third party services.

Attachment 2

Hubspan Terms of Service

*[Attachment 2 follows.]*

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## TERMS OF SERVICE

These Terms of Service (Terms) apply to the Hubspan Service provided to CGI Technologies and Solutions Inc. ("CGI") on behalf of the City of Los Angeles, California ("Customer"), under the Proprietary Software Maintenance Agreement No. C-114342 ("Agreement").

### 1. Service and Software.

(a) License. Hubspan hereby grants Customer a limited, non-exclusive, non-transferable license to use any software that is provided as a standard part of the Hubspan Service or is custom developed for Customer (Hubspan Software) solely for Customer's internal use of the Hubspan Service. Hubspan hereby grants to Customer a limited, non-exclusive, non-transferable license to use the Hubspan Service solely for its internal business purposes. Customer hereby grants to Hubspan a limited, non-exclusive, royalty free license to use Customer's data, information, text and other relevant information provided by Customer (Content) solely for the purposes of fulfilling Hubspan's obligations under this Agreement.

(b) Ownership. As between Hubspan and Customer, Hubspan has sole ownership of all right, title and interest in and to any Hubspan Software, the Hubspan Service, Hubspan's trademarks, all Hubspan supplied material and know-how developed for use in connection with this Agreement or generated by provision of the Hubspan Service generally, and any templates provided by Hubspan in connection with the Hubspan Service, and Customer has sole ownership of all right, title, and interest to the Customer's Content.

(c) Restrictions. Customer may not lease, loan, rent, resell, sublicense or distribute the Hubspan Service to any third party, use the Hubspan Service for the benefit of any third party or otherwise use the Hubspan Service on a service bureau basis. Customer shall not modify, alter, copy (except as necessary to maintain Customer's web site), create derivative works of, disassemble, reverse engineer, distribute, rent, resell, sublicense, sell, loan, or lease the Hubspan Software. Customer shall not remove any proprietary notices or branding from the Hubspan Software or any other materials provided to Customer by Hubspan under this Agreement.

(d) Infrastructure. Customer shall bear all hardware and infrastructure-related costs for the systems in Customer-operated facilities. Any costs incurred by Hubspan for Customer's site not identified in this Agreement will be passed through to Customer without markup. Hubspan will provide written estimates and obtain Customer's written approval prior to incurring any such costs.

(e) Service Level. Hubspan Services will be provided in accordance with the Serve Level Agreement attached hereto.

2. Project Plan. Hubspan will make good faith efforts to complete implementation of Trading Partners within Customer's timing objectives. Upon mutual agreement of any Project Plan, it shall become the basis for evaluating project status. All changes to the Project Plan require written acceptance by CGI, Customer and Hubspan and must include impact on the Project Plan and this Agreement.

3. Sales and Marketing. Intentionally Left Blank

4. Fees and Payment. Intentionally Left Blank

5. Warranty; Disclaimer.

(a) Warranty. Hubspan warrants that it will provide the Hubspan Service in a manner consistent with industry standards and in accordance with the Terms of this Agreement. Hubspan represents and warrants that Hubspan has the right to license the Hubspan Software and other materials provided to Customer under this Agreement.

(b) Disclaimer of Other Warranties. EXCEPT AS OTHERWISE PROVIDED IN SECTION 5(a), HUBSPAN MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE HUBSPAN SERVICE, HUBSPAN SOFTWARE OR THE FUNCTIONALITY, PERFORMANCE OR RESULTS OF USE OF IT. WITHOUT LIMITING THE FOREGOING, HUBSPAN DOES NOT WARRANT THAT THE HUBSPAN SERVICE OR THE HUBSPAN SOFTWARE IS OR WILL BE ACCURATE, ERRORFREE OR UNINTERRUPTED OR MEETS OR WILL MEET CUSTOMER'S REQUIREMENTS. HUBSPAN MAKES NO IMPLIED WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, OR NONINFRINGEMENT.

(c) Disclaimer of Actions Caused by and/or Under the Control of Third Parties. HUBSPAN DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM HUBSPAN'S INTERNET HOSTS AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS CAUSED BY THESE THIRD PARTIES OR ACTS OF GOD CAN PRODUCE SITUATIONS IN WHICH HUBSPAN'S OR CUSTOMER'S CONNECTIONS TO THE INTERNET (OR PORTIONS OF IT) MAY BE IMPAIRED OR DISRUPTED. EXCEPT TO THE EXTENT CAUSED BY HUBSPAN, HUBSPAN DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.

