

SOFTWARE LICENSE AGREEMENT

This **SOFTWARE LICENSE AGREEMENT** (this "Agreement") is made and entered into on this 1st day of September 2018, by and between **City of Santa Fe Police Department** ("Organization"), and **International Business Information Technologies, Inc. d.b.a. LEFTA Systems** ("LEFTA Systems"), located at 10950-60 San Jose Blvd., Suite 101, Jacksonville, Florida 32223.

1. License Scope

- 1.1. Grant of License.** LEFTA Systems hereby grants to Organization, and Organization accepts, on the terms and conditions set forth herein, a perpetual, nonexclusive, nontransferable, royalty-free right and license to use, execute, display, install and perform the software programs listed on Exhibit A attached hereto (the "Programs") in object code and source code form and the associated users' information and, other documentation made available on-line by LEFTA Systems (collectively, the "Documentation"). The Programs and the Documentation are hereinafter collectively referred to as the "Software". The employees, agents, and LEFTA Systems of Organization may use the Software for Organization purposes in accordance with the terms of this Agreement.
- 1.2. Copying of the Software.** Copying of the Software, alteration, translation, decompilation, or reverse engineering of the Software is prohibited without the express written consent of LEFTA Systems.
- 1.3. Transfer of Software.** The Software may be transferred and used on any computer system at any location of Organization.

2. Training.

- 2.1. LEFTA Systems** shall provide, at no additional charge, to Organization 2 virtual training sessions of up to 2 hours each. The training will be at a time mutually agreeable to both parties.

3. Price; Payment**3.1. Price.**

- 3.1.1.** The Software shall be provided to the Organization with the following terms:

- 3.1.1.1. LEFTA: \$11,700**

- 3.1.1.2.** Organization shall be solely responsible for the payment of any and all sales and use taxes assessed by any governmental authority with respect to the transactions contemplated by this Agreement.

3.2. Payment.

- 3.2.1.** The license fee is payable within 30 days after the date of this agreement. All other invoices such as IT support and hosting fees are also payable within 30 days of being invoiced. There will be a 1.5% late fee for each 30-day period payment is overdue.

4. Term and Termination.

4.1. Term of Agreement.

- 4.1.1. The term of this Agreement shall commence upon the date signed and shall continue unless and until this Agreement is terminated pursuant to the provisions of this Section 4, but the Agreement shall not exceed the term in NMSA 1978, § 13-1-150.

4.2. Termination of Agreement.

- 4.2.1. Either party may terminate this Agreement based on the breach of this Agreement by the other party so long as the terminating party has given the other party 30 days written notice specifying the circumstances of the breach. The termination shall become effective after the lapse of such 30 days, unless the events or circumstances specified in the notice have been remedied or a plan for remedying them in a prompt and effective manner has been proposed to and accepted by the terminating party and the other party has proceeded diligently to cure. Any license of Software hereunder may also be terminated by Organization destroying the Software together with all copies, modifications and merged portions in any form. All fully-paid licenses granted under this Agreement shall survive any termination of this Agreement and shall continue in perpetuity. Organization agrees upon termination of a license for nonpayment of the license fee to destroy the affected Software together with all copies, modifications, and merged portions in any form.

5. General Terms.

5.1. Confidentiality of Material.

- 5.1.1. During the performance of services under this Agreement it may be necessary for either party to provide the other with certain information considered to be proprietary or confidential by the disclosing party. The disclosure of such confidential information shall be subject to the following terms and conditions:

- 5.1.1.1. (a) The term "**Organization Confidential Information**" shall mean any material, data, systems, procedures and other information of or with respect to Organization, which may not be accessible or known to the general public, including information concerning its or their hardware, software, business plans or opportunities, business strategies, finances or employees and third-party proprietary or confidential information that Organization treats as confidential. Any Organization Confidential Information acquired by LEFTA Systems shall not be used, published, or divulged by LEFTA Systems to any other person, firm, or corporation, in any advertising or promotion regarding LEFTA Systems or its business, or in any other manner or connection whatsoever without first having obtained the written permission of Organization which permission Organization may withhold at its sole discretion.

- 5.1.1.2. (b) The term "**LEFTA Systems Confidential Information**" means LEFTA System's Software, as well as information relating to LEFTA Systems' confidential pricing, financial data, clients, software development plans and software support, as LEFTA Systems specifically identifies to Organization in writing. Organization

agrees to limit disclosure of any LEFTA Systems Confidential Information received by Organization to those of its employees, agents and LEFTA Systems who have a need to know LEFTA Systems Confidential Information to affect the use permitted herein. THIS PARTICULARLY APPLIES TO THE SPECIAL ARRANGEMENT MADE BETWEEN ORGANIZATION AND I.B.I.T. IN REGARD TO THE SOFTWARE PRICE AND GRANT APPLICATION.

