

# AMILIA SOFTWARE AGREEMENT



**Prepared for:**  
Town of Erie



# Agreement

This agreement is between the following parties:

Town of Erie	Amilia
Patrick Hammer, Director of Parks & Recreation	William Owens, Sales Executive & Product Ninja
645 Holbrook St.	1751, Richardson, suite 3.105
Erie, Colorado, 80516	Montreal, Quebec, H3K 1G6
United States	Canada

THE PARTIES AGREE ON THE FOLLOWING TERMS AND CONDITIONS:

## A. Duration of Agreement

- 36 months, starting in January 2020

**This agreement auto-renews for successive 12-month periods following a 60-day written notice from Amilia.**

## B. Amilia Fees (in USD)

- \$ 995 monthly subscription fee + 1.0% service fee
  - Service fee will be reduced to 0.65% per transaction for 2020 (Jan-Dec)
- For Rental Contracts associated with facilities, 1.0% service fee with a maximum of \$10/Rental Contract

## C. Payment Processing Costs via Paysafe/Netbanx

- Credit cards: 2.75% + \$0.30 per transaction
- eCheck (ACH): 1.0% + \$0.50 per transaction

## D. Professional Services & Customer Success

- **Professional Services: Not to exceed \$15,000 USD**
  - For all services outlined in Appendix B
- **Post Implementation Service Level Agreement (SLA)**
  - Dedicated Customer Success Manager (CSM) throughout your life with Amilia
  - Full access to our Customer Care team via:
    - In-app chat and phone support during business hours (Mon-Fri, 8:30AM to 8:00PM EST & Sat, 10:00AM to 6:00PM EST)
    - 24/7 support ticket access (Regular case resolution time by priority: 8 to 16 business hours)
    - Unlimited access to resources: knowledge base articles, how-to videos, webinars, plus, share your ideas directly with our product team on our online community! etc.
- Additional Professional Services and Training are available *for a fee*

# Legal Conditions

## Client Service Agreement

You agree to the conditions specified in attached **Appendix A- Service Agreement USA v20190516.pdf**

I recognize having signed and received a copy of the present agreement:

## Signature

Presented to:

Town of Erie

Accepted by:

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Print Name

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Signed Name

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Title

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Date

Signature

Presented to:

Town of Erie

March 15, 2018, 11:01:37 AM

Accepted by:

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Printed Name

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Signed Name

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Title

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Date



## Appendix A - Service Agreement

### 1. The Amilia Offering

#### a. Platform & API

Amilia's e-commerce platform ("**Platform**") provides (i) a virtual storefront that is designed to increase the revenue and streamline the operations of programs and (ii) an application program interface ("**API**" and, collectively with the Platform, the "**Amilia Solution**") to enable access to the Platform. The uses of the Amilia Solution (including use of the API through a third-party product that accesses the Platform) are subject to the terms of this Agreement.

#### b. License

Subject to you paying the royalties or license fees agreed upon with Amilia from time to time, Amilia grants you a personal, limited, non-exclusive, revocable, non-transferable license, without the right to sublicense, to electronically access and use the Amilia Solution. The Amilia Solution includes any software, programs, documentation, tools, internet-based services, components, and any updates (including software maintenance, service information, help content, bug fixes or maintenance releases) thereto provided to you by Amilia.

#### c. Customer Service Support

Amilia provides customer service support and will use commercially reasonable efforts to resolve any technical issues relating to your Amilia account ("**Account**") and your use of the Amilia Solution.

#### d. Security

Amilia maintains the administrative, technical and physical procedures to protect End User Information stored on Amilia servers from unauthorized access, accidental loss or modification. However, Amilia does not guarantee that unauthorized third parties will never be able to defeat those measures or use such information for improper purposes.

For purposes hereof, "End User Information" means: information or data created, collected, generated, licensed, leased, on your behalf or information or data otherwise under the control or responsibility of you wherever located, including, but not limited to, Personal Information or Sensitive Personal Information, that are disclosed or otherwise made available to Amilia by you pursuant to or as part of this Agreement.

