WTA CONTRACT NO. 2010-0001-AS

SOFTWARE LICENSE AND MAINTENANCE AMENDMENT #5

THIS AMENDMENT is made effective this 9th day of October, 2013 between:

1. **Trapeze Software Group, Inc.** a Delaware corporation, (successor in interest to Trapeze Software Group, Inc., an Arizona corporation) with its place of business at 8360 East Via de Ventura, Suite L-200, Scottsdale, Arizona, U.S.A. 83258, ("Trapeze"); and

2. **Whatcom Transportation Authority**, with its place of business at 4111 Bakerview Spur Road, Bellingham, Washington, U.S.A. 98226 ("Licensee").

WHEREAS Trapeze and Licensee intend to amend the Software License and Maintenance Agreement dated November 6, 2006 and as amended ("the Agreement"), in order to include annual maintenance fees for the Trapeze licensed Software products, add a contingency fee for future service work orders, and to include additional terms and conditions under the scope of the Agreement.

NOW THEREFORE Trapeze and Licensee agree as follows:

1. **Amendment to Agreement**

   (a) The parties agree to the inclusion of Trapeze Software annual maintenance fees as identified in Exhibit B-5, attached hereto.

   (b) The parties agree that the Software maintenance fees as set out in Exhibit B-5 shall be due and payable on or before the maintenance anniversary date time frames as identified therein, for the corresponding Trapeze Software products.

   (c) The parties agree that all service work orders shall be subject to the terms and conditions of the Agreement, unless otherwise agreed to in writing by both parties.

   (d) The parties agree that from time to time service work orders may be executed unrelated to specific amendments. These miscellaneous service work orders shall be approved by the Manager of IT as contract administrator and not shall, in cumulative, not exceed $20,000 annually.

   (e) The parties agree to the inclusion of additional terms and conditions as identified in Exhibit C-5, attached hereto, which shall be made an integral part of the Agreement.

   (f) All remaining terms, conditions, and covenants of the Agreement remain unchanged.

IN WITNESS WHEREOF, the parties have caused this Contract Amendment #5 to be signed by their duly authorized representatives as of the date above.

TRAPEZE:		**LICENSEE**	
By:	Nathan Partington	By:	Richard G. Walsh
Name:	Nathan Partington	Name:	RICHARD G. WALSH
Title:	VP of Finance.	Title:	GENERAL MANAGER

EXHIBIT B-5

Product	Period	Operational Characteristics	Value
FX	November 1, 2013 - June 30, 2014	up to 99 peak vehicles & 1 w/s (actual = 40)	$ 12,316
FX	July 1, 2014 - June 30, 2015	up to 99 peak vehicles & 1 w/s (actual = 40)	$ 19,398
FX	July 1, 2015 - June 30, 2016	up to 99 peak vehicles & 1 w/s (actual = 40)	$ 20,367
FX	July 1, 2016 - June 30, 2017	up to 99 peak vehicles & 1 w/s (actual = 40)	$ 21,386
FX	July 1, 2017 - June 30, 2018	up to 99 peak vehicles & 1 w/s (actual = 40)	$ 22,455
FX	July 1, 2018 - June 30, 2019	up to 99 peak vehicles & 1 w/s (actual = 40)	$ 23,578
INFO WEB	July 1, 2013 - June 30, 2014	up to 99 peak vehicles (actual = 40)	$ 16,653
INFO WEB	July 1, 2014 - June 30, 2015	up to 99 peak vehicles (actual = 40)	$ 18,318
INFO WEB	July 1, 2015 - June 30, 2016	up to 99 peak vehicles (actual = 40)	$ 19,234
INFO WEB	July 1, 2016 - June 30, 2017	up to 99 peak vehicles (actual = 40)	$ 20,196
INFO WEB	July 1, 2017 - June 30, 2018	up to 99 peak vehicles (actual = 40)	$ 21,205
INFO WEB	July 1, 2018 - June 30, 2019	up to 99 peak vehicles (actual = 40)	$ 22,266
INFO Publish Post	October 1, 2013 - June 30, 2014	up to 99 peak vehicles (actual = 40)	$ 6,544
INFO Publish Post	July 1, 2014 - June 30, 2015	up to 99 peak vehicles (actual = 40)	$ 9,161
INFO Publish Post	July 1, 2015 - June 30, 2016	up to 99 peak vehicles (actual = 40)	$ 9,619
INFO Publish Post	July 1, 2016 - June 30, 2017	up to 99 peak vehicles (actual = 40)	$ 10,100
INFO Publish Post	July 1, 2017 - June 30, 2018	up to 99 peak vehicles (actual = 40)	$ 10,605
INFO Publish Post	July 1, 2018 - June 30, 2019	up to 99 peak vehicles (actual = 40)	$ 11,136
PASS	July 1, 2013 - June 30, 2014	up to 1199 booked trips & 10 w/s	$ 21,000
PASS	July 1, 2014 - June 30, 2015	up to 1199 booked trips & 10 w/s	$ 22,050
PASS	July 1, 2015 - June 30, 2016	up to 1199 booked trips & 10 w/s	$ 23,153
PASS	July 1, 2016 - June 30, 2017	up to 1199 booked trips & 10 w/s	$ 24,310
PASS	July 1, 2017 - June 30, 2018	up to 1199 booked trips & 10 w/s	$ 25,526
PASS	July 1, 2018 - June 30, 2019	up to 1199 booked trips & 10 w/s	$ 26,802