- 5.1.1.3.** (c) Each party agrees to protect the other's confidential information with the same degree of care normally used to protect its own similar confidential information, but in no event less than that degree of care as may be reasonably necessary to prevent any confidential information from being disclosed or used, other than in connection with the performance of services hereunder or to effect the use of the Software permitted hereunder. The obligations of each party to protect confidential information received from the other party shall not apply to information which: (i) is publicly known or becomes publicly known through no act or failure to act on the part of the recipient; (ii) was rightfully in the recipient's possession prior to disclosure by the disclosing party; (iii) became rightfully known to the recipient, without confidential or proprietary restrictions, from a source other than the disclosing party; (iv) is approved by the disclosing party for disclosure without restriction, in a written document that is signed by a duly authorized officer of that party; or (v) is or was developed independently by the recipient without use of or reference to any of the confidential information and without violation of any confidentiality restriction.

5.2. Survival.

- 5.2.1.** The provisions of Section 5 shall survive acceptance and, payment under, and termination of, this Agreement.

6. Customization of Application(s)

6.1. General.

- 6.1.1.** Customization of the application is included in the cost of the application(s). LEFTA Systems will customize the application(s) by utilizing the information on the Customization Sheet that was provided to Organization.
- 6.1.2.** Customization includes inputting reports, specific FTO terminology used, and length of the FTO program (i.e. number of Phases, day of training, etc.) that Organization selected via the Customization sheet.
- 6.1.3.** Customization also includes setting up the training check/task list and manual, thereby preparing it for the Organization to input data.
- 6.1.4.** Uploading of Organization's existing users and/or training records into the application is optional and may incur additional fees.

6.2. Not included.

- 6.2.1.** Special reports not mentioned in the Customization Sheet for the LEFTA application as being one of the choices available are not included in the application and can be included at additional cost.
- 6.2.2.** LEFTA Systems, prepares the training manual and check/task lists as specified by the Organization but does not input the actual data.
- 6.2.3.** The creation and management of users besides the Training Coordinator, is the responsibility of the Organization.

7. Technical Support

7.1. General

- 7.1.1.** All applications provide access to the User Manual within the Administrative Links. Technical Support E-mails can be sent to: support@leftasystems.org. Technical support is available from 8am until 5pm EST, Mondays – Fridays.

7.2. Upgrades and Bug Fixes

- 7.2.1.** All upgrades and bug fixes are included in the annual technical support.
- 7.2.2.** In the event that IT support has either not been renewed or lapsed due to non-payment, an hourly rate of \$150 will apply for each IT support request for any portion of an hour and upgrades will not be available if such interruption is 45 days past the expiration date.
- 7.2.3.** Upgrades for applications where IT support has expired are not available for 1 year after IT support has been renewed.

8. Hosting.

8.1. General.

- 8.1.1.** LEFTA Systems hosts its software applications on Microsoft Azure Government. This allows for users to have access to the application anywhere there is internet access provided the user has their encrypted login credentials. We provide the security of industry standard firewalls and redundancy by backing up data daily to the Microsoft Azure US Gov Virginia datacenter. Our primary Microsoft Azure Government datacenter is US Gov Iowa. The cost of hosting the applications is based on the storage space used by the Organization for each application and is measured/billed annually after year two:

Storage	Annual Fee
up to.....5 GB	Included
5.01 - 10 GB	\$900
10.01 – 20 GB	\$1,200
More than 20 GB	TBD

8.1.2 Santa Fe Police Department LEFTA Systems applications will be hosted on Microsoft Azure Government

9. Addendum:

Termination

This Agreement may be terminated by the Organization upon 30 days written notice to LEFTA Systems.

Commercial Warranty

LEFTA Systems agrees that the tangible personal property or services furnished under this Agreement shall be covered by the most favorable commercial warranties the Vendor gives to any customer for such tangible personal property or services, and that the rights and remedies provided herein shall extend to the Organization and are in addition to and do not limit any rights afforded to the Organization by any other clause of this order. Vendor agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

Patent, Copyright and Trade Secret Indemnification

A. LEFTA Systems shall defend, at its own expense, the Organization against any claim that any product or service provided under this Agreement infringes any patent, copyright to trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the Organization based upon LEFTA Systems' trade secret infringement relating to any product or services provided under this Agreement, the LEFTA Systems agrees to reimburse the Organization for all costs, attorneys' fees and amount of the judgment. To qualify for such defense and or payment, the Organization shall:

- i. give LEFTA Systems prompt written notice within 48 hours of any claim;
- ii. allow LEFTA Systems to control the defense of settlement of the claim; and
- iii. cooperate with LEFTA Systems in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in LEFTA Systems' opinion is likely to become the subject of a claim of infringement, LEFTA Systems shall at its option and expense:

- i. provide the Organization the right to continue using the product or service and fully indemnify the Organization against all claims that may arise out of the Organization's use of the product or service;
- ii. replace or modify the product or service so that it becomes non-infringing; or,
- iii. accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the LEFTA Systems. The LEFTA Systems' obligation will be void as to any product or service modified by the Organization to the extent such modification is the cause of the claim.

New Mexico Tort Claims Act

Any liability incurred by the Organization in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The Organization and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

Applicable Law; Choice of Law; Venue

LEFTA Systems shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the Organization. In any action, suit or legal dispute arising from this Agreement, the LEFTA Systems agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

Appropriations

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Organization for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Organization, this Agreement shall terminate upon written notice being given by the Organization to LEFTA Systems. The Organization's decision as to whether sufficient appropriations are available shall be accepted by LEFTA Systems and shall be final.

Release

LEFTA SYSTEMS, upon acceptance of final payment of the amount due under this Agreement, releases the Organization, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. LEFTA Systems agrees not to purport to bind the Organization to any obligation not assumed herein by the Organization unless LEFTA Systems has express written authority to do so, and then only within the strict limits of that authority.

Insurance

LEFTA Systems shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort

Claims Act. LEFTA Systems shall furnish the Organization with proof of insurance of LEFTA Systems' compliance with the provisions of this section as a condition prior to performing services under this Agreement.

Third Party Beneficiaries

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the Organization and the LEFTA Systems. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third-party beneficiary of this Agreement.

Severability

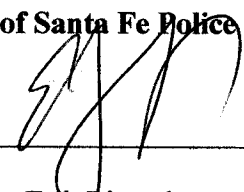
In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

10. Notice Address.

Organization Name: Organization of Santa Fe Police Department	International Business Information Systems, Inc. (IBIT) d.b.a. LEFTA Systems
Organization Address: 2515 Camino Entrada, Santa Fe, NM 87507	10950-60 San Jose Blvd., Suite 101 Jacksonville, FL 32223
Organization Representative:	IBIT Representative: Bryan Selzer

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives, to be effective as of the date first written above.

Organization
City of Santa Fe Police Department:

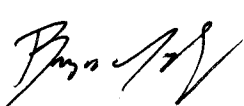
By: 

Name: Erik Litzenberg

Title: City Manager

Date: 9/21/18

International Business Information Systems, Inc.
(d.b.a. LEFTA Systems):

By: 

Name: Bryan Selzer

Title: CEO

Date: 08/31/2018

Attest:

Yolanda Y. Vigil *all*
Yolanda Y. Vigil, City Clerk

Approved as to Form:

EMM *9/12*
Erin K. McSherry, City Attorney

Approved:

Mary McCoy *9/17 AM*
Mary McCoy, Finance Director
222.0.530710



LEFTA SYSTEMS

International Business Information Technologies, Inc.

d.b.a. **LEFTA Systems**

10950-60 San Jose Blvd., Suite 101

Jacksonville, FL 32223

(800) 405-3109 – Toll Free

Exhibit A

Proposal No. 2018-NMSFPDLE-6

CUSTOMER					
AGENCY:	Santa Fe Police Department				
ADDRESS:	2515 Camino Entrada				
CITY:	Santa Fe	STATE:	NM	ZIP:	87507
ATTN:	Officer William Cordova				

INFO	
DATE:	8/30/2018
REP:	George Ison
PROGRAM:	LEFTA

QTY	DESCRIPTION	UNIT PRICE	TOTAL
1	LEFTA, FTO Patrol Application (September/2018) Includes 1 st and 2 nd Year IT Support and Hosting up to 5 GB of storage	\$5,850	\$5,850
1	LEFTA, FTO Patrol Application (September/2019) Includes 1 st and 2 nd Year IT Support and Hosting up to 5 GB of storage	\$5,850	\$5,850
1	Customization of Application	Included	Included
2	Virtual Training Sessions for FTOs and Management	Included	Included
		TOTAL:	\$11,700

Price quote proposals are based on information provided to LEFTA Systems by the agency listed above and are good for 90 days from the date of this proposal.



LEFTA Systems Authorized Signature

8/30/2018

Date