"**Personal Information**" means any and all information or data (regardless of format) that (i) identifies or can be used to identify, contact or locate an individual, or (ii) that relates to an individual, whose identity can be either directly or indirectly inferred, including any information that is linked or linkable to that individual regardless of the citizenship, age, or other status of the individual. Personal Information includes but is

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not limited to: first and last name; last name plus data regarding birth; phone number; email address; street address; geolocation; customer number or identifier; government identifier; or account number or identifier. “**Sensitive Personal Information**” is a subset of Personal Information, which due to its nature has been classified by law as deserving additional privacy and security protections. Sensitive Personal Information consists of:

(i) all government-issued identification numbers (including social security, passport, national ID and driver’s license numbers); (ii) all financial account numbers (including payment or credit card numbers and bank account numbers); (iii) individually identifiable health information; (iv) biometric information; (v) all data obtained from a consumer reporting agency (such as employee background investigation reports, credit reports, and credit scores); and (vi) data elements revealing race, ethnicity, national origin, religion, trade union membership, sex life or sexual orientation, and criminal records or allegations of crimes.

### **e. Privacy**

Amilia complies in all material respects with all applicable laws regarding the collection and the use of any End User Information. Subject to the terms of the Amilia Privacy Policy (<https://www.amilia.com/legal/privacy>) and the obligations of Amilia under Section 1.d., any information entered, uploaded or otherwise furnished by you to or via the Amilia Solution shall be provided at your own risk.

### **f. Availability**

Subject to any emergency maintenance performed on an unscheduled basis and any downtime resulting from such emergency maintenance and except for any and all planned downtime, Amilia agrees to use commercially reasonable efforts to operate and maintain the Amilia Solution so as to make it available 24 hours a day, 7 days a week.

The number and the duration of any planned downtime shall be at Amilia’s sole discretion, provided, however, that Amilia intends to use commercially reasonable efforts to schedule such planned downtime during evening and weekend hours (Eastern Time).

### **g. Amilia Representations and Warranties**

Amilia represents and warrants to you that: (i) it has all necessary rights in the Platform and its intellectual property to grant to you the licences under this Agreement; and (ii) the functionality of the Platform will not be materially decreased during the term of this Agreement.

## Appendix A - Service Agreement

### 2. Your Engagement

#### a. Use

You agree to use the Amilia Solution solely for your internal business purposes as contemplated by this Agreement.

You represent, warrant and covenant that you: (i) have the sole responsibility for the accuracy, quality, integrity, legality and reliability of your data; (ii) shall use commercially reasonable efforts to prevent unauthorized access to, or use of, the Amilia Solution, and notify Amilia promptly of any such unauthorized use; and (iii) are in compliance with all applicable laws in connection with your use of the Amilia Solution.

You will not; (i) license, sublicense, sell, resell, rent, lease, assign, distribute, timeshare or otherwise commercially exploit or make the Amilia Solution available to any third party, other than as contemplated in this Agreement; (ii) send spam or otherwise duplicative or unsolicited messages using directly or indirectly the Amilia Solution in violation of applicable law; (iii) send, store or use obscene, threatening, libellous or otherwise unlawful or tortious material; (iv) send, store or use any material violating third party rights including, but not limited to, Intellectual Property Rights (as defined herein) or privacy rights; (iv) send, store or use material containing harmful computer codes, files, scripts, agents or programs; (v) interfere with or disrupt the integrity or performance of the Amilia Solution or the data contained therein; (vi) attempt to gain unauthorized access to the Amilia Solution or its related systems or networks; (vii) modify, copy or create derivative works based on the Amilia Solution or Amilia's Intellectual Property Rights therein; (viii) create internet links to or from the Amilia Solution, or frame or mirror any content forming any part of the Platform other than on your own website for the purposes hereof or otherwise for your own internal business purposes; or (ix) disassemble, reverse engineer or decompile the Amilia Solution for any purpose or reason.

You will use the trademarks, names, references, logos or other marks owned or licensed by Amilia (collectively, the "**Amilia Trademarks**") strictly in accordance with the restrictions and policies that Amilia can provide you with from time to time.

#### b. Suspicion of Unauthorized or Illegal Use

Amilia reserves the right to decline any transaction submitted to the Platform which Amilia reasonably suspects, in its sole discretion, (i) is in violation of this Agreement or any other Amilia Agreements to which you are a party or is in violation of applicable law, or (ii) exposes either party to harm, including but not limited to fraud and other criminal acts. You hereby grant Amilia authorization to share information with law enforcement about you, your transactions, or your Account if Amilia reasonably suspects that your

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Account has been used for an illegal or criminal purpose. Amilia will give you prompt advance notice of any impending disclosure of your information to law enforcement and grant you, or your attorneys, the possibility to participate in any police or legal proceeding.

