**State of Oregon**
**Rider to EasyVista Master Terms and Conditions**
**Software License and Support Agreement**

This rider ("Rider") is attached to and made a part of the EasyVista Master Terms and Conditions, Software License and Support Agreement ("License") between EasyVista, Inc., a Delaware corporation ("EasyVista") and the State of Oregon, acting by and through Department of Administrative Services ("Customer") dated July 15, 2016. This Rider amends and supersedes any provision to the contrary in the License and is effective as of the date of the License. This Rider and License, together with any exhibits, constitute the entire agreement (collectively "Agreement") between the parties and merges all prior and contemporaneous communications with respect to the matters described in this Agreement.

This Agreement also is subject to the provisions of the Price Agreement #2590 between the State of Oregon, acting by and through the Department of Administrative Services and SHI International and the purchase order issued under the Price Agreement, Purchase Order #_170702___ (collectively "Purchase Agreement").

Notwithstanding any language in the License to the contrary, EasyVista and Customer agree as follows:

1. Confidentiality. Customer's obligation to maintain the confidentiality of EasyVista's proprietary information provided to Customer under the Agreement is conditioned by and subject to Customer's obligations under the Oregon Public Records Law, ORS 192.410 to 192.505, which may require disclosure of proprietary information as a "public record" unless exempt under ORS 192.501 or ORS 192.502.

2. Limits on Indemnification. To the extent Customer is required under the Agreement to indemnify or hold EasyVista harmless against claims brought by third parties against EasyVista, Customer's obligation to indemnify is subject to the limitations of Article XI, section 7 of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300.

3. Defense of Claims. To the extent EasyVista is required under this Agreement to defend Customer against claims asserted by third parties, Customer shall reasonably cooperate in good faith, at EasyVista's reasonable expense, in the defense of the claim and EasyVista shall select counsel reasonably acceptable to the Oregon Attorney General to defend the claim and shall bear all costs of counsel. The Oregon Attorney General's acceptance of counsel may not be unreasonably withheld, conditioned or delayed. Counsel must accept appointment as a Special Assistant Attorney General under ORS Chapter 180 before counsel may act in the name of, or represent the interests of, the State of Oregon, Customer, its officers, employees or agents. Customer may elect to assume its own defense with an attorney of its own choice and its own expense at any time Customer determines important governmental interests are at stake. Customer shall promptly provide notice to EasyVista of any claim that may result in an obligation on the part of EasyVista to defend. Subject to these limitations, EasyVista may defend a claim with counsel of its own choosing, on the condition that no settlement or compromise of any claim may occur without the consent of Customer, which consent must not be unreasonably withheld, conditioned or delayed.

4. Governing Law; Jurisdiction; Venue. This Agreement is governed by the laws of the State of Oregon, without giving effect to its conflict of law principles, and applicable federal law. Any action or suit brought by the parties relating to this Agreement must be brought and conducted exclusively in the Circuit Court of Marion County for the State of Oregon in Salem, Oregon, unless the claim must be brought in a federal forum, in which case it must be brought and adjudicated exclusively within the United States District Court for the District of Oregon. **EASYVISTA HEREBY CONSENTS TO THE PERSONAL JURISDICTION OF THESE COURTS, WAIVES ANY OBJECTION TO VENUE IN THESE COURTS, AND WAIVES ANY CLAIM THAT EITHER OF THESE COURTS IS AN INCONVENIENT FORUM.** Neither this section nor any other term of this Agreement is a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States, or otherwise, from any Claim, or consent to the jurisdiction of any court.

5. Attorney Fees. Neither party to this Agreement is entitled to obtain judgment from the other party for attorney fees it has incurred in any litigation between the parties or in defense of any claim asserted by a third party.

6. Dispute Resolution. Any dispute between the parties that is not resolved through informal discussions may be submitted to mediation upon the consent of both parties. If informal discussions or mediation are unsuccessful, either party may initiate litigation to resolve the dispute. The parties specifically disclaim any right to arbitration of disputes.

7. Termination for Lack of Funding. Nothing in this Agreement may be construed to permit any violation of Article XI, Section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. Customer's payment for services performed or license fees due after the last day of the current biennium is contingent upon Customer receiving funding, appropriations, limitations, allotments or other expenditure authority from the Oregon Legislative Assembly (including its Emergency Board) sufficient to allow Customer, in the exercise of its reasonable administrative discretion, to continue to compensate EasyVista. Customer may immediately terminate this Agreement upon written notice if Customer fails to receive funding, appropriations, limitations, allotments, or other expenditure authority as contemplated by Customer's budget or spending plan and Customer determines, in its assessment and ranking of the policy objectives explicit or implicit in its budget or spending plan, that it is necessary to terminate this Agreement.

