

**CITY AND COUNTY OF SAN FRANCISCO**  
OFFICE OF CONTRACT ADMINISTRATION

**ASSIGNMENT AND ASSUMPTION AGREEMENT**

THIS ASSIGNMENT (this "Assignment") is made as of December 1, 2008, in San Francisco, California, by and between Tier Technologies, Inc. ("Assignor") and Cogsdale Holdings, Ltd ("Assignee").

RECITALS

WHEREAS, Assignor is a party to the Agreements (as defined below); and

WHEREAS, Assignor desires to assign the Agreements, and Assignee desires to assume the Agreements, each on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained in this Assignment, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. **Definitions.** The following definitions shall apply to this Assignment:

(a) **Agreements.** The term "Agreements" shall mean the Agreements, as follows. The term "Agreements" shall include any amendments or modifications set forth below and made a part hereof:

The **License Agreement** dated June 27, 1994 between KPMG Peat Marwick and the City and County of San Francisco, a municipal corporation ("City"), as amended by a First Amendment dated July 1, 1998, as assigned by an assignment dated February 8, 2001 to KPMG Consulting, Inc. (now known as BearingPoint, Inc.), and as further assigned by an assignment dated November 16, 2004 to Tier Technologies, Inc.

The **Software License and Sublicense Agreement** dated July 1, 1998 and **Extended Maintenance and Support Services Agreement** dated July 28, 1998 between KPMG LLP and the City and County of San Francisco, a municipal corporation ("City"), as assigned by an assignment dated February 8, 2001 to KPMG Consulting, Inc. (now known as BearingPoint, Inc.), as further assigned by an assignment dated November 16, 2004 to Tier Technologies, Inc.

The **Software Maintenance Agreement** dated July 1, 2006 between Tier Technologies, Inc. and the City and County of San Francisco, a municipal corporation ("City"), as amended by the First Amendment dated February 1, 2007, as amended by the Second Amendment dated July 1, 2007, and as amended by the Third Amendment, dated April 7, 2008.

The **Professional Services Agreement** dated November 19, 2004 between Tier Technologies, Inc. and the City and County of San Francisco, a municipal corporation ("City"), as amended by the First Amendment dated November 1, 2006, as amended by the Second Amendment dated November 27, 2007, and as amended by the Third Amendment dated October 11, 2008.

(b) **Effective Date.** "Effective Date" shall mean December 1, 2008.

(c) **Other Terms.** Terms used and not defined in this Assignment shall have the meanings assigned to such terms in the Agreements.

2. **Assignment.** Assignor hereby assigns, transfers and conveys to Assignee all of Assignor's right, title and interest in and to the Agreements and all of Assignor's duties and obligations thereunder, to the extent arising on or after the Effective Date.

3. **Assumption.** Assignee hereby accepts the assignment transfer and conveyance set forth in Section 2 and agrees to perform all of Assignor's duties and obligations under the Agreements, to the extent arising on or after the Effective Date.

4. **Mutual Indemnities**

(a) **Assignor.** Assignor shall indemnify, defend and protect Assignee, and hold Assignee harmless from and against, any and all liabilities, losses, damages, claims, costs or expenses (including attorneys' fees) arising out of (a) any failure of Assignor to convey its interest pursuant to Section 2, free and clear of all third-party liens, claims or encumbrances or (b) any breach by Assignor of the Agreements or any other failure to perform or observe any of the duties or obligations of Assignor thereunder, to the extent such breach or failure arises prior to the Effective Date.

(b) **Assignee.** Assignee shall indemnify, defend and protect Assignor, and hold Assignor harmless from and against, any and all liabilities, losses, damages, claims, costs or expenses (including attorneys' fees) arising out of any breach by Assignee of the Agreements or any other failure to perform or observe any of the duties or obligations thereunder assumed by Assignee pursuant to this Assignment.

5. **Governing Law.** This Assignment shall be governed by the laws of the State of California, without regard to its conflict of laws principles.

6. **Headings.** All section headings and captions contained in this Assignment are for reference only and shall not be considered in construing this Assignment.

7. **Entire Agreement.** This Assignment sets forth the entire agreement between Assignor and Assignee relating to the Agreements and supersedes all other oral or written provisions.

8. **Further Assurances.** From and after the date of this Assignment, Assignor and Assignee agree to do such things, perform such acts, and make, execute, acknowledge and deliver such documents as may be reasonably necessary or proper and usual to complete the conveyance contemplated by this Assignment or as may be required by City.

9. **Severability.** Should the application of any provision of this Assignment to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Assignment shall not be affected or impaired thereby and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of Assignor, Assignee and City.

