

Authorized Service Provider Agreement



This Agreement (the "Agreement") is made the ____ day of _____, 2013.

BETWEEN: **Ontario Good Roads Association**, a not-for-profit Ontario corporation representing the Transportation and Public Works interests of Ontario municipalities located at 1525 Cornwall Road Suite 22, Oakville ON L6J 0B2

(Hereinafter referred to as "OGRA")

AND: _____, a corporation incorporated under the laws of Ontario, with offices located at _____

(Hereinafter referred to as "the Service Provider")

1.0 General

This Agreement sets out the terms and conditions to which the Parties have agreed to for the use of the Municipal DataWorks web-based data repository.

- 1.1 **Whereas** OGRA is an Ontario based organization representing Ontario municipalities;
- 1.2 **And Whereas** OGRA provides the Municipal DataWorks web-based data repository;
- 1.3 **And Whereas** OGRA wishes to recognize the company as a Service Provider for various municipal clients for the purposes of interacting with and using MDW for the purpose of managing the client municipalities data and providing MDW related services;
- 1.4 **Now therefore** both parties agree to the following:

2.0 Definitions

- 2.1 "Software" Includes the database, structure, code and any other elements that have been produced on the distribution media for the purpose of providing the Software to the Service Provider.
- 2.2 "MDW" the trade name ascribed to the Software for the purpose of marketing and distributing the Software to users.
- 2.3 "Agreement" Refers to this Agreement exclusively.
- 2.4 "Term" Shall refer to the period of the license while in force and given that the terms and conditions are being met in an ongoing manner.
- 2.5 "User" Shall refer to any person or organization that makes use of the Software.

3.0 Effective Date and Licence Term

- 3.1 The effective date of this agreement is the date as shown above.
- 3.2 The agreement shall remain in force for the term of 5 years and will be automatically renewed for a subsequent 5 year period providing that the Service Provider remains a member in good standing of OGRA.
- 3.3 Upon commencement of the licence term, OGRA obligations to the Service Provider include providing technical and customer support in the use of the Software so long as the Service Provider has paid their annual membership dues with OGRA.

4.0 Licence Grant

- 4.1 OGRA grants to the Service Provider a non-exclusive, non-transferable licence to use the Software or portion thereof on behalf of their municipal clients and in accordance with the specifications published by OGRA, if any.
- 4.2 OGRA will provide a user ID's and passwords to the Software for the Service Provider.

5.0 Use and Modification

- 5.1 The Service Provider is responsible for determining the appropriate use to be made of the Software and establishing the limitations of the Software in its operation.
- 5.2 The Service Provider agrees not to modify, amend, disassemble, decompile, reverse engineer or create derivative works of the Software provided under this agreement.
- 5.3 In the performance of this Agreement or in contemplation thereof, each party and its employees and agents may have access to private or confidential information owned or controlled by the other party relating to equipment, apparatus, programs, software, plans, drawings, specifications and other data (hereinafter 'Information'), and the Information may contain proprietary details and disclosures. All Information supplied by one party to the other which is clearly marked 'Proprietary', or which is Licensed Software, or which is derived therefrom (collectively, 'Proprietary Information') shall remain the exclusive property of the party supplying same. The receiving party shall use a reasonable degree of care, which in any event shall not be less than the same degree of care which the receiving party uses to protect its own proprietary and confidential information, to keep, and have its employees and agents keep, confidential any and all Proprietary Information. In keeping therewith, the recipient shall not copy or publish or disclose the Proprietary Information to others, or authorize its employees, or agents or anyone else to copy, publish or disclose it to others, without the disclosing party's written approval, nor shall the receiving party make use of the Proprietary Information except for the purposes of executing its obligations hereunder, and shall return the Proprietary Information to the disclosing party at its request. These nondisclosure obligations will not apply to Proprietary Information which: (a) becomes generally known to the public by publication or by any means other than a breach of duty on the part of the recipient hereunder; (b) is information previously known to the recipient; (c) is information independently developed by or for the recipient; or (d) is information released by the owning party without restriction or released pursuant to a judicial or governmental decree.

6.0 OGRA Rights

- 6.1 The Service Provider's rights to the Software are expressly limited to the right of use, as set forth in this agreement. The Software shall at all times remain the property of OGRA and the Service Provider shall have no right, title or interest therein, except as otherwise stated.
- 6.2 The Service Provider shall keep confidential and protect from unauthorized disclosure by its employees, agents or customers the contents of the licenced Software. This obligation survives the termination of the Agreement.
- 6.3 The Service Provider shall not sell, transfer or otherwise make available the Software to others.

7.0 Documentation

7.1 Applicable documentation will be provided without charge in accordance with the OGRA’s member services program. Certain information in the documentation is designated as confidential or proprietary by OGRA and shall be protected by the Service Provider as well. In addition to its other obligations, the Service Provider shall hold such confidential documentation in confidence and return same upon request after termination of this Agreement.

8.0 General

8.1 OGRA will not be liable for any failure or delay in performance due in whole or in part to any cause beyond the control of Licensor’s. In no event will OGRA be liable for any indirect, special or consequential damages including damages arising from the Service Provider’s lost profits, arising out of this Agreement or the products or services provided herein.

8.2 There are no express or implied conditions or warranties, including the warranties of merchantability and fitness for a particular purpose not specified herein respecting this Agreement, Software documentation or services provided.

8.3 This Agreement is governed by applicable Canadian law.

9.0 Disclaimer of Warranties

9.1 Except as provided above, this Software and any related services or content accessible through the Software is provided “as-is”, and to the maximum extent permitted by applicable law, OGRA disclaims all other representations and warranties, express or implied, regarding this Software, disks, related materials and any such services or content, including their fitness for a particular purpose, security, or their non-infringement.

10.0 Entire Agreement

10.1 This Agreement (consisting of Sections 1 throughout 10 inclusive) represents the entire Agreement between the Parties with regard to the matters dealt with and supersedes all prior oral and written proposals and communications.

THE SERVICE PROVIDER ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT (CONSISTING OF SECTIONS 1 THROUGH 10 INCLUSIVE) AND SHALL BE BOUND BY ITS TERMS AND CONDITIONS.

Signed,

Print Full Name

Signature

Company

Date