### **c. Abusive Use**

Abuse or excessively frequent requests to the Platform via the API may result in the temporary or permanent suspension of your access to the API. Amilia, in its sole discretion, will determine abuse or excessive usage of the API.

### **d. Your Content**

For the term of this Agreement, you grant a non-exclusive, non-transferable (except in accordance with Section 7.h), royalty-free, fully-paid, worldwide license, to use, copy, publicly perform, publicly display, reformat, translate, excerpt (in whole or in part), sublicense, distribute, prepare derivative works of, or incorporate into other works any and all information about your goods and services ("**Qualified Offering**"), including any trademarks, trade names, service marks, logos, images, descriptions or other text, telephone numbers, and addresses therein, for any purpose, whether on the Amilia public website, third-party websites, mobile applications, syndicated advertisements or otherwise. The license rights granted hereby will apply to any form, media, or technology. The creation, distribution, transmission, public display and performance, accessing, downloading and copying of your information pursuant to the license rights granted to Amilia by this Section 2.d., to the best of your knowledge, does not and will not infringe any rights, including but not limited to Intellectual Property Rights or privacy rights, of any third party.

### **e. Customer Service**

You are solely responsible for all customer service issues relating to your Qualified Offering, including pricing, order fulfillment, order cancellation by you or the customer, returns, refunds and adjustments, rebates, functionality and warranty, technical support and feedback concerning experiences with your personnel, policies or processes. In performing customer service, you will always present yourself as a separate entity from Amilia.

### **f. Privacy**

You acknowledge having reviewed the Amilia Privacy Policy (<https://www.amilia.com/legal/privacy>), which explains how Amilia collects, uses and safeguards the personal information provided to Amilia on its website.



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### **g. Privacy of Others**

If you receive information about others through the use of the Amilia solution, you must keep such information confidential and only use it in connection with the Amilia Solution and your policies relating to the use of information that is confidential or personal or as otherwise permitted by applicable law. You may not disclose or distribute any such information to a third party or use any such information for marketing purposes unless it received express consent to do so.

### **h. Taxes**

It is solely your responsibility to determine what, if any, taxes apply to the sale of your Qualified Offering in connection with the use of the Amilia Solution, and to assess, collect, report, or remit the correct taxes to the proper tax authority. Amilia has no obligation to determine whether taxes apply to your Qualified Offering, or calculate, collect, report, or remit any taxes to any tax authority arising from any transactions.

### **i. Your Representations and Warranties**

You represent and warrant to Amilia that: (a) you are eligible to register and use the Amilia Solution and have the right, power, and ability to enter into and perform under this Agreement; (b) the name identified by you when registering is your name or business name under which you sell goods and services; (c) any sales transaction submitted by you will represent a bona fide sale by you; (d) any sales transactions submitted by you will accurately describe the Qualified Offerings sold and delivered to your customers; (e) you will fulfill all of your obligations to each customer for which you submit a transaction and will resolve any consumer dispute or complaint directly with your customer; (f) all transactions initiated by you will comply with all applicable laws, rules, and regulations applicable to your business, including any applicable tax laws and regulations; and (g) you will not use the Amilia Solution, directly or indirectly, for any fraudulent undertaking or in any manner so as to interfere with the use of the Amilia Solution.

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### 3. Termination

#### a. Termination

With reasonable advance notice to you, Amilia may suspend your Account and your access to the Amilia Solution if Amilia reasonably determines in its sole discretion that your use of the Amilia Solution is causing immediate, material and ongoing harm to the Amilia Solution or its use by others. Amilia will use commercially-reasonable efforts to resolve the issues causing the suspension of your Account. Amilia is not liable to you or any other person for any damages resulting from a suspension under these circumstances.

This Agreement may be immediately terminated by you or by Amilia if the other party is in material breach of any of the provisions of the Agreement and such breach is not cured within 30 days after receipt of notice from the non-breaching party.