8. Records Maintenance; Access. EasyVista shall maintain all financial records relating to the subject matter of this Agreement in accordance with Generally Accepted Accounting Principles ("GAAP"). EasyVista shall also maintain any other records pertinent to this Agreement in such a manner as to document clearly EasyVista's performance of its duties under this Agreement. EasyVista shall retain and keep accessible all financial records, books, documents, papers, plans, and writings for a minimum of three (3) years, or such longer period as may be required under applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Agreement, whichever date is later. EasyVista shall permit Customer and its duly authorized representatives access to EasyVista's financial records and other books, documents, papers, plans, and examinations and audits and make excerpts and transcripts when requested.

9. Representations and Warranties. EasyVista represents and warrants to Customer that:
9.1 EasyVista has the power and authority to enter into and perform this Agreement and, when executed and delivered, will be a valid and binding obligation of EasyVista enforceable according to its terms;
9.2 Through the expiration of the Warranty Period, the software will materially conform to specifications set forth in this Agreement and any Documentation provided by EasyVista, and will be free from error or defect that materially impairs its use, including defects commonly defined as viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the software, collect unlawful personally identifiable information on users, or prevent the software from performing as required under the terms and conditions of this Agreement. Notwithstanding the foregoing, this representation and warranty does not include a disabling device that limits, suspends or ends use of the Software expressly permitted by the terms and conditions by the license under which it was provided.

9.3 WARRANTIES EXCLUSIVE; DISCLAIMERS. THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, AND EASYVISTA EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. EASYVISTA DOES NOT WARRANT THAT THE CUSTOMER'S USE OF THE SYSTEM WILL BE UNINTERRUPTED OR ERROR FREE. The warranties stated above will not apply to the extent that there has been misuse, accident, modification, unsuitable physical or operating environment, operation in other than the specified operating environment, improper maintenance by Customer or a third party, or failure or damage caused by a product for which EasyVista is not responsible.

10. Tax Compliance Certificate. EasyVista has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state for the six (6) years prior to the Effective Date. EasyVista shall, throughout the duration of this Agreement and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this Section, "tax laws" includes: (i) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) Any tax provisions imposed by a political subdivision of this state that applied to EasyVista, to EasyVista's property, operations, receipts, or income, or to EasyVista's performance of or compensation for any work performed by EasyVista; (iii) Any tax provisions imposed by a political subdivision of this state that applied to EasyVista, or to goods, services, or

property, whether tangible or intangible, provided by EasyVista; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Any violation of this subsection 10 constitutes a material breach of this Agreement and shall entitle Customer to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all of the remedies available under this Agreement, at law, or in equity, including but not limited to:

- Termination of this Agreement, in whole or in part;
- Exercise of the right of setoff, and withholding of amounts otherwise due and owing to EasyVista, in an amount equal to State's setoff right, without penalty; and
- Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. Customer may recover any and all damages suffered as the result of EasyVista's breach of this Agreement, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Services and applications.

These remedies are cumulative to the extent the remedies are not inconsistent, and Customer may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

11. Payment. Customer is exempt from the payment of some taxes. Customer shall submit an exemption certificate to EasyVista. Customer's obligation to pay late charges is subject to ORS 293.462.

12. Support and Maintenance. EasyVista shall provide Customer support and maintenance for the software as set forth on Exhibit A.

EASYVISTA, INC:

By: _Evan Carlson_

As: _Evan Carlson_

CUSTOMER:
The State of Oregon, acting through
Department of Administrative Services

By: _Amy Schmitt_

As: _Linny Beckwirth_
_Procurement Ops Mgr 2/8/16_

Attachments:
Exhibit A: Maintenance and Support Agreement

# Exhibit A to EasyVista Software Agreement
# TECHNICAL SUPPORT

In order to provide the highest levels of customer success, EasyVista requires that only authorized technical contacts can submit incidents or product enhancement requests. All authorized contacts must have received either EasyVista Administrator Training or EasyVista Foundation Certification Training. Training is offered on a regular basis, and you can register for an upcoming class at http://www.easyvista.com/regional-certification-training/. Every EasyVista customer is entitled to three Authorized Contacts, and must have a minimum of one. Customers who need to make changes to their contact listing, can do so by emailing support-us@easyvista.com.

Once you become "Authorized Technical Contact", you will receive a username and password from the EasyVista support team, giving you full access to our support resources, including the ability to submit incidents 24x7, access to our community portal and wiki sites as well as submitting enhancement ideas and requests through our UserVoice Forum.

How to get Support: Incidents can be submitted in three ways, via phone, email or though the Online Support Portal, the support portal being the preferred method. Customers are encouraged to make every effort to thoroughly document an incident before reporting an incident as it will reduce resolution time and overall responsiveness. Likewise, rapidly responding to any questions or requests for additional information will also benefit the requestor.