EXHIBIT B-5

Product	Period	Operational Characteristics	Value
PASS MON	July 1, 2013 - June 30, 2014	up to 40 paratransit vehicles	$ 11,200
PASS MON	July 1, 2014 - June 30, 2015	up to 40 paratransit vehicles	$ 11,760
PASS MON	July 1, 2015 - June 30, 2016	up to 40 paratransit vehicles	$ 12,348
PASS MON	July 1, 2016 - June 30, 2017	up to 40 paratransit vehicles	$ 12,965
PASS MON	July 1, 2017 - June 30, 2018	up to 40 paratransit vehicles	$ 13,614
PASS MON	July 1, 2018 - June 30, 2019	up to 40 paratransit vehicles	$ 14,294
PASS CERT	July 1, 2013 - June 30, 2014	up to 9999 registered clients	$ 3,850
PASS CERT	July 1, 2014 - June 30, 2015	up to 9999 registered clients	$ 4,043
PASS CERT	July 1, 2015 - June 30, 2016	up to 9999 registered clients	$ 4,245
PASS CERT	July 1, 2016 - June 30, 2017	up to 9999 registered clients	$ 4,457
PASS CERT	July 1, 2017 - June 30, 2018	up to 9999 registered clients	$ 4,680
PASS CERT	July 1, 2018 - June 30, 2019	up to 9999 registered clients	$ 4,914
FLEX	July 1, 2013 - June 30, 2014	up to 1199 booked trips (up to 10 flex routes)	$ 3,100
FLEX	July 1, 2014 - June 30, 2015	up to 1199 booked trips (up to 10 flex routes)	$ 3,255
FLEX	July 1, 2015 - June 30, 2016	up to 1199 booked trips (up to 10 flex routes)	$ 3,418
FLEX	July 1, 2016 - June 30, 2017	up to 1199 booked trips (up to 10 flex routes)	$ 3,589
FLEX	July 1, 2017 - June 30, 2018	up to 1199 booked trips (up to 10 flex routes)	$ 3,768
FLEX	July 1, 2018 - June 30, 2019	up to 1199 booked trips (up to 10 flex routes)	$ 3,956
PLAN	Maintenance to become Current to June 30, 2014	up to 99 peak vehicles (actual = 40)	$ 13,346
PLAN	July 1, 2014 - June 30, 2015	up to 99 peak vehicles (actual = 40)	$ 5,219
PLAN	July 1, 2015 - June 30, 2016	up to 99 peak vehicles (actual = 40)	$ 5,479
PLAN	July 1, 2016 - June 30, 2017	up to 99 peak vehicles (actual = 40)	$ 5,753
PLAN	July 1, 2017 - June 30, 2018	up to 99 peak vehicles (actual = 40)	$ 6,041
PLAN	July 1, 2018 - June 30, 2019	up to 99 peak vehicles (actual = 40)	$ 6,343
INFO AGENT	Maintenance to become Current to June 30, 2014	up to 99 peak vehicles (actual = 40)	$ 17,147
INFO AGENT	July 1, 2014 - June 30, 2015	up to 99 peak vehicles (actual = 40)	$ 6,908
INFO AGENT	July 1, 2015 - June 30, 2016	up to 99 peak vehicles (actual = 40)	$ 7,253
INFO AGENT	July 1, 2016 - June 30, 2017	up to 99 peak vehicles (actual = 40)	$ 7,616
INFO AGENT	July 1, 2017 - June 30, 2018	up to 99 peak vehicles (actual = 40)	$ 7,997
INFO AGENT	July 1, 2018 - June 30, 2019	up to 99 peak vehicles (actual = 40)	$ 8,397

EXHIBIT B-5

Maintenance Fee Notes:

The annual maintenance fees identified under this Exhibit B-5, correspond to the applicable annual renewal time frames only. For all subsequent years, the annual maintenance fee will be the subject of mutual written agreement, based on the operational characteristics of the Licensee as of the maintenance anniversary date and the standard Trapeze price list at that time.