Either party may terminate this Agreement immediately if the other party commits an “act of bankruptcy.” For purposes of this Section 3.a. an “act of bankruptcy” shall mean, (i) the entry of a decree or order for relief of a party by a court of competent jurisdiction in any involuntary case involving a party under any bankruptcy, insolvency, or other similar law now or hereafter in effect; (ii) the appointment of a receiver, liquidator, assignee, custodian, trustee, or other similar agent for a party or for any substantial Part of a party’s assets or property; (iii) the filing with respect to a party of a petition in any such involuntary bankruptcy case, which petition remains un-dismissed for a period of ninety (90) days or which is dismissed or suspended pursuant to Section 305 of the Federal Bankruptcy Code (or any corresponding provision of any future United States bankruptcy law); (iv) the commencement by a party of a voluntary case under any bankruptcy, insolvency, or other similar law now or hereafter in effect; or (v) the making by a party of any general assignment for the benefit of creditors.

#### b. Effects of Termination

Upon termination of this Agreement (or at the end of the transition period referred to in Section 3.c., if applicable), you agree: (i) to immediately cease use of the Amilia Solution; (ii) to discontinue use of any Amilia Trademarks or other Intellectual Property Rights of Amilia and to immediately remove any Amilia Trademarks from your website; (iii) that the license granted by Amilia to you under this Agreement shall terminate; (iv) that you will not be refunded the remainder of any fees that it paid for the Amilia Solution prior to termination or suspension, unless you terminated this Agreement because of an uncured breach by Amilia; and (v) that Amilia will not be liable to you for compensation, reimbursement, or damages in connection with your use, termination, suspension of the Amilia Solution or deletion of your information or account data, unless you terminated this Agreement because of an uncured breach by Amilia.

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Upon termination of this Agreement (or at the end of the transition period referred to in Section 3.c., if applicable), Amilia may immediately deactivate your Account you're your access to the Platform and after 60 days may delete your Account from Amilia's "live" site, unless you terminate this Agreement because of an uncured breach by Amilia. During such 60 days and upon your request, Amilia will grant you limited access to the Platform for sufficient time for the sole purpose of allowing it to retrieve your data, provided you have paid in full all undisputed amounts owed to Amilia.

### c. Transition Period

In the event of non-renewal by either party, or if you have terminated this Agreement due to an uncured material breach by Amilia pursuant to Section 3.a., Amilia will, upon written request, provide a month-to-month continuation of this Agreement, not to exceed 6 months, until you have had an opportunity to select an alternative provider and transition your operations to that provider.

## 4. Confidential Information

**"Confidential Information"** shall mean the terms and conditions of this Agreement, any pricing information provided by either party (a **"Disclosing Party"**) and any information about the Disclosing Party which the other party (a **"Receiving Party"**) received or may in the future receive in connection with this Agreement which is not otherwise available to the general public without restriction as well as any and all other Intellectual Property Rights, proprietary knowledge, trade secrets, customer lists or information concerning the Disclosing Party's internal affairs, technical information, specifications, drawings, documentation and "know-how" of every kind and description supplied by the Disclosing Party, or indirectly by any of its affiliates, under this Agreement or otherwise.

Subject to applicable law, including without limitation the Colorado Open Records Act, C.R.S. § 24-72-200.1, *et seq.*, all Confidential Information of a Disclosing Party is, and shall remain, the exclusive property of the Disclosing Party. The Receiving Party shall treat and protect the Confidential Information of the Disclosing Party as confidential and shall not reproduce or divulge the Confidential Information of the Disclosing Party in whole or in part to any third party, except as authorized in writing by the Disclosing Party or as permitted by this Agreement. The Receiving Party may disclose Confidential Information only to its affiliates, employees, directors or officers on a "need to know" basis, provided that each such affiliates, employee, director or officer, as applicable, shall have signed a confidentiality undertaking no less restrictive than the provisions of this Section 4. This Section 4 shall survive the termination or expiry of this Agreement except as provided in this Section 4.

Notwithstanding any provisions contained in this Agreement, the Receiving Party shall not be required to maintain in confidence the following information: (i) information which, at the time of disclosure to the Receiving Party, is in the public domain; (ii)

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information which, after disclosure, becomes part of the public domain by publication or otherwise, except by breach of this Agreement by the Receiving Party; (iii) information that was in the Receiving Party's possession at the time of disclosure by the Disclosing Party, provided that such information was not obtained, directly or indirectly, from the Disclosing Party on a confidential basis; (iv) information that the Receiving Party can demonstrate resulted from its own research and development, independent of disclosures by the Disclosing Party; or (v) information that the Receiving Party received from third parties, provided that such information was not obtained, directly or indirectly, from the Disclosing Party on a confidential basis.

Notwithstanding anything in this Agreement to the contrary, the Receiving Party may disclose confidential information pursuant to any governmental, judicial, or administrative order, subpoena, discovery request, regulatory request or similar requirement, provided that the Receiving Party promptly, to the extent legally permissible and practicable, notifies the Disclosing Party in writing of such demand for disclosure so that the Disclosing Party, at its sole expense, may seek to make such disclosure subject to a protective order or other appropriate remedy to preserve the confidentiality of the confidential information. The Receiving Party shall not oppose and shall cooperate with efforts by the Disclosing Party with respect to any such request for a protective order or other relief. Notwithstanding the foregoing, if the Disclosing Party is unable to obtain or does not seek a protective order and the Receiving Party is legally requested or required to disclose such confidential information, disclosure of such confidential information may be made without liability.

The Receiving Party shall, upon any request by the Disclosing Party, immediately return or destroy the Disclosing Party's Confidential Information and all portions and copies thereof, which are in Receiving Party's possession or control.

If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of this Section 4, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, without the requirement of posting a bond, it being specifically acknowledged by the Parties that any other available remedies are inadequate.

### 5. Intellectual Property Rights

All patents, patent applications, copyright, names, trademarks, service marks, trade dress, know-how, trade secrets, industrial designs, other similar instruments or rights whether proprietary or otherwise, whether registered or unregistered, and all rights in relation to any of the foregoing which are recognized in any jurisdiction ("**Intellectual Property Rights**") owned or held by Amilia shall always remain Intellectual Property Rights of Amilia. Nothing in this Agreement shall be construed or interpreted as conferring upon you any right or interest in the Intellectual Property Rights owned or

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held by Amilia, whether in the Platform, the API or otherwise, other than as expressly set forth in this Agreement.

All data entered or uploaded by you, with the exception of transaction data shared with the user, is your sole and exclusive property.

Amilia is free to use or disclose any comments or ideas that you submit to Amilia without any compensation to you. You further acknowledge that, by acceptance of your submission, Amilia does not waive any rights to use similar or related ideas previously known to Amilia, or developed by your employees, or obtained from sources other than yours.

### 6. [Liability, Limitation of Liability and Indemnification](#)

#### a. **Your Liability**

You are responsible for all claims, damages, fines, fees, penalties and other liability (collectively, the “**Damages**”) arising out of or relating to your breach of this Agreement, and/or your use of the Amilia Solution in violation of the terms of this Agreement.

#### b. **Amilia Liability**

Amilia, at its own expense, will defend and indemnify you from and against any and all Claims (i) alleging that the Platform, and your use of the Platform in accordance with this Agreement, infringes the Intellectual Property Rights or other rights of, or has caused harm to, a third party; (ii) arising out of our breach of Section 4 (Confidential Information); or (iii) arising out of the negligence or wilful misconduct by it or its employees or agents. If a Claim is brought or threatened against you alleging

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infringement of the Intellectual Property Rights of a third party, Amilia will, at our sole option and expense, use commercially reasonable efforts either (a) to procure a license that will protect you against such Claim without cost to you; (b) to modify or replace all or portions of the Platform as needed to avoid infringement, such update or replacement having substantially similar or better capabilities; or (c) if (a) and (b) are not commercially feasible, terminate the Agreement. The rights and remedies granted to you in this section state Amilia's entire liability, and are your exclusive remedy, with respect to any claim of infringement of the Intellectual Property Rights of a third party.

### c. **No Warranties**

EXCEPT AS EXPRESSLY STATED IN SECTION 1.g., OR AS REQUIRED BY APPLICABLE LAW, THE PLATFORM, THE API AND ALL ACCOMPANYING DOCUMENTATION ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES, EITHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. USE OF THE PLATFORM AND THE API IS AT YOUR OWN RISK.

### d. **Limitation of Liability and Damages**

IN NO EVENT SHALL (I) AMILIA, (II) SUPPLIERS OR LICENSORS OF AMILIA, OR (III) ANY OF THE RESPECTIVE AFFILIATES, AGENTS, SHAREHOLDERS, DIRECTORS, OFFICERS AND EMPLOYEES OF ANY OF THE ENTITIES LISTED IN (I) OR (II) ABOVE, BE LIABLE FOR ANY LOST PROFITS, LOSS OF DATA, OR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES ARISING OUT OF, IN CONNECTION WITH OR RELATING TO THIS AGREEMENT OR THE PLATFORM OR THE API.