6. Indemnification. Hubspan will defend, at its expense, any action brought against Customer based upon a claim that the Hubspan Service or the Hubspan Software used within the scope of Customer's license directly infringes a patent, trade secret, trademark or copyright of a third party. Customer will not be liable for any action based upon a claim that the Hubspan Service or the Hubspan Software used within the scope of Customer's license directly infringes a patent, trade secret, trademark or copyright of a third party. Customer will defend, at its expense, any action brought against Hubspan that the Content directly infringes a patent, trade secret, or copyright of a third party. The indemnifying party must notify the indemnifying party promptly in writing of such claim and give the indemnifying party all authority, information and assistance, at the indemnifying party's expense, reasonably necessary to settle or defend such claim, and the indemnifying party shall have sole control of any such action or settlement negotiations. Each party further agrees to pay all damages and costs finally awarded against the indemnified party attributable to such claim. If the Hubspan Service or the Hubspan Software becomes, or in the opinion of Hubspan may become, the subject of a claim of infringement, Hubspan may procure for Customer the right to use the Hubspan Service or the Hubspan Software free of any liability replace or modify the Hubspan Service or the Hubspan Software to make its use non-infringing, or if neither of these alternatives are commercially reasonable, terminate Customer's use of the Hubspan Service or the Hubspan Software. THE FOREGOING STATES THE SOLE AND EXCLUSIVE LIABILITY OF EACH PARTY FOR THIRD PARTY INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS.

7. Confidentiality. Confidential Information means any proprietary information, technical data, trade secrets or know-how of the disclosing party, including, but not limited to, research, product plans, products, services, suppliers, customer lists, prices and costs, markets, or other business or technical information of the disclosing party that is designated to be confidential or proprietary or which reasonably appears to be confidential or proprietary. Confidential Information will not include anything that is already in the possession of the receiving party without obligation of confidence, is independently developed by the receiving party without use of Confidential Information, becomes available to the general public without breach of these Terms, or is rightfully received by the receiving party from a third party without obligation of confidence. Each party agrees that for a period of 3 years following the date of such party's receipt of Confidential Information from the other party, the receiving party will hold all Confidential Information in strict confidence and not disclose it to others or use it in any way except in performing the receiving party's obligations under these Terms, and take all action reasonably necessary to protect the confidentiality of the Confidential Information. Upon request, the receiving party agrees to promptly return or destroy all Confidential Information provided by the disclosing.

8. Termination. Intentionally Left Blank.

9. LIMITATION ON LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, TORT, CONTRACT OR OTHERWISE, SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER OR ANY OTHER THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, COMPUTER FAILURE, OR ANY AND ALL OTHER DAMAGES OR LOSSES. EXCEPT FOR INDEMNIFICATION OBLIGATIONS ARISING UNDER SECTION 6, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY DAMAGES IN EXCESS OF TOTAL PAYMENTS MADE BY CUSTOMER DURING THE TWELVE (12)



MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH LIABILITY, EVEN IF EITHER PARTY SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY.

10. Miscellaneous. Any notices must be given in writing to the other party at the address on the Order Form, and shall be deemed given immediately upon personal delivery, 3 days after deposit in the United States mail by certified or registered mail, 1 day after overnight express courier; or 1 day after transmission by fax. This Agreement constitutes the full and complete understanding of the parties and supersedes all prior understanding and agreements. Any waiver, modification or amendment of any provision of this Agreement shall be effective only if in writing and signed by the parties. In the event of a conflict between these Terms and the Service Agreement, the Service Agreement terms shall control. The parties' relationship is that of independent contractors and not that of employer-employee, partner, agent or otherwise. The obligations of

Sections 1(b), 5(b-c), 7, 9, and 10 will survive any termination of this Agreement. Neither party may assign its rights or duties in this Agreement without the prior written consent of the other party, except that either party may assign such rights or duties without such consent in connection with any transaction in which more than 50% of such party's voting securities are transferred or substantially all of such party's assets are purchased. All terms and provisions in this Agreement shall be binding upon and inure to the benefit of the parties and their permitted assigns. Any dispute between the parties shall be settled by binding arbitration in King County, Washington under the Commercial Rules of the American Arbitration Association. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington, except for its conflict of laws provisions.

11. Data Archiving. Hubspan reserves the right to archive certain data beginning 60 days after transaction date.



## Hubspan Service Level Agreement

This Service Level Agreement provides definitions used throughout the document, defines Priority Levels relative to Technical Support, and includes details relative to Technical Support Services. In addition, this document defines exclusions to Hubspan's Service.