10. **Successors; Third-Party Beneficiaries.** Subject to the terms of the Agreements, this Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their successors and assigns. Except as set forth in Section 12, nothing in this Assignment, whether express or implied, shall be construed to give any person or entity (other than City and the parties hereto and their respective successors and assigns) any legal or equitable right, remedy or claim under or in respect of this Assignment or any covenants, conditions or provisions contained herein.

11. **Notices.** All notices, consents, directions, approvals, instructions, requests and other communications regarding this Assignment or the Agreements shall be in writing, shall be addressed to the person and address set forth below and shall be (a) deposited in the U.S. mail, first class, certified with return receipt requested and with appropriate postage, (b) hand delivered or (c) sent via facsimile (if a facsimile number is provided below). All communications sent in accordance with this Section shall become effective on the date of receipt. From time to time Assignor, Assignee or City may designate a new address for purposes of this Section by notice to the other signatories to this Assignment.

If to Assignor:

Tier Technologies, Inc.  
Attn: Keith Omsberg, General Counsel  
10780 Parkridge Blvd, Suite 400  
Reston, VA 20191  
571-382-1029

If to Assignee:

Cogsdale Holdings, Ltd.  
Duncan Shaw, Co-President  
14 MacAleer Drive, Suite 5  
Charlottetown, PE, Canada C1E 2A1  
902-446-7036

If to City:

Mary Fitzpatrick, Financial Systems Manager  
City and County of San Francisco  
City Hall, Controller's Office  
1 Dr. Carlton B. Goodlett Place, Room 482  
San Francisco, CA 94102

12. **Consent of City; No Release of Assignor; Waivers.** Each of Assignor and Assignee acknowledges that the prior written consent of City to this Assignment is required under the terms of the Agreements. City shall be a third party beneficiary of this Assignment (other than Section 4) and shall have the right to enforce this Assignment. Neither this Assignment nor the consent of City set forth below shall release Assignor in whole or in part from any of its obligations or duties under the Agreements if Assignee fails to perform or observe any such obligation or duty. The City has made no representations or guarantees to Assignor regarding Assignee's financial condition and ability to perform under the Agreements. Nor does City have an obligation to do so now or in the future. Assignor has entered into this Assignment, in part, based upon its evaluation of Assignee's financial condition and ability to perform under the Agreements. Assignor acknowledges it does not have the right to require City to (a) proceed against any person or entity including Assignee, (b) proceed against or exhaust any security now or hereafter held in connection with the Agreements, or (c) pursue any other remedy in City's power. Assignor authorizes City, without notice or demand to (i) renew, modify or extend the time for performance of any obligation under the Agreements, provided, however, Assignor shall have no liability under the Agreements for any such renewal, modification or extension of time; (ii) take and hold security against Assignee for the payment of any obligation under the Agreements and exchange, enforce, waive and release such security from Assignee; and (iii) consent to an assignment by Assignee of all or any part of the Agreements, provided, that as of the effective date of any such assignment,

Assignor shall have no responsibility or liability for services provided to the City by new or future assignees.

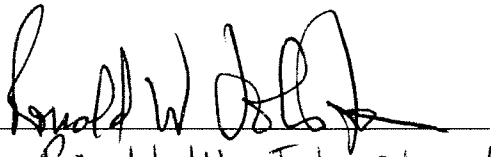
IN WITNESS WHEREOF, Assignor and Assignee have each duly executed this Assignment as of the date first referenced above.

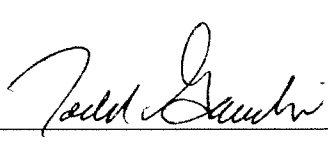
**ASSIGNOR**

**ASSIGNEE**

**Tier Technologies, Inc.**  
**CITY VENDOR NUMBER: 61482**

**Cogsdale Holdings, Ltd.**  
**CITY VENDOR NUMBER: 78223**

By   
Title Ronald W. Johnston, CFO

By   
Title Todd Gaudin CFO

Subject to Section 12 of this Assignment, City hereby consents to the assignment and assumption described in Sections 2 and 3 of this Assignment.

**CITY**


Recommended by:  
  
Signature for Department

Mary Fitzpatrick  
Printed Name

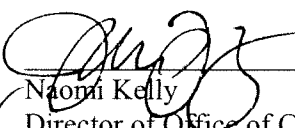
Financial Systems Manager, Controller's Office  
Title and Department

Approved as to Form:

Dennis J. Herrera  
City Attorney

By   
Deputy City Attorney

Approved:

  
for Naomi Kelly  
Director of Office of Contract Administration/  
Purchaser