UNDER NO CIRCUMSTANCES WILL AMILIA BE RESPONSIBLE FOR: (A) ANY DAMAGE, LOSS OR INJURY RESULTING FROM HACKING, TAMPERING OR OTHER UNAUTHORIZED ACCESS OR USE OF THE PLATFORM, THE API, YOUR ACCOUNT, THE PLATFORM SERVERS OR ANY INFORMATION CONTAINED THEREIN (EXCEPT FOR BREACHES OF AMILIA'S OBLIGATIONS DESCRIBED IN Section 1.d.); (B) PERSONAL INJURY, LOSS OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO OR USE OF THE PLATFORM OR THE API (EXCEPT TO THE EXTENT SUCH LIMITATION IS NOT PERMITTED BY APPLICABLE LAW); (C) INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE PLATFORM OR THE API, NOT CAUSED BY THE GROSS NEGLIGENCE OF AMILIA; (D) ANY SOFTWARE BUGS, VIRUSES, TROJAN HORSES, OR OTHER HARMFUL CODE THAT MAY BE TRANSMITTED TO OR THROUGH THE PLATFORM OR THE API, NOT CAUSED BY THE GROSS NEGLIGENCE OF AMILIA; (E) ERRORS, INACCURACIES OR OMISSIONS IN ANY CONTENT OR INFORMATION PROVIDED BY YOU OR ANY THIRD PARTY, AND/OR (F) THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY.

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YOU MAY NOT USE THE PLATFORM OR THE API IF YOU ARE A RESIDENT OF A COUNTRY EMBARGOED BY CANADA, OR ARE A FOREIGN PERSON OR ENTITY BLOCKED OR DENIED BY THE CANADIAN GOVERNMENT OR BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA.

THE LIMITATIONS OF LIABILITY AND DAMAGES SET FORTH IN THIS SECTION 6.d. DO NOT APPLY TO AMILIA'S INDEMNITY OBLIGATIONS RELATING TO INFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF OTHER PERSONS AS SET OUT IN SECTION 6.b.

### 7. Other General Legal Terms

#### a. Disputes; Choice of Law; Jurisdiction and Venue

The validity of this Agreement, the construction and enforcement of its terms, and the interpretation of the rights and duties of the parties shall be governed by the laws of the State of Colorado, without regard to conflict of law rules. The parties hereto agree to the exclusive jurisdiction of the courts of Colorado for any legal controversy arising in connection with this Agreement.

#### b. Interpretation

Headings are included for convenience only, and shall not be considered in the interpretation of this Agreement.

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**c. No Waiver or Limitation**

A party's failure to assert any right or provision under this Agreement shall not constitute a waiver of such right or provision. This Agreement does not limit any rights that either party may have under trade secret, copyright, patent or other laws.

**d. Right to Change**

At any time Amilia has the right to change, delete, discontinue, or impose conditions on any feature or aspect of the Platform or the API with notice that Amilia in its sole discretion deem to be reasonable in the circumstances, including such notice on its website, by email or any other website maintained or owned by us for the purposes of providing services in connection with this Agreement. Any use of the Platform after its publication of any such changes shall constitute your acceptance of such change.

**e. Amendment**

This Agreement may not be amended or modified except in writing signed by both parties.

**f. Disclosures and Notices**

You agree that Amilia can provide disclosures and notices regarding the Platform and the API to you by posting such disclosures and notices on its website or emailing them to the administrator's email address listed in your Account.

**g. Independent Contractor**

Nothing in this Agreement shall be construed in any manner to create between the parties the relationship of joint venturers or partners, employer and employee, master or servant. Neither party shall be obligated nor bound by any agreements, representations or warranties made by the other party.

**h. Assignment**

This Agreement, and any rights granted and obligations hereunder, may not be transferred or assigned without the prior written consent of Amilia. Amilia may assign, transfer and convey this Agreement to any of its affiliates or to a third party acquiring all or substantially all of Amilia's assets without your consent.



## Appendix A - Service Agreement

### **i. Parties**

This Agreement is binding upon the parties and their respective successors and permitted assigns.

### **j. Third Party Platforms and Links to Other Websites**

You may be offered services, products and promotions provided by third parties and not by Amilia, and the Amilia website may contain links to third-party websites as a convenience to you. If you decide to use these third-party services, you will be responsible for reviewing and understanding the terms and conditions associated with these services. Amilia is not responsible for the performance of these services and does not approve of, endorse or warrant the performance of these services. When you use any such link to go from Amilia's websites to another website, the Amilia Privacy Policy is no longer in effect.

