

**Transit Data Tools  
Software Support Agreement**

**Term Sheet**

**NB: This Term Sheet is for convenience and does not fully explain the rights and responsibilities of the parties. For the full terms of the Agreement read the Transit Data Tools Software Support Agreement attached.**

| Support Level         | Platform Level  |
|-----------------------|---|
| Client                | City of Saint John  |
| Client Address        | <del>55 McDonald St, 15 Market Square</del><br>Saint John, NB, E2L 4L1 J0C7 |
| End User              | Saint John Transit/City of Saint John                                       |
| The Commencement Date | January 1 <sup>st</sup> , 2021  |
| Contract End Date     | December 31 <sup>st</sup> , 2021  |
| Price                 | \$0   |

\_\_\_\_\_  
IBI Group Representative Initials

Date:

\_\_\_\_\_  
City of Saint John Representative Initials

Date:

**Commented [CC1]:** IBI Group to initial/date once City reviews

**Commented [CC2]:** Note for Saint John: City representative to initial

\_\_\_\_\_  
IBI Group Representative Initials

Date:

## Transit Data Tools – Platform Software Support Agreement

This Software Support Agreement (the “Agreement”) is entered into between the Client, whose name is given in the Term Sheet (“Client”) and having an address as given in the Term Sheet, and IBI Group Professional Services (Canada) Inc. (“IBI Group”) having an address at 7th Floor - 55 St. Clair Avenue West, Toronto ON M4V 2Y7 Canada. This Agreement details the support that IBI Group will provide to the Client for the Transit Data Tools software (“Support”).

### A.1. Open Source Best Practice Advice.

IBI Group will provide unlimited advice on engagement with open source communities. This includes submission of patches and improvements to the code base, donation of code to relevant open source projects, and strategy for starting new open source projects. IBI Group will suggest a best course of action for Client depending on their priorities and resources, if open source engagement is desired. Client is also always free to not attempt any community engagement; however this shall in no way limit IBI Group’s right to engage with open source communities.

### B. Technology

The Support will be provided using the Open Source Transit Data Tools software. All use of such open source software shall be implemented in accordance with all applicable laws.

## II. Term, Termination, and Assignment

### A. Term and Termination

This Agreement shall commence on the Commencement Date as given in the Term Sheet and shall continue until the Contract End Date as given on the Term Sheet (the “Initial Term”). At the end of the Initial Term this Agreement may be renewed for an additional term of twelve (12) months (the “Renewal Term”) by mutual agreement of the parties and for such valuable consideration as agreed to and executed by both parties in a writing called the Renewal Term Agreement, not less than fourteen (14) days prior to the expiration of the Initial Term or subsequent Renewal Terms]. During each Renewal Term, all terms and conditions as set forth herein, except as otherwise provided in the Renewal Agreement, shall remain in full force and effect.

If the parties do not agree to a Renewal Agreement, then parties’ obligations to each other as set forth herein cease in their entirety at the end of the Initial Term, or at the end of any Renewal Term. Sections IV, V, VI, and VII survive the end of the Initial Term and any Renewal Term and remain permanently in effect.

[1004415051,,City of Saint John Software Support Agreement \(Jan 1, 2021-Dec 31, 2021\)City of Saint John Support Agreement \(Dec 18, 2020-Dec 31, 2021\)](#)

## III. Fees

### A. Amount

To begin the Initial Term, Client will pay IBI Group the Price as given in the Term Sheet for the Support described herein.

### B. Expenses

Client shall not reimburse IBI Group for any expenses or costs not otherwise outlined above that may be incurred by IBI Group unless prior approval is obtained by IBI Group from Client.

### C. Relationship of Parties

The parties acknowledge that IBI Group is an independent contractor of the Client. Nothing in this Agreement or any exhibit will be construed as creating a partnership, joint venture, agency or fiduciary relationship between the parties, or as authorizing either party to act as agent for the other or to enter into contracts on behalf of the other. Nothing in this Agreement is intended to confer any rights or remedies on any person or entity that is not a party to this Agreement.

## IV. Confidentiality

All the Client materials and information learned or gathered by IBI Group in connection with the Support are confidential. Such confidential materials and information may not be used by IBI Group in any way or divulged to any third party without the written permission of Client, except in the course of fulfilling this Agreement. All employees, subcontractors, consultants, or agents of IBI Group are also bound to these confidentiality terms. The parties agree that they each may disclose the terms, conditions, and existence of this Agreement to whomever it determines in good faith has a legitimate need to know this information.

## V. LIABILITY

### A. NO LIABILITY FOR HARDWARE OR SOFTWARE PROBLEMS.

Unless included in this Agreement or otherwise agreed between the parties IBI Group is NOT liable for problems with the performance of server hardware or software not provided by IBI Group and necessary for the hosting of the Supported Software.

