SeeClickFix Terms and Conditions

This contract (the "Contract") is entered into as of this 13th day of March, 2019, ("Effective Date") between the Town of Miami Lakes ("Town" or "Customer"), a Florida municipal corporation, and SeeClickFix, Inc., a Delaware Corporation with its principal place of business located at 770 Chapel St, New Haven, CT 06510 ("SeeClickFix").

WHEREAS, the Customer desires that SeeClickFix provide certain software, including a license to and services for such software, as described herein; and

WHEREAS, SeeClickFix desires to grant such license and deliver such services under the terms and conditions as set forth in this Contract.

THEREFORE, for good and valuable consideration as set forth herein, the sufficiency of which is acknowledged by the parties, the parties hereby agree as follows:

A. Term and Termination

1. *Term.* SeeClickFix will grant a nonexclusive, revocable license to use the software as described in the Scope of Services Proposal ("SSP"), attached hereto as Exhibit "A," to the Customer. The Term of this Contract shall be for one (1) year after the Effective Date.

2. *Renewal.* Upon expiration of the initial or then-current term, this Contract shall automatically renew under the same terms and conditions for additional one (1) year periods unless terminated earlier in accordance with this Contract. References to "Term" shall include the initial term and all renewal terms.

3. *Termination for Cause.* If either party fails to perform any of its material obligations under these Terms and Conditions and does not cure such failures within thirty (30) days after being given written notice specifying the nature of the failure, then the non-defaulting party may, by giving written notice to the other party, terminate all services as of the date specified in such notice of termination. Upon termination, a copy of all user-generated content or data created in connection with Customer's (or Town resident) use of the Software must be delivered to the Town within thirty (30) days of termination in a commercially reasonable format acceptable to the Town and SeeClickFix, Inc. for public record retention purposes.

4. *Termination for Convenience.* Customer may terminate this Contract at any time for convenience upon thirty (30) days written notice to SeeClickFix.

5. *Transition.* Upon termination of this Contract for any reason, SeeClickFix must provide a copy of all user-generated content or data created in connection with Customer's (or Town resident) use of the Software to the Town within thirty (30) days of termination in a commercially reasonable format acceptable to the Town and SeeClickFix for public record retention purposes..

6. *Survival.* The following Sections and any payment obligations hereunder shall survive any expiration or termination of service: A(5) & (6), E, F, G, H, and I (except I.3).

B. Grant of License

SeeClickFix hereby grants to the Customer a nonexclusive, royalty-free, nontransferable license to access and use the SeeClickFix Software and all documentation provided to the Customer pursuant to this Contract. The Customer shall have the right to copy such documentation for the Customer's internal purposes only. SeeClickFix warrants and represents that it has the right and authority to grant the Customer the right to access and use the Software and documentation as provided herein.

C. Services of SeeClickFix

SeeClickFix will provide on a hosted, software-as-a-service basis, access to the services described in the foregoing SSP, via mobile applications, Internet, and an embeddable interactive widget for public reporting, alerts on discussing non-emergency issues ("the Software"). Users will be able to interact with the Software and post various content including words, photos and videos. While the content of users of the Software is governed by SeeClickFix's published Terms of Use and Privacy Policy, SeeClickFix may not be able to control the exact nature of this content. SeeClickFix reserves the right to edit User Content, but does not have an obligation to edit the content. Although SeeClickFix may from time to time make enhancements or bug fixes to the Software, it is under no obligation to make any particular modifications, enhancements or bug fixes.

1. Service Availability

SeeClickFix shall use all reasonable commercial efforts to ensure that SeeClickFix's Service is available 99.9% of the time in any calendar month (excluding scheduled maintenance).

D. Payment.

1. *Payment.* Customer shall pay immediately upon signing the sum of four thousand eight hundred sixty-eight dollars and thirty-eight cents ($4,868.38) for the prorated annual fee for the core platform products as described in the attached SSP. On October 1, 2019, Customer shall pay an annual fee of eight thousand fifty-eight dollars ($8,058.00) for the core platform ("Annual Fees"). Annual Fees shall become due on October 1 of each new term. Payments shall be made in accordance with Florida Statutes §218.73, of the Florida Prompt Payment Act. Timely payments are contingent upon the proper submission of invoices to Customer.