### **k. Force Majeure**

"Force Majeure Event" means fire, telecommunications failures, utility failures, power failures, equipment failures, labour strife, riots, war, terrorist attack, public health emergency, non-performance of vendors or suppliers, acts of God or other cause over which the Affected Party has no reasonable control. If either party (an "Affected Party") is delayed from performing any of its obligations (except payment obligations) under this Agreement because of a Force Majeure Event then performance is excused for the period of the delay to the extent the delay is due to a Force Majeure Event and the Affected Party will not be in default under this Agreement. As soon as reasonably practicable after the start of a Force Majeure Event, the Affected Party will give to the other party written notice of the nature and expected duration of such event. If the delay continues for more than 15 days, then the party entitled to performance may give to the Affected Party notice of immediate termination of this Agreement.

### **l. Entire Agreement**

These terms and conditions and the content of the Software Agreement to which this Appendix A is attached constitute the entire agreement between the parties with respect to the matters covered by such Software Agreement and Appendices. In the event of a conflict between this Agreement and any other Amilia Agreement or policy, this Agreement shall prevail on the subject matter of this Agreement.

### **m. Severability**

If any provision of this Agreement (or portion thereof) is held to be invalid or unenforceable under applicable law, then it shall be changed and interpreted to

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accomplish the objectives of such provision to the greatest extent possible under applicable law, and the remaining provisions will continue in full force and effect.

**n. Survival**

Any provision that is reasonably necessary to accomplish or enforce the purpose of this Agreement remain in effect in accordance with its terms upon the termination of this Agreement.

**o. Currency**

Monetary amounts stated, advanced, paid or calculated in or pursuant to this Agreement are and shall be stated, advanced, paid or calculated, as the case may be, in the agreed upon currency.

**p. Counterparts**

This Agreement may be executed in any number of counterparts, and each such counterpart hereof will be deemed to be an original instrument, but all such counterparts together will constitute but one agreement. Transmitted copies (reproduced documents that are transmitted via photocopy, facsimile or any other process that accurately transmits the original, for example by email receipt of scanned documents) are considered documents equivalent to original documents and signatures so transmitted and received shall be treated for all purposes of this Agreement as original signatures and shall be deemed valid, binding and enforceable by and against the parties.

## TOWN OF ERIE – PROJECT MANAGEMENT & IMPLEMENTATION SCHEDULE

### Project Approach – Scope of Services Overview

An implementation team consisting of an Implementation Specialist and a Project Manager will be leading the training, implementation, and project management. They will be the primary contacts during the onboarding and implementation phases. They will lead discussions at the initiation phase (after contracting) to have a solid understanding of the organization's needs, business rules and processes.

Their primary goal working with your teams is to critically evaluate your operations and processes with the goal of parsing core business needs from processes. From there they work to align your business needs with Amilia best practices. At all times our project team will be keeping in mind the overall goal of the project which is to better serve the community.

At this time, we are proposing that implementation follow the schedule below. While we have ideas for implementation timelines, we believe that they warrant an interactive discussion prior to committing to them. The current proposed schedule provides steps to the go-live date, understanding peak times, and allowing sufficient time for configuration and implementation readiness activities such as Training and Change Management.

### High level project plan

*Our Professional Services team partners with you to ensure a successful implementation.*

#### Project Plan - dependent on schedule availability.

Deliverable	Details	Approximate Timeline	Training Hours
Project kickoff meeting call: introductory call with key stakeholders from Town of Erie and Amilia	<i>Goal of Meeting</i> Confirm primary stakeholders roles, responsibilities and availabilities, review Amilia's proposed project plan and timeline, including a review of Amilia setup and configurations, onboarding on Amilia platform, go-live setup, and testing	Within 1 week after signed contract 1 Hour	--
Onsite Business Assessment	<i>Goal of Assessment</i> Shadow the daily users by group, to understand the business processes	January 2020 2 Days	--