> **Phone:** 888-EZV-ITSM (888-398-4876): Available 8:30 AM – 5:30 PM EST excluding company holidays

> **Email:** Support-us@easyvista.com

> **Online Support Portal:** http://support.easyvista.com

> **EV Connect Online Community:** http://community.easyvista.com

> **FAQ's:** https://wiki.easyvista.com

All submissions will be acknowledged via email and will provide further notifications via email throughout the incident lifecycle:
- Incident is being worked
- Incident is on hold
- More information is required from the customer
- Incident is related to a bug
- Incident has been resolved, or there is a work around available
- Incident has been closed

No onsite technical support is provided as part of this agreement. Onsite technical support is provided at the then current daily rate.

Third party products of whatever nature, whether provided by EasyVista or not, are explicitly not covered.

Technical support does not include any kind of Professional Services including but not limited to training, design, implementation, customization, integration or consulting.

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**How to submit Enhancements:**

UserVoice URL: http://easyvista.uservoice.com *

*All enhancement requests must be submitted via the UserVoice Forum. EasyVista welcomes all input, but is under no obligation to implement any specific enhancement requests submitted through UserVoice. By submitting ideas, suggestions or feedback to EasyVista regarding the software, (i) Customer agrees that such items submitted do not contain confidential or proprietary information; and (ii) Customer hereby grants EasyVista an irrevocable, unlimited, royalty-free and fully-paid perpetual license to use such items for any business purpose.*

**Software service maintenance,** includes all maintenance releases, enhancements, and new versions that are made available to all customers under support for no additional fee.
- Major Software Upgrades will be indicated by a change in the first four digits of the version number (i.e. 2015.1.1).
- Minor Software Upgrades will be indicated by a change in any of the digits after the first "." (i.e.2015.1.1).

*Patches and upgrades for SaaS customers up to date on payments are always provided at no additional cost. On premise maintenance paying customers can upgrade their own environments at no additional cost. However, if assistance is required, then professional services fees may apply.*

**Bug fixes/patches** and minor enhancements can be expected in the "Minor Releases" updates.

*Because all new versions are now supplied via patch or fix, support is available for the current version only, unless otherwise agreed to or publically published. All support of previous versions will be best effort.*

**Incident Priorities**

The Response and Resolution Target Definitions table defines the priorities that can be assigned to each Incident as well as the associated response target and resolution target. In additional the table details the schedule against which the Service Level Target (SLT) will be evaluated (i.e. 24/7 or Business Hours Only).

The Service Level Target (SLT) clock starts from ticket creation and can be paused by placing the Incident into a hold status. Customer will be notified when a ticket is placed into a holds status. The service level target clock stops when the Incident has been resolved or a work around has been provided or if the Incident is determined to be the result of a bug. If Incident can be resolved by applying an upgrade or a patch and Customer decides not to apply the patch, the Incident may be closed.

**Response & Resolution Target Definitions**

| Priority | Response Target | Resolution Target | 24/7 or Business Hours |
|---|---|---|---|
| 1 – Critical | 1 hour | 4 hours | 24/7 |
| 2 – High | 1 hour | 8 hours | Business Hours |
| 3 – Medium | 12 hours | 24 hours | Business Hours |
| 4 – Normal | 24 hours | 48 hours | Business Hours |
| 5 - Project | 48 hours | N/A | Business Hours |

## Table 1

The Priority Definitions table includes a description of each priority's proper use. Customers are encouraged to understand this matrix and to not artificially inflate the priority of submitted Incidents.

**Priority Definitions**

| Priority | Description |
|---|---|
| 1 – Critical | • Platform or product is not available to all users <br> • (Production Environment ONLY) |
| 2 – High | • Product is available but unusable <br> • Error message(s) found on all workstations <br> • Data loss or integrity Incidents detected <br> • (Production Environment ONLY) |
| 3 – Medium | • One or more essential software functions affected <br> • Error message(s) on multiple, but not all, workstations <br> • Performance severely degraded on all workstations |
| 4 – Normal | • One or more non-essential software functions affected <br> • Issue with a workaround |
| 5 - Project | • Issue with no immediate consequence <br> • "How do I?" type questions <br> • Very low priority, Internal, etc. |

## Table 2

Service Provider shall have no obligation to provide support:
- Related to Issues caused by modifications to the Software, merger (in whole or in part) of the Software with any other software, use of the Software in a manner that is inconsistent with its design.
- Related to Issues with any functionality not directly related to the Software.
- Related to Issues caused by hardware, software, networks, firmware or media not supplied, serviced by or supported by Service Provider.
- To persons not directly employed or retained by Customer.
- Related to problems caused by any accident or disaster affecting the Software including but not limited to fire, flood, lightning or vandalism.