2. *Options to Purchase.* After October 1, 2019, the Customer shall have the option to purchase a TRAKiT CRM integration for the fixed price of three thousand four hundred seventy dollars ($3,470.00) and an option to purchase a Tyler EAM CRM integration for the fixed price of three thousand four hundred sixty-seven dollars ($3,467.00). Said options shall remain available to the Customer for purchase until December 31, 2019 and an amount of $10 from the sums due to SeeClickFix at signing have been dedicated to hold these options firm. Should Customer exercise either option, the fee for said option shall be added to the Annual Fee due on October 1 of each term. If an option is exercised after October 1, then the fee shall be prorated for service from the time the option is exercised up until the October 1 of the next term. In no event shall the total Annual Fee under this Contract exceed fourteen thousand nine hundred ninety-five dollars ($14,995.00) for the first three annual terms. Should this agreement

be renewed for a fourth term, starting October 1, 2022, SeeClickFix reserves the right to increase annual fees charged to the Customer by up to 3% per annual term.

The Customer's option to purchase the Tyler EAM CRM integration may only be exercised upon the following condition precedents: (1) Tyler Technologies, Inc. releases an API open to the public that allows SeeClickFix to develop an integration to Tyler's Asset Management module. (2) The Tyler API is suitable for integration between SeeClickFix' and Tyler's Asset Management module in SeeClickFix's sole opinion. Should any of the aforementioned condition(s) fail to occur before the expiration of the option, then the option to purchase the Tyler EAM CRM integration shall expire on December 31, 2019.

E. Ownership.

With the exception of Customer's trademarks and logos, SeeClickFix shall be the sole and exclusive owner of any and all SeeClickFix materials that have been developed or created by SeeClickFix, including the Software and all Intellectual Property Rights in and to them and their derivative works and improvements (as each of those terms is defined and applied under Title 17 and Title 35 U.S.C., respectively). No ownership of any SeeClickFix materials including the Software or the Intellectual Property Rights in and to them shall be transferred to the Customer. "Intellectual Property Rights" shall mean any and all proprietary rights or moral rights in any trademarks, copyrights, trade secrets, patents and patent applications, renewals, extensions, continuations, divisions or reissues, in whole or in part, now or hereafter in force, and any foreign counterparts. No ownership or Intellectual Property Rights to any materials that have been developed or created by the Customer shall be transferred to SeeClickFix by this Contract. All user-generated content is open data.

F. Infringement Indemnification.

SeeClickFix shall hold harmless, defend, and indemnify the Customer, its officials, agents, and employees from any and all claims, losses, and causes of action, including any breach of any representation or warranty, or for actual or alleged direct or contributory infringement of, or inducement to infringe, any intellectual property right, which may arise out of use of the Software. SeeClickFix shall pay all claims and losses of any nature whatsoever in connection therewith in the name of the Customer when applicable, and will pay all costs, including without limitation reasonable attorney's fees, appeals, and judgments which may issue thereon. SeeClickFix's obligation under this paragraph shall not be limited in any way by the agreed upon Contract value, or SeeClickFix's limit, or lack, of sufficient insurance protection.

Notwithstanding the above, SeeClickFix shall have no duty to hold harmless, defend, or indemnify the Customer for any claim of intellectual property infringement based on the combination, operation, or use of the Software with other hardware, materials, or software modifications not furnished or approved in writing by SeeClickFix if such infringement would have been avoided without such hardware, materials, or software modifications.

In the event the Software or a component part thereof is held by a court of competent jurisdiction, or is believed by SeeClickFix, to infringe on a third-party's rights, SeeClickFix shall, with prior notice to the Customer, (1) modify, at SeeClickFix's sole expense, the Software to be noninfringing, provided such modification does not adversely affect the Software as set out

in this Contract; (2) obtain for the Customer the right to use the Software in its then-current state at no additional cost to the Customer; or (3) if SeeClickFix determines that neither of the foregoing options are reasonably available, SeeClickFix may terminate this Contract with notice to the Customer and refund all or a portion of the prepaid fees in proportion to the license period for which the Customer will no longer be able to use the Software.

Notwithstanding anything contained in Section F of this Agreement, SeeClickFix, Inc. shall not be liable under this Section with respect to any losses, claims and causes of action attributable to the gross negligence or willful misconduct of the Town or to any breach by Town of any of its covenants or agreements, warranty or representation contained in this Agreement.

G. Warranties.

1. SeeClickFix warrants that each SeeClickFix employee assigned to perform services hereunder will have industry standard skills and training so as to be able to perform such services in a competent and professional manner.

2. SeeClickFix warrants that it is the lawful owner of the Software and that the Software, to the best of SeeClickFix's knowledge, is noninfringing of any third-party intellectual property rights and that it has the authority to grant the Customer the use of the Software as specified herein.

3. SeeClickFix makes no, and hereby disclaims (to the extent permitted by law) all representations or warranties, express or implied, at law or in equity, with respect to the Software provided herein, including, without limitation, any warranty of merchantability or fitness for a particular purpose, except those warranties specifically stated in this Contract, to the Customer, or to any other person.

H. Governing Law and Venue

1. *Governing Law.* The laws of the United States and the State of Florida shall govern this Contract and shall inure to and be binding upon the parties, their successors and assigns, without regard to conflicts of laws principles.

2. *Venue.* Venue for any action brought in connection with this Agreement shall be in the state and federal courts located in Miami-Dade County, Florida. The parties consent to the personal jurisdiction of the aforementioned courts and irrevocably waive any objections to said jurisdiction.

I. General

1. *Independent Contractor Relationship.* SeeClickFix is acting as an independent contractor under this Contract and nothing in this Contract shall be deemed or construed to create the relationship of partnership, joint venture or employer-employee between the parties. Neither party has, and shall not hold itself out as having, any authority to enter into any contract or create any obligation or liability on behalf of, in the name of, or binding upon the other party.

2. *Notices.* Any notice to be given hereunder to any other party, including any notice of a change of address, shall be in writing and shall be deemed validly given if (i) delivered personally or (ii) sent by express delivery service, registered or certified mail, postage prepaid, return receipt requested or (iii) sent by email, as follows: If to SeeClickFix: SeeClickFix Inc., Attn: Contract Administrator to contact@seeclickfix.com, with an email response confirming receipt by SeeClickFix. If to Customer: (1) Attn: Edward

Pidermann, Town Manager, Town of Miami Lakes, 6601 Main Street, Miami Lakes, FL 33014 (pidermanne@miamilakes-fl.gov); (2) Attn: Raul Gastesi at same address (rgastesi@gastesi.com); and (3) Attn: Procurement Department at same address (procurement@miamilakes-fl.gov). All such notices shall be deemed given on the date of actual receipt by the addressee if delivered personally, on the date of deposit with the express delivery service or the postal authorities if sent in either such manner, on the date the facsimile or email is sent if sent in such manner, and on the date of actual receipt by the addressee if delivered in any other manner.

3. *Publicity.* The Parties agree that the Parties may reference the other party as a client or vendor. Any reference to the SeeClickFix Software or its features will be accompanied by a reference that it is provided by SeeClickFix. Any use of or reference to the Customer's name, trademarks, or tradenames requires prior written approval from the Customer, which shall not be unreasonably withheld.

4. *Amendment or Waiver.* No amendment or modification of this Contract shall be valid unless evidenced in writing and signed by both parties.

5. *Headings and Captions.* The headings and captions of this Contract are included for convenience only and shall not be considered in construction of the provisions hereof.

6. *Severability.* If any provision of this Contract shall be determined to be invalid or unenforceable, such invalidity or unenforceability shall not affect the remainder of this Contract, which shall be construed as if such invalid or unenforceable provision had never been a part of this Contract but in a manner so as to carry out as nearly as possible the parties' original intent.

7. *Counterparts.* The Contract may be executed simultaneously in several counterparts, each of which shall be deemed an original but which together shall constitute one and the same instrument.

8. *Entire Contract.* This Contract, inclusive of the SSP, constitute the entire agreement between the parties regarding the subject matter hereof and supersedes any letters of intent, memorandums of understanding, confidentiality Contracts, and other Contracts and communications, oral or written, between the parties regarding such subject matter.

9. *Assignment.* SeeClickFix shall not assign this Contract without the prior written consent of the Customer, which shall not be unreasonably withheld.

10. *Non-Appropriation.* The obligations of the Customer as to any funding required pursuant to this Contract shall be limited to an obligation in any given year to budget, appropriate and pay from legally available funds, after monies for essential Town services have been budgeted and appropriated, sufficient monies for the funding that is required during that year. Notwithstanding the foregoing, the Customer shall not be prohibited from pledging any legally available non-ad valorem revenues for any obligations heretofore or hereafter incurred, which pledge shall be prior and superior to any obligation of the Customer pursuant to this Contract.

11. *Compliance with Laws.* SeeClickFix shall comply with all applicable federal, state, and local laws, ordinances, rules and regulations, the federal and state constitutions, and orders and decrees of any lawful authorities having jurisdiction over the matter at issue (collectively, "Laws"), including, but not limited to, Chapter 280, Florida Statutes, and Chapter 119, Florida Statutes (Public Records Law).

12. *Priority of Provisions.* This Contract consists of this document and the SSP. In the event of an inconsistency or conflict between or among this document and the SSP, the following order of precedence shall govern: (1) this Contract, exclusive of the SSP, and (2) the SSP.

13. *Proprietary Rights.* SeeClickFix considered the Software and any other necessary software used in connection with the Software to contain proprietary and confidential information that is protected by applicable intellectual property and other laws. Except as expressly permitted by applicable law, the Customer shall not modify, rent, lease, loan, sell, distribute, or create derivative works based on the Software, in whole or in part.

14. *No Waiver.* The failure of either party to exercise or enforce any right under this Contract shall not constitute a waiver of such right or provision. If any provision of the Contract is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision.

15. *Nontransferable Account.* The Customer's SeeClickFix account is non-transferable.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date first written above.

WITNESS/ATTEST   **SeeClickFix, Inc.**

_____   _____
Signature   Signature

David Branciati, Asst. Controller _Kevin Crook, VP finance_
Print Name, Title   Print Name, Title of Authorized Officer
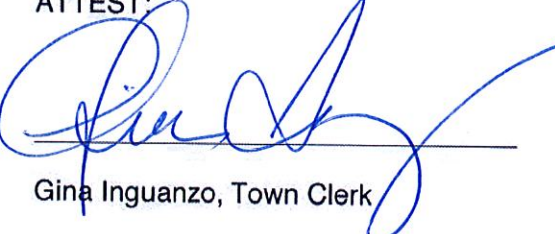
ATTEST: (Corporate Seal)

Firm's Secretary

(Affirm Firm's Seal, if available)

ATTEST: **Town of Miami Lakes**

_____   _____
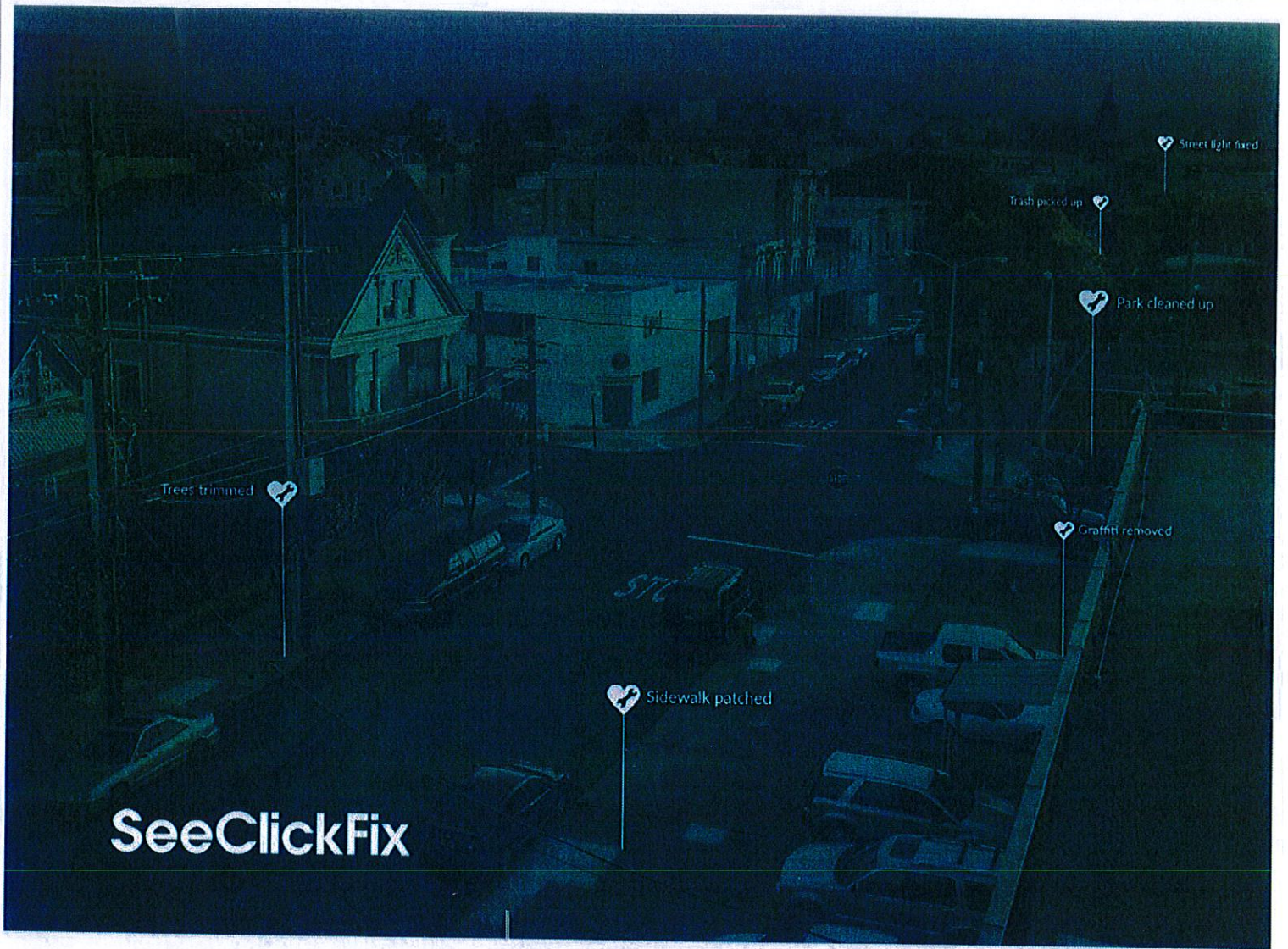Gina Inguanzo, Town Clerk   Edward Pidermann, Town Manager

                                        APPROVED AS TO LEGAL FORM &
                                        CORRECTNESS:

                                        _____

                                        ~~Raul Gastesi~~, Town Attorney
                                        Lorenzo Cobiella

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EXHIBIT A
Scope of Service Proposal ("SSP")

Scope of Services Proposal

SeeClickFix Inc
770 Chapel Street
New Haven, CT 06510

Prepared for:

Miami Lakes, Florida, Town
6601 Main St., Miami Lakes, FL, 33014

Prepared by:

Carlos Galo, AE
SeeClickFix, Inc.
carlos@seeclickfix.com
203-349-6615

Prepared for:

Miami Lakes, Florida, Town
6601 Main St., Miami Lakes, FL, 33014

Prepared by:

Carlos Galo, AE
SeeClickFix, Inc.
carlos@seeclickfix.com
203-349-6615

Issue Date: 2/22/2019
Pricing Expires: 2/22/2019

RECURRING ANNUAL PRODUCT SUBSCRIPTIONS		Quantity
Marketplace App	Custom white label app in Apple App Store and Android Play store. SeeClickFix, Inc. agrees to the terms and conditions contained in the Apple Developer Program License Agreement	1
Request	Collect requests and manage workflow all in one place with intuitive web and mobile apps that maximize your efficiency and streamline operations.	1
Included Users	Distinct internal users included in the base price of the request package.	40
TOTAL ANNUAL SUBSCRIPTION FEES (FOR CORE PLATFORM PRODUCTS ABOVE)		**$8,058.00**

INTEGRATION PRODUCTS & RECURRING SERVICE FEES	Quantity
TRAKiT CRM (for implementation starting 10-01-2019)	1
TOTAL INTEGRATION RECURRING SERVICE FEES (service period beginning 10-01-2019 through 09-30-2020)	**$3,470.00**

TOTAL FEES	
Initial Term of Contract	12 Months
DUE AT CONTRACT SIGNING	**$4,868.38** (prorated amount for service period starting 2-22-2019 and ending 09-30-2019)

The undersigned agree to the following Terms and Conditions and have caused this Contract to be executed as of the date signed by the Customer which will be the Effective Date: http://legal.seeclickfix.com/terms-and-conditions/

SeeClickFix, Inc.

Kevin Crook
Name

VP Finance
Title

_3/11/19_
Date

(signature)
Signature

Miami Lakes, Florida, Town

_____
Name

_____
Title

_____
Date

_____
Signature

SeeClickFix's W9 information is available here: https://drive.google.com/file/d/0BwW_zrHi8QH2anF0bElKU3h5bFk/view