### I. Definitions

**Downtime** — Loss of service availability for 15 consecutive minutes.

**Emergency Maintenance** — Unscheduled maintenance to remedy any

**Level 1 Issue**, if necessary. Hubspan will provide no advance notice in the case of **Emergency Maintenance** issues.

**External Causes** — Causes beyond the control of Hubspan, including, but not limited to fire, acts of God, strike, riot, war, terrorism, weather, interruption or failure of telecommunication or digital transmission links and Internet slow-downs or failure.

**Level 1 Issue (High)** — Any condition that renders the Hubspan Application Service inaccessible, unusable or inoperative, and there is no immediate **Work Around**. **Level 1 Issues** include loss of all transaction processing capability.

**Level 2 Issue (Medium)** — Any condition in the Hubspan Application Service that is not a **Level 1 Issue**, but that affects the availability, operation or performance of the Hubspan Service.

**Level 3 Issue (Low)** — Any malfunctioning defect that causes a departure from expected behavior of the Hubspan Application Service but does not affect the availability or performance condition of the Application Service.

**Technical Production Support** — Support required to maintain production functionality.

**Updates** — Additional or replacement code or documentation that is provided by Hubspan to remedy an Issue or minor bug.

**Work Around** — A temporary resolution that restores the service and operation of the Hubspan Service without significant loss of functionality.

### II. Technical Support Services

- a) Standard Technical Support Services means that Hubspan will provide phone support 24 hours a day, 7 days a week, 365 days a year. Hubspan will reply to all production support calls received via telephone within 30 minutes to confirm issues.
- b) Exclusions from Technical Support Services. Hubspan has no obligation to provide support services for any hardware used by Customer in connection with use of the Hubspan Service or for any defect or failure to the Hubspan Service caused by the improper use of the Hubspan Service by Customer or other unauthorized personnel.

### III. Updates

- a) Provided Customer is current on all fees under this Agreement, Hubspan shall provide Customer with Updates for the Hubspan Service at no additional cost. Hubspan shall notify and make the Updates electronically available to Customer upon commercial release.
- b) Hubspan shall provide at least 48 hours advance notice for any Scheduled Maintenance. Hubspan will make all commercially

reasonable efforts to schedule maintenance during off business hours, Pacific Time.

- c) Hubspan may schedule maintenance to remedy any Level 1 Issue (Emergency Maintenance) with no advance notice. All commercially reasonable efforts will be made to minimize impact of any Emergency Maintenance on the Hubspan Service and Customer.

### IV. Issue Reporting

a) For each request by Customer for Technical Support from Hubspan, Hubspan may request Customer provide a description (Issue Report) of the Issues encountered, including a description of how to repeat the condition that brought about the issue.

b) Hubspan shall identify each outstanding Issue relating to an Issue Report with a unique "Case Number" for tracking purposes. Case Numbers shall be communicated to the Customer promptly after receipt of the Issue Report.

### V. Technical Support Priority Levels

a) **Level 1**

**Issues** — Hubspan shall work continuously, and shall use all reasonable commercial efforts to diagnose and provide an estimated correction time for a **Level 1 Issue** within 2 hours of notification by Customer. If the cause of the **Level 1 Issue** is due to substantial non-conformance of the Service described in the section titled **Service Level Objectives**, Hubspan shall work continuously, and shall use all reasonable commercial efforts to implement a Work Around or a Permanent Solution.

b) **Level 2 Issues** — Hubspan shall diagnose and provide an estimated correction time for a Level 2 Issue within 12 hours of notification by Customer.

c) **Level 3 Issues** — Hubspan shall provide a correction estimate within 20 business days of notification by Customer.

d) **Downtime** — Downtime shall be categorized as a **Level 1 Issue**.

### VI. Service Level Objective

a) **Technical Support** — Hubspan shall use reasonable commercial efforts to attempt to resolve any Issues within the times described in the section titled **Technical Support Priority Levels**, for the relevant **Priority Level**, and without causing **Downtime**. b) **Service Availability** — Hubspan shall use reasonable commercial efforts to keep the Hubspan Service available 99.5% of the time, excluding scheduled maintenance outages and any loss or interruption of the Hubspan Service due to External Causes.

### VII. Term and Termination

Provided that Customer is current on all fees under the Service Agreement, Hubspan shall provide Technical Support for the Hubspan Service starting on the Effective Date of the Agreement and continuing so long as Customer is subscribing to the Hubspan Service.