**B. NO LIABILITY FOR WEBSERVER HOSTING.**

In the case where hosting is not managed by IBI Group:

IBI Group is also NOT liable for the general maintenance or performance of the hosting Web Server and any of its related software or network connections outside the requirements of this Agreement. All costs and responsibilities of hosting IBI Group products remain with and will be borne by Client.

**C. DISCLAIMER OF WARRANTIES and LIMITATION OF LIABILITY.**

EXCEPT AS PROVIDED IN THIS PARAGRAPH THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.

ALL MERCHANDISE SOLD IS WARRANTED ONLY TO DEFECTS IN WORKMANSHIP UNLESS OTHERWISE STATED. NO WARRANTY OR AFFIRMATION OF FACT, EXPRESS OR IMPLIED, OTHER THAN AS SET FORTH IN THE LIMITED WARRANTY STATEMENT IS MADE OR AUTHORIZED HEREIN. IBI GROUP DISCLAIMS ANY LIABILITY FOR PRODUCT DEFECT CLAIMS DUE TO PRODUCT MISUSE, IMPROPER PRODUCT SELECTION OR MISAPPLICATION, AND ANY DESCRIPTION DOES NOT EXPRESS OR IMPLY A WARRANTY THAT THE PRODUCTS ARE MERCHANTABILITY OR FIT FOR A PARTICULAR PURPOSE.

ANY LIABILITY FOR CONSEQUENTIAL AND INCIDENTAL DAMAGES IS EXPRESSLY DISCLAIMED BY BOTH PARTIES.

PARTY'S LIABILITY IN ALL EVENTS IS LIMITED TO, AND SHALL NOT EXCEED, THE AMOUNT OF THE FEE CONTAINED IN SECTION III A.

**VI. Ownership and copyright**

IBI Group is responsible for ensuring that the use of unmodified Supported Software by the Client does not lead to the terms of any open source license being applied to Client's existing software or code.

IBI Group will inform and assist the Client upon request concerning the terms of the user rights and of any other terms and conditions and restrictions with which the customer must comply in using open source code.

IBI Group and/or its agents shall be deemed the author and/or owner of all other designs, concepts, graphics, logos, processes, features, ideas, and other creative work, developed by IBI Group in the process of fulfilling this Agreement that do not infringe on Client's trademarked designs, logos, and look and feel.

This Agreement shall have no effect on any intellectual property rights, equipment, software, documents, materials, or other items owned by the Client before entering this Agreement.

Any intellectual property rights, equipment, software, documents, materials or other items supplied by the Client to IBI Group for performance of its duties under this Agreement shall remain the property of the Client and shall not in any case be transferred to IBI Group or any third party, and IBI Group, promptly at its own expense and upon request by the Client or upon the expiration or termination of this Agreement, shall return the same to the Client.

**VII. Miscellaneous**

**A. Waiver, choice of law, and venue**

The failure of either party to assert a right hereunder or to insist upon compliance with any term or condition will not constitute a waiver of that right or excuse any subsequent nonperformance of any such term or condition by the other party. All transactions shall be governed by the laws of Ontario, Canada, excluding conflict of law rules. Venue of any dispute shall be vested solely in Ontario, Canada.

**B. No third-party benefit**

The provisions stated above are for the sole benefit of the parties hereto, and confer no rights, benefits or claims upon any person or entity not a party here to.

**C. Severability**

If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**D. Force majeure**

Either party shall be excused from delays in performing or from failing to perform its obligations under this Agreement to the extent the delays or failures result from causes beyond the reasonable control of the party, including, but not limited to: acts of God or of the public enemy; Canada or foreign governmental actions; strikes; fire; flood; epidemic; terrorism; and freight embargoes, provided that the party uses reasonable efforts to notify the other party of the circumstances causing the delay and resumes performance as soon as possible.

**E. Merger and integration**

This Agreement represents the full and final understanding between IBI Group and Client. This agreement can only be modified in writing.



IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates set forth.

Client  
Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

In their capacity as an Authorized Representative of Client

Dated: \_\_\_\_\_

IBI Group  
Signature: \_\_\_\_\_

Print Name: Ritesh Warade

In their capacity as an Authorized Representative of IBI Group.

Dated: \_\_\_\_\_

IBI Group  
Signature: \_\_\_\_\_

Print Name: Doug Parker

In their capacity as an Authorized Representative of IBI Group.

Dated: \_\_\_\_\_

**Commented [CC3]:** Note for Saint John: City representative to sign

**Commented [CC4]:** IBI Group to sign after City has reviewed