	<p>and rules. Identify current state and begin planning for future state of any process changes.</p> <p>Facilitate a structured business assessment workshop by user group to understand areas of concern</p>		
Onboarding sessions: Video conference call series, hosted by the Amilia Implementation Specialists	<p><i>Goal of Video Conference Series</i></p> <p>High level overview of the Amilia platform with groups of 5 or less Town of Erie team members. Begin introducing employees to the platform and to create familiarity within Amilia</p> <p>These sessions are supplemented with small homework assignments to support learning, as well as the WalkMe tutorial allowing users to do self-paced learning.</p>	Webinars, monthly, Ongoing from January – October 2020	8 Hours per group
Training session 1: Onsite	<p><i>Goal of Training Session</i></p> <p>Training to be completed in person, by user group. Following the initial training session, users will be able to use Amilia consistently, working towards an expert level.</p> <p>A learning assessment is completed by the users to ensure material covered is understood. Areas for additional training required will be covered in session 2</p> <p>This session is customized to the Town of Erie business rules and processes.</p>	Q1 2020	15 – 25 Hours (2-3 Days)
Homework	<p><i>Goal of Homework</i></p> <p>To ensure the users are able to recreate what they learned in training, they will be asked to complete bi-weekly or monthly homework (depending on finalized timelines). This will allow users to practice the step by step processes.</p>	Ongoing	12 – 14 Hours

	The homework will also ask users to create programs and activities, following the predetermined business rules, resulting in populating the Town of Erie store for go live.		
Status Reports	<i>Goal of Status Reports</i>  Scheduled calls with the key stakeholders to evaluate project plan progress, scope management, change management, and risks.	Ongoing	--
Train the trainer			
Community Event	<i>Goal of Community Event</i>  Change management objective to train members of the community that may need additional support.  Invite citizens for cake and coffee to introduce Amilia as the new system for Town of Erie. Amilia employees are onsite for a brief demo, and then to help users register for their Amilia account.  There are no real activity registrations, only demo. (not previously quoted)	April 2020 (time permitting)	--
Go Live	<b>Registration Begins!</b>	April 2020	--
<i>Total Training Hours</i>			<i>35 – 55 Hours</i>

\*\*Timeline and budget subject to change based on full scoping of requirements, if scope is larger than expected.

## KEY STAFF

### Sales team overview and credentials

**William Owens, Sales Executive**, will be Lewisville's main contact throughout the pre-sale and negotiation process. William has been with Amilia for four and a half years and has in-depth experience working with parks and recreation agencies across North America.

### Leadership overview and credentials

**Joelle Lapointe, Director of Professional Services**, oversees the Professional Services Team to ensure successful implementations and projects are delivered on time, on budget and within scope to our clients. Joelle is a senior level project manager with over 15 years of combined experience in projects, process improvement, and customer service. In addition to her Project Management Professional certification, Joelle has a degree in Business and Project Management from DeVry Institute of Technology and is a certified Change Management Specialist.

**Sebastien Clement, Director of Customer Care**, has over 10 years of extensive customer service experience. His team ensures top quality service to our clients with clear and effective communication in order to meet SLAs.

**Isabelle Harrison, Director of Customer Success**, manages the Customer Success team who engages and manages clients after onboarding has been completed. Her team ensures clients reach their full potential with our product and services.

**Martin Drapeau** is our *Chief Technology Officer (CTO)*. He boasts 20 years of experience in software development in companies such as Acquisio, Planbox and Synopsys. He holds an MBA and a bachelor's degree in Computer Science from the University of Ottawa.

## BILLING SCHEDULE

**The professional services listed above will not exceed \$15,000 USD in combined bills to Town of Erie. If Town of Erie requests services outside this plan, Amilia will quote it separately.**

Name of Service	Service Duration	Cost	Billing schedule
Project Management <ul style="list-style-type: none"><li>- Project managed by a trained project manager.</li><li>- Detailed and regular project updates to key stakeholders</li></ul>	8 months (Jan 2020 – October 2020) OR Duration of the project	\$7000	Billed - half at project commencement & half at the completion of the project.

<p>during the entire implementation.</p> <ul style="list-style-type: none"> <li>- Business assessment - business rule mapping, identify user groups, identify timelines.</li> <li>- Training plan - collaborative and tailored approach with all stakeholders.</li> <li>- Change management plan.</li> </ul>			
Training Webinars	20 hours.	<del>\$100 per hour</del>	Waived
Onsite Training #1	2 days (March 2020)	\$5000 (includes training and all expenses related to trainers)	Billed upon completion
Train the trainer	2-3 days (delivery tbd based on results of business assessment)	\$2000	Billed upon completion
Community Event	1 day (October 2020)	\$1000	Billed upon completion