EXHIBIT C-5

Additional Terms and Conditions

1. Equal Opportunity: The Contractor assures that they are complying with the Federal Civil Rights Act of 1964, and the Equal Employment Opportunity Act and the regulations issued thereunder by the State and Federal Government. If any Contractor fails to comply with the act or the regulations issued thereunder, the WTA reserves the right to terminate the contract
2. Americans with Disabilities Act During the performance of this contract, the Contractor agrees to comply with the Americans With Disabilities Act of 1990 (P.L. 101-336) and all requirements and regulations imposed by the U.S. Equal Employment Opportunity Commission, U.S. Department of Justice, and other applicable Federal agencies, and all guidelines and interpretations issued pursuant thereto.
3. No Federal Government Obligations to Third Parties The WTA and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the WTA, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. The WTA agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions
4. Program Fraud and False or Fraudulent Statement and Related Acts The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

   The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the

penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

5. Access to Records and Reports Where the WTA is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

   Where the WTA is the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the WTA, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at $100,000.

   Where the WTA enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the WTA, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

   Where the WTA, in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the WTA, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

   The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the WTA, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
FTA does not require the inclusion of these requirements in subcontracts.
Anything to the contrary herein notwithstanding, Contractor is a subsidiary of Volaris Group, which is a subsidiary of Constellation Software Inc. Constellation is a publicly listed company on the Toronto Stock Exchange. Securities laws prohibit the release of any non-public financial information outside of those disclosed in the Constellation quarterly and annual filings, thus Contractor cannot directly release any financial data to individual customers.

6. Changes in Federal Laws & Regulations The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the agreement between the WTA and FTA as they may be amended or promulgated from time to time during the term of this Contract. Contractor's failure to so comply shall constitute a material breach of this Contract. FTA Terms and the terms and conditions of the agreement between FTA and WTA, shall not preclude Trapeze's ownership rights to its intellectual property/trade secret information, and shall not impose liability or indemnification obligations that exceed the mutually agreed upon limitation of liability cap under the terms of the final contract between Trapeze and WTA.

7. Civil Rights Requirements The following requirements apply to the underlying contract:
Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:
(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL)

regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

8. Disadvantaged Business Enterprise (DBE) This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.* The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 0.0 %. A separate contract goal has not been established for this procurement.

The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of the 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or other remedy as WTA deems appropriate. Each

subcontract the contractor signs with a subcontractor must include the assurances in this paragraph (see 49 CFR 26.13(b))

The successful Proposer will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

The proposer is required to pay its subproposers performing work related to this contract for satisfactory performance of that work no later than 30 days after the proposer's receipt of payment for that work from WTA. In addition, the proposer may not hold a retainer from its subproposers.

The proposer must promptly notify WTA whenever a DBE subproposer performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subproposer to perform at least the same amount of work. The proposer may not terminate any DBE subproposer and perform that work through its own forces or those of an affiliate without prior written consent of WTA.

9. Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. All FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement, unless otherwise stated under this Section 9. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any WTA requests which would cause the WTA to be in violation of the FTA terms and conditions. Anything to the contrary herein notwithstanding, all FTA Terms and the terms and conditions of the agreement between FTA and WTA, shall not preclude Trapeze's ownership rights to its intellectual property/trade secret information, and shall not impose liability or indemnification obligations that exceed the mutually agreed upon limitation of liability cap under the terms of the final contract between Trapeze and WTA
10. Debarment and Suspension Certification Requirements This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945

    The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it inters into.

    By signing and submitting this proposal, the contractor is providing the signed certification set out below. The certification in this clause is a material representation of fact relied upon by WTA. If it is later determined that the contractor knowingly rendered an erroneous certification, in addition to other remedies available to the WTA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The contractor agrees to comply with the requirements of 49 CFR 29, Subpart C

while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

11. Clean Air The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the WTA will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.
12. Breaches and Dispute Resolution
    Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of WTA's General Manager. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the General manager. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. **Performance During Dispute** - Unless otherwise directed by the WTA and agreed to by Contractor, Contractor shall continue performance under this Contract while matters in dispute are being resolved.
    Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.
    Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the WTA and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the WTA is located.
    Rights and Remedies – The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the WTA or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.
13. Lobbying Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of $100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal