

WARREN-HAMILTON COUNTIES  
**OFFICE FOR THE AGING**  
1340 STATE ROUTE  
LAKE GEORGE, NEW YORK 12845

CHRISTIE SABO  
DIRECTOR

TEL: (518) 761-6347  
FAX: (518) 761-6344

**HUMAN SERVICES COMMITTEE MEETING**  
**THURSDAY, SEPTEMBER 27<sup>th</sup> 2012 9:30am**  
**OFFICE FOR THE AGING AGENDA**

- I. Committee meeting called to order by Dave Strainer
- II. Action Agenda
  - a) Resolution Request Form #10 Transfer of Funds- Various codes
  - b) Resolution Request Form #3 New Contract- Synergy Software Technologies (Ombudsmanager Site)
- III. Old business/pending items- N/A
- IV. Current business- N/A



# RESOLUTION REQUEST FORM NO. 10

## Request for Transfer of Funds

TO: JOAN SADY, CLERK, WARREN COUNTY BOARD OF SUPERVISORS

DEPARTMENT NAME: OFA

SIGNED:

DATE: 9/27/12

<u>FROM CODE</u>	<u>TITLE</u>	<u>TO CODE</u>	<u>TITLE</u>	<u>AMOUNT</u>
A6773 130	Nut. For Eld-War Co. Sal PT	A6783 424	Home Energy Assist. Prog Postage	\$ 6
A6773 130	Nut. For Eld-War Co. Sal PT	A6772 350 470	Long Term Care Ombudsman Contract	\$ 1,350

Please state reason for transfers requested: Transfers to adjust for overages in certain codes

### CONTINGENT FUND TRANSFER REQUESTS

<u>FROM CODE</u>	<u>TITLE</u>	<u>TO CODE</u>	<u>TITLE</u>	<u>AMOUNT</u>
A.1990 469	Contingent Account- Other Payments/Contributions			

Please state reason for transfer request:

Please file original request with Clerk of the Board and retain copy for your records.



# RESOLUTION REQUEST FORM NO. 3

## *Request for New Contract*

**DEPARTMENT NAME:** Office for the Aging

**DATE:** 9/27/12

- (a) Is this a Result of a Bid or Request for Proposal? No
- (b) Purpose of Contract: To renew agreement previously maintained by state for mandatory Ombudsmanager Site (100% reimbursed)
- (c) Name of Contractor: Synergy Software Technologies
- (d) Address of Contractor: 25 New England Drive, Essex Junction VT 05452
- (e) Contractor's Contact Person and Telephone Number: Tim Riley 802-316-4718
- (f) Has or will the Contract be provided, if so, please attach: Yes, see attached
- (g) Commencement Date of Contract: 11/1/12-10/31/13
- (h) Termination Date of Contract: 10/31/13
- (i) Payment Provisions: i) Lump sum amount \$1,346.40  
ii) hourly rate amount  
iii) total amount not to exceed  
iv) how will payments be made (i.e. monthly, quarterly, upon completion of the project, etc.
- (j) Where are the Funds for this Contract? List Budget Code, Object Code, Full Title\* and Amount: OR Capital Project OR Capital Reserve Project Number, Title, and Amount: A6772 350 470 OFA Long Term Care Ombudsman Contract

Sample: A.1010 470 Legislative Board – Contract \$xx.xx  
Capital Project No. H289.9550 480 – Old Jail Renovations \$xx.xx





## LICENSE AND SERVICE CONTRACT RENEWAL AGREEMENT

Our records indicate that your licensing and/or subscription will expire on 10/31/12. To assure a smooth renewal process, and to avoid interruption of services, please:

1. Verify the attached renewal invoice. Please notify Tim Riley immediately with any changes at 802-316-4718 or [triley@harmonyis.com](mailto:triley@harmonyis.com).
2. Submit payment or a signed purchase order authorizing the invoice PRIOR to the start date of your license period (to avoid interruption of services).
3. Indicate, by signing and returning this Renewal Agreement, your acceptance and agreement that you are bound by the existing terms of your contract(s) and license(s).
4. Submitting payment, or a signed purchase order, or use of the software and/or subscription services after the above expiration date, is your affirmative agreement that you are bound by the terms and conditions of the agreements set out in the attached invoice.

CUSTOMER:

Signature	Title	Date
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Agency name and address (Print Clearly)

CONTRACTOR:

Michael Borton, Chief Financial Officer	Date
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# SUBSCRIPTION AGREEMENT FOR A HOSTED PLATFORM SOLUTION

The documents below describe the relationship between Synergy Software Technologies, Inc. ("Saas Provider") and the Client identified below ("Client") (each of Saas Provider and Client, a "Party"). The documents attached to this cover page will consist of the Master Terms and Conditions, which describe the general legal terms governing the relationship, and one (1) or more orders, attachments, schedules, or addenda setting forth additional details (collectively, the "Agreement"). This Agreement will become effective when this cover page is executed by authorized representatives of both Parties (the "Effective Date").

<b>CLIENT INFORMATION:</b>	
Name/Client: _____	Principal Contact Person: _____
Address: _____	Title: _____
_____	Phone: _____
_____	Fax: _____
_____	Email Address: _____
Billing Contact: _____	
Title: _____	
Phone: _____	
Fax: _____	
Email Address: _____	
	Client Tax ID Number: _____

**FOR IN-PERSON USE (STREET ADDRESS ONLY)**

Contract: \_\_\_\_\_

Client Type: Commercial  or Government

Please indicate by checking the appropriate boxes below which methods of advertising or any other method is covered and applied to this Agreement:

(1) (a) Subscription Order

(1) (b) Implementation of enterprise social services

(1) (c) SaaS License

Other Methods - see supplemental security BAA or other documents (if applicable)

The Parties have caused their duly authorized representatives to execute this Agreement as of the dates set forth below.

<b>CLIENT:</b> _____	<b>SYNERGY SOFTWARE TECHNOLOGIES, INC.</b>
By (Signature): _____	By (Signature): _____
Name (Printed): _____	Name (Printed): _____
Title: _____	Title: _____
Date: _____	Date: _____

## Master Terms and Conditions

### 1. DEFINITION OF TERMS

The following terms have the following meanings:

- 1.1. "Confidential Information" means all confidential or proprietary information disclosed by one Party to the other in connection with this Agreement, unless it is or later becomes publicly available through no fault of the other Party or it was or later is rightfully developed or obtained by the other Party from independent sources free from any duty of confidentiality. Without limiting the generality of the foregoing, Confidential Information shall include: (a) Client data and non-public information, documentation, and materials, which may be disclosed or made available from any source or in any form relating to the Client's business, financial information, patents, employees, programs, documentation, techniques, trade secrets, and systems, and (b) Saas Provider's Proprietary Items. Confidential Information shall include the terms and pricing in this Agreement, but not the fact that this Agreement has been signed, the identity of the Parties or the identity of the services or products.
  - 1.2. "Documentation" means Saas Provider's standard user guides and manuals relating to the Services and Platform, including on-line help, as updated and amended from time to time.
  - 1.3. "Named User" means a specific and unique individual employee, agent or contractor of Client with access to use of the Software for the benefit of Client in the operation of Client's business. Client acknowledges and agrees that, as between Client and Saas Provider, Client shall be responsible for all acts and omissions of Named Users.
  - 1.4. "Order" means Saas Provider's standard order form executed by both Parties, substantially in the applicable form attached to this Agreement, or an order in another form that is executed by both Parties and references this Agreement. Schedule A sets forth a form for the initial subscription Order. Schedule B sets forth a form for initial Professional Services required for implementation and training.
  - 1.5. "Platform" means Saas Provider's proprietary application software, web-site platforms, hardware, and technology infrastructure supporting the Services.
  - 1.6. "Proprietary Items" means, collectively, the Services, Platform, and Documentation, the visual expressions, screen formats, report formats and other design features of the Services and Platform, all ideas, methods, algorithms, formulae and concepts used in developing and/or incorporated into the Services, Platform, or Documentation, all future modifications, revisions, updates, refinements, improvements and enhancements of the Services, Platform, or Documentation, all derivative works (as such term is used in U.S. copyright laws) based upon any of the foregoing, deliverables and work product arising from the Professional Services, and all copies of the foregoing.
  - 1.7. "Services" or "Saas Services" means the services that are ordered by Client under a subscription Order, including limited access and use rights to the applicable Platform in accordance with the Documentation and this Agreement. Saas Services do not include Professional Services.
  - 1.8. "Professional Services" means services designated as such under Section 3 and in an Order for Professional Services. Professional Services may include training, data conversion, deployment, or implementation services other than the Saas Services.
  - 1.9. "Subscription Term" means the duration of Client's right to receive, access, and use the Services and Platform, as set forth on an Order (the "Initial Subscription Term") and any subsequent Renewal Subscription Terms. In the event that such duration is not specified on the applicable Order, the Subscription Term shall be thirty six (36) months. The Subscription Term shall automatically renew for a term that is equal to twelve (12) months, unless one Party provides the other Party at least ninety (90) days written notice of its intent to not renew the Subscription Term (a "Renewal Subscription Term").
- ### 2. SUBSCRIPTION RIGHTS AND OBLIGATIONS
- 2.1. **Subscription Rights; Saas Provider Obligations.** Subject to the terms and conditions of this Agreement, Saas Provider shall make available to Client and its Named Users on a non-exclusive and non-transferable basis during the Subscription Term the Services in accordance with the Documentation, applicable Order(s), and the following:
    - a) Saas Provider shall host, operate, maintain, and support the Platform as necessary to make available the Services in accordance with the service levels set forth in Schedule C;
    - b) Saas Provider shall specify to Client procedures according to which Client may establish and obtain access to and use of the features and functions of the Services and Platform, including, without limitation, provision of any access codes, passwords, web-sites, connectivity standards or protocols, or any other relevant procedures;

- c) SaaS Provider shall provide to Client standard support for the Services and Platform at no additional charge, and/or specialized support if purchased by Client and described in an Order;
  - d) From time to time in accordance with SaaS Provider's generally applicable procedures, SaaS Provider shall make available and implement upgrades, enhancements, and error corrections at no additional charge when such upgrades, enhancements and error corrections are generally made available to its other clients at no additional charge.
- 2.2. **Named Users.** Unless otherwise specified in the applicable Order, (a) Services are purchased for a specified number of Named Users and may be accessed by no more than the specified number of Named Users, (b) additional Named User subscriptions may be added during the Subscription Term at a mutually agreed upon fee, and (c) the added Named User subscriptions shall terminate on the same date as the initial Named User subscriptions. Named User subscriptions are for designated Named Users and cannot be shared or used by more than one individual, but may be reassigned to new Named Users replacing former Named Users who no longer require access or use of the Services or Platform in the foreseeable future (e.g., Named Users who terminate their employment with Client). Any individuals that use or access the Services or Platform must be licensed as Named Users, including individuals using or access the Services or Platform through interfaces, framing, intermediary systems, or similar means.
- 2.3. **Client Responsibilities.** Client shall (a) be responsible for connecting to and using the Services and Platform made available to it in accordance with this Agreement, (b) be responsible for Named Users' acts and omissions, (c) be responsible for the accuracy, quality, integrity and legality of Client and Named User data and the means by which such data was acquired, (d) use commercially reasonable efforts to prevent unauthorized access to or use of the Services or Platform, and notify SaaS Provider promptly of any such unauthorized access or use, (e) use the Services and Platform only in accordance with this Agreement, the Documentation and applicable laws and regulations, and (f) reasonably cooperate with SaaS Provider as necessary for SaaS Provider to perform its obligations.
- 2.4. **Restrictions.** Client shall not (and shall not permit any Named User to) (a) make the Services or Platform available to any third party other than Named Users, (b) resell, lease, distribute, transfer or otherwise make available the Services or Platform on a time-sharing or service bureau basis, (iii) use the Services or Platform to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (c) use the Services or Platform to store or transmit malicious code, (d) use or access the Services or Platform in any way that threatens the integrity, performance, or availability of the Services or Platform or any data therein, (e) attempt to gain unauthorized access to the Services, Platform or the data stored or processed therein, other than authorized Client data, or (f) decompile, disassemble, or reverse engineer the Services or Platform, in whole or in part. SaaS Provider may restrict or prohibit access to Named Users that SaaS Provider reasonably suspects are breaching obligations under this Agreement.

### 3. IMPLEMENTATION, TRAINING, AND OTHER PROFESSIONAL SERVICES

- 3.1. **SaaS Provider Obligations.** Client may engage SaaS Provider to perform certain Professional Services in connection with the Services or Platform, including, without limitation, data conversions, training, deployment, implementations, integration, or other Professional Services through Professional Service Orders. Any Order for Professional Services shall describe the fees, costs and expenses payable, if any, by Client to SaaS Provider and any assumptions or dependencies relating to such Professional Services. SaaS Provider shall have no obligation to perform any Professional Services until an Order for such Services has been executed.
- 3.2. **Modifications and Change Control.** A Party may request a modification to the Professional Services by written request to the other Party and specifying the desired modification(s). After receiving a request from Client, SaaS Provider shall submit an estimate of the impact for such modifications and a revised estimate of the time for performance following receipt of such request and all required information. Modifications shall be performed under the terms of this Agreement and the applicable Order once mutually agreed. Modifications in any Order shall become effective only when executed by authorized representatives of both Parties.
- 3.3. **Client Responsibilities.** Client shall cooperate with SaaS Provider as necessary for SaaS Provider to provide Professional Services. Subject to the applicable Order, Client shall make available in a timely manner at no charge to SaaS Provider all facilities, office space and equipment, programs, data, files, documentation, test data, or other information and resources required by SaaS Provider for the performance of the Professional Services. Client shall be responsible for, and assumes the risk of, any problems resulting from, the content, accuracy, completeness and consistency of all data, materials and information supplied by Client. Client shall reimburse SaaS Provider for any additional efforts or costs it incurs as a result of Client's failure to perform its obligations.

### 4. CLIENT DATA

- 4.1. **Client Data.** Client acknowledges and understands that use of the Services or Platform will permit or require Client to provide certain Client data to SaaS Provider for purposes of processing or storage.
- 4.2. **Data Ownership.** All Client data shall be considered proprietary to Client. SaaS Provider will only use Client data for performing the Services, Professional Services, and as authorized under this Agreement.
- 4.3. **Data Safeguards.** SaaS Provider shall maintain reasonable and appropriate data safeguards and procedures designed to prevent the

authorized use or disclosure of Client data as required under applicable laws ("Data Safeguards"). SaaS Provider will periodically maintain archives and back-ups of Client data in accordance with SaaS Provider's generally applicable disaster recovery and business continuity procedures and industry standards. Client data may be stored on media or hardware containing other client data both during and after the Subscription Term, provided such media and hardware are subject to the Data Safeguards.

4.4. **End of Subscription Term; Data Transfer.** Upon the termination or expiration of the Agreement and subject to payment of all amounts then due an owing (other than Good Faith Disputes), SaaS Provider will transfer a copy of Client data in SaaS Provider's possession or control to Client within thirty (30) days following any termination or expiration (or otherwise upon Client's reasonable request). Client shall pay a fee to SaaS Provider for such work as determined by SaaS Provider's then-standard hourly rates and any related expenses incurred in connection with the transfer. SaaS Provider is not obligated to store any Client data for more than 60 days following the termination or expiration of the Subscription Term, but will do so for a mutually agreed storage fee. SaaS Provider will delete any Client data in its control or possession thereafter, but may retain archival copies for archival purposes only and subject to the Data Safeguards.

## 5. PAYMENTS

5.1. **Fees and Expenses.** In consideration for the subscriptions granted to Client and the performance of SaaS Provider's other obligations under this Agreement, Client shall pay to SaaS Provider, without offset or deduction, the fees and expenses as determined under the Orders and this Agreement. The fees for Professional Services, if any, shall be based upon SaaS Provider's standard professional fee rates then in effect, unless otherwise stated in an applicable Order. SaaS Provider reserves the right to increase the fees each year, but must provide notification of such increases at least thirty (30) days in advance. Unless otherwise provided in an Order, all such fees shall be due and payable within thirty (30) calendar days after an invoice is issued by SaaS Provider. Whenever any services are provided by SaaS Provider at a Client location or any other location requested by Client other than one of SaaS Provider's locations, Client shall reimburse SaaS Provider for reasonable travel, lodging, meal and related expenses incurred by SaaS Provider representatives in providing such services.

5.2. **Taxes.** The fees and other amounts payable by Client to SaaS Provider do not include any taxes of any jurisdiction that may be assessed or imposed upon the Services, Platform, Documentation, Professional Services, or otherwise, including sales, use, excise, value added, personal property, export, import and withholding taxes, excluding only taxes based upon SaaS Provider's net income. Client shall directly pay any such taxes assessed. Client shall promptly reimburse SaaS Provider for any taxes payable or collectable by SaaS Provider (other than taxes based upon SaaS Provider's net income). If Client has provided SaaS Provider with proof of its tax exempt status, then, in the event that Client's tax exempt status should become altered, Client shall be obligated to notify SaaS Provider immediately of any such modification and Client shall become liable for all taxes as set forth above. In the event Client fails to notify SaaS Provider of any such change, Client shall be liable for payment of any tax related penalties or interest assessed against SaaS Provider or Client as a result of such Client failure.

5.3. **Payment Terms.** Fees and expenses shall be invoiced by SaaS Provider as set forth in the Order. If not specified in an Order, fees shall be payable in advance upon execution of the Order and expenses as incurred. All invoices shall be sent to Client's address for invoices as designated by Client or, if not designated, then the address printed on this Agreement. If any Client payment is more than thirty (30) days past due, interest at the rate of twelve percent (12%) per annum (or, if lower, the maximum rate permitted by applicable law) shall accrue, unless the non-payment is subject to a Good Faith Dispute. All fees and other amounts paid by Client under this Agreement are non-refundable. All dollar amounts referred to in this Agreement are in United States Dollars. "Good Faith Dispute" means a good faith dispute by Client of certain amounts invoiced under this Agreement. A Good Faith Dispute will be deemed to exist only if (a) Client has given written notice of the dispute to SaaS Provider promptly after receiving the invoice and (b) the notice explains Client's position in reasonable detail. A Good Faith Dispute will not exist as to an invoice in its entirety merely because certain amounts on the invoice have been disputed.

5.4. **Suspension.** In the event that Client's account is more than thirty (30) days overdue, SaaS Provider shall have the right, in addition to its remedies under this Agreement or pursuant to applicable law, to suspend Client's use of the Services and Platform, without further notice to Client, until Client has paid the full balance owed, plus any interest due.

## 6. WARRANTIES AND LIMITATIONS

6.1. **Performance Warranties.** The Services and Platform shall perform as described in the then current Documentation in all material respects. The Professional Services shall be performed in a good and workmanlike manner. Client will timely notify SaaS provider of any known non-conformance to these warranties. SaaS Provider's only obligation under these warranties is to correct any failure to so perform, or if such correction is not possible in a commercially reasonable timeframe, refund the fees paid for the specific non-conforming services during the periods of non-conformance.

6.2. **No Kickbacks.** SaaS Provider certifies and warrants that no gratuities, kickbacks or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Agreement. If the SaaS Provider breaches or violates this warranty, Client may, at its discretion, terminate this Agreement without liability.

6.3. **Nondiscrimination.** SaaS Provider shall comply with Presidential Executive Order 11246 entitled, "Equal Employment Opportunity," as amended by Presidential Executive Order 11375, and as supplemented in the Department of Labor Regulations (41 CFR Part 60), the Civil Rights

Act of 1964, and the Americans With Disabilities Act (ADA), 42 U.S.C. 12101, et seq.

6.4. **Exclusion for Unauthorized Actions and Results of Use.** SaaS Provider shall have no liability under any provision of this Agreement with respect to any performance problem, delay, or other matter to the extent attributable to any unauthorized or improper use or modification of the Services, Platform, Documentation, or Professional Services deliverables, any unauthorized combination with other services, deliverables, platforms, software, hardware, or technology, or any act or omission by Client, its affiliates, or their Named Users or other representatives or contractors. Client is solely responsible for the results obtained from the use of the Services, Platform, Documentation, and Professional Services.

6.5. **Disclaimer.** EXCEPT AS EXPRESSLY STATED ABOVE IN THIS SECTION 6, THE SERVICES, PLATFORM, DOCUMENTATION, AND PROFESSIONAL SERVICES ARE PROVIDED "AS IS" AND SAAS PROVIDER MAKES NO REPRESENTATIONS OR WARRANTIES, ORAL OR WRITTEN, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR NON-INFRINGEMENT. SAAS PROVIDER MAKES NO REPRESENTATIONS OR WARRANTIES, NOR SHALL SAAS PROVIDER HAVE ANY LIABILITY WITH RESPECT TO, ANY THIRD PARTY DATA, PRODUCTS OR SERVICES.

6.6. **Damage Limitation.** IN NO EVENT WILL SAAS PROVIDER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION ANY LOSS OF REVENUE, SAVINGS OR DATA) ARISING IN CONNECTION WITH THIS AGREEMENT OR THE USE OF ANY SERVICES, PLATFORM, DOCUMENTATION, OR PROFESSIONAL SERVICES BASED ON ANY THEORY OF CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

6.7. **Other Limitations.** The warranties made by SaaS Provider in this Agreement, and the obligations of SaaS Provider under this Agreement, run only to Client and not to any third party. Under no circumstances shall any Client affiliate, Client customer, patient, contractor, or user, or any other third party be considered a third party beneficiary of this Agreement. No action or claim of any type relating to this Agreement may be brought or made by Client more than one (1) year after Client first has knowledge of the basis for the action or claim. The Client and SaaS Provider have freely and openly negotiated this Agreement, including the pricing, with the knowledge that the liability is to be limited in accordance with the provisions of this Agreement.

## 7. CONFIDENTIALITY

All Confidential Information of a Party ("Disclosing Party") in the possession of the other ("Receiving Party"), whether or not authorized, shall be held in strict confidence, and the Receiving Party shall take all steps reasonably necessary to preserve the confidentiality of the Confidential Information. The Disclosing Party's Confidential Information shall not be used or disclosed by the Receiving Party for any purpose except (a) as necessary to implement or perform this Agreement, or (b) as required by law, provided that the other Party is given a reasonable opportunity to obtain a protective order. The Receiving Party shall limit its use of and access to the Disclosing Party's Confidential Information to only those of its employees or representatives whose responsibilities require such use or access. The Receiving Party shall advise all such employees and representatives, before they receive access to or possession of any of the Disclosing Party's Confidential Information, of the confidential nature of the Confidential Information and require them to abide by the terms of this Section.

## 8. OWNERSHIP OF PROPRIETARY ITEMS

8.1. **General.** All Proprietary Items provided to or accessed by Client under this Agreement are being made available on a strictly confidential and limited use basis in accordance with this Agreement and have great commercial value to SaaS Provider. This Agreement is not an agreement of sale, and no title, patent, copyright, trademark, trade secret, intellectual property or other ownership rights to any Proprietary Items are transferred to Client under this Agreement. SaaS Provider reserves all rights not expressly granted by this Agreement.

8.2. **Title and Ownership.** All right, title, and interest in and to the Proprietary Items (including all related patent, copyright, trademark, trade secret, intellectual property and other ownership rights) are and will remain the sole and exclusive property of SaaS Provider. Any derivative works, modifications, or enhancements relating to the Proprietary Items (whether created alone by either Party or jointly by or on behalf of both Parties or their representatives through Professional Services or otherwise) will be solely and exclusively owned by SaaS Provider. Client hereby assigns to SaaS Provider any rights, title and interest, including all intellectual property rights in any feedback, suggestions, ideas, derivative works, modifications, enhancements, or improvements related to the Proprietary Items that Client or any of its Named Users or representatives provide, propose, create, conceive, author or develop relating to this Agreement or their use of the Services or Platform. Client will execute and deliver (or cause its representatives to execute and deliver) any additional documents deemed reasonably necessary or appropriate to perfect, maintain, protect, or enforce SaaS Provider's rights described above and the intent of this Section.

## 9. INDEMNIFICATION

9.1. **By SaaS Provider.** SaaS Provider shall defend, indemnify, and hold Client harmless against all costs and reasonable expenses (including reasonable attorneys' fees), damages, and liabilities arising out of any third party claim that any use of, or access to, the Proprietary Items by Client

as expressly authorized under this Agreement infringes or misappropriates, as applicable, any U.S. patent issued as of the Effective Date or any copyrights or trade secrets, provided that Client gives SaaS Provider (a) prompt written notice of such claim; (b) authority to control and direct the defense and/or settlement of such claim; and (c) such information and assistance as SaaS Provider may reasonably request, at SaaS Provider's expense, in connection with such defense and/or settlement. Notwithstanding the foregoing, SaaS Provider shall have no obligation or liability to the extent that the alleged infringement or misappropriation arises from (1) the combination, operation, or use of the Proprietary Items with products, services, deliverables, materials, technologies, business methods or processes not furnished by SaaS Provider; (2) modifications which were not made by SaaS Provider; (3) Client's breach of this Agreement or use of the Proprietary Items other than in accordance with this Agreement (collectively, "IP Exclusions"). Upon the occurrence of any claim for which indemnification is or may be due under this Section, or in the event that SaaS Provider believes that such a claim is likely, SaaS Provider may, at its option (i) modify the Proprietary Item so that it becomes non-infringing, or substitute functionally similar services, platforms, deliverables, or documentation; (ii) obtain a license to the applicable third-party intellectual property; or (iii) terminate this Agreement (or the applicable Order) on written notice to Client and refund to Client any pre-paid fees for Services not provided. The obligations set forth in this Section shall constitute SaaS Provider's entire liability and Client's sole remedy for any infringement or misappropriation.

## 10. TERMINATION

10.1. Either Party may terminate this Agreement immediately on giving notice in writing to the other Party if the other Party:

- (a) commits a material breach (including any non-payment of fees due other than fees subject to a Good Faith Dispute) and, in the case of a material breach capable of being cured, failed to cure that breach within sixty (60) days after the receipt of a request in writing to cure such breach; or
- (b) files for bankruptcy; (ii) becomes or is declared insolvent, or is the subject of any proceedings related to its liquidation, insolvency or the appointment of a receiver or similar officer for it; (iii) makes an assignment for the benefit of all or substantially all of its creditors; or (iv) enters into an agreement for the cancellation, extension, or readjustment of substantially all of its obligations; provided, however, if the non-terminating party provides adequate assurances regarding its ability to continue performing the other Party may not terminate.

10.2. Upon any termination or expiration of this Agreement, whether under this Section 10 or otherwise, SaaS Provider shall perform its data transfer obligations under Section 4.4 of the Agreement and Client shall: (a) discontinue all access and use of all Proprietary Items, (b) promptly return to SaaS Provider all copies of the Documentation and any other Proprietary Items then in Client's possession or control, and (c) give written notice to SaaS Provider certifying that all copies of the Proprietary Information have been permanently deleted. Client shall remain liable for all payments due to SaaS Provider with respect to the period ending on the date of termination. For any termination other than a termination for good cause by Client in accordance with Section 10.1, the balance of all remaining subscription fees relating to the then current Subscription Term will be due and payable. The provisions of Sections 4.4, 5, 6.4 - 6.7, 7, 8, 9, 10, and 11 shall survive any termination or expiration of this Agreement.

## 11. OTHER PROVISIONS

11.1. **Compliance with Laws.** Each Party shall keep informed of and comply with all applicable federal, state and local laws and regulations in connection with their business, operations, and obligations under this Agreement.

11.2. **Notice.** All notices, consents and other communications under or regarding this Agreement shall be in writing and shall be deemed to have been received on the earlier of the date of actual receipt or the first business day after being sent by a reputable overnight delivery service. Either Party may change its address for notices by giving written notice of the new address to the other Party.

11.3. **Parties in Interest.** This Agreement shall bind, benefit and be enforceable by and against SaaS Provider and Client and, to the extent permitted hereby, their respective successors and assigns. Neither Party may assign any of its rights or obligations under this Agreement, and any attempt at such assignment will be void without the other Party's prior written consent, which consent will not be unreasonably withheld.

(a) Notwithstanding the foregoing, the following shall not be considered "assignments" for purposes of this Agreement: SaaS Provider's assignment of this Agreement or of any SaaS Provider rights under this Agreement to SaaS Provider's successor by merger or consolidation or to any person or entity that acquires all or substantially all of its capital stock or assets; and SaaS Provider's assignment of this Agreement to any person or entity to which SaaS Provider transfers any of its rights in the Proprietary Items.

(b) Any express assignment of this Agreement, any change in control of Client, any acquisition of additional business by Client (by asset acquisition, merger or otherwise by operation of law), any assignment by Client to an affiliate, and any assignment by merger or otherwise by operation of law, shall constitute an assignment of this Agreement by Client for purposes of this Section ("Client Assignment"). Client shall give written notice to SaaS Provider at least thirty (30) days before a Client Assignment certifying the expected use of the Services to process any additional business related to such Client Assignment ("Additional Business"). If any Client Assignment occurs, Client may continue to process its business to the extent it existed before such Client Assignment, but Client may not use the Services to process any Additional Business until and unless Client has paid to SaaS Provider an Additional Business fee, to be negotiated at the time of the Client Assignment. Any use of the Software to process any Additional Business before the payment of such fee shall be deemed a material breach of this

Agreement. Client shall promptly complete and return to SaaS Provider periodic certifications which SaaS Provider, in its sole discretion, may from time to time send to Client, certifying the actual use of the Services to process any Additional Business.

11.4. **Export Laws and Use Outside of the United States.** Client shall comply with the export related laws and regulations. Client shall not export or re-export directly or indirectly (including via remote access) any Proprietary Items (or parts thereof) to any applicable jurisdiction or entity prohibited by law or to which a license is required without first obtaining a license from the applicable regulatory authority.

11.5. **Audit and Inspection.** From time-to-time (not to exceed once per year), SaaS Provider may reasonably inspect and verify Client's records and procedures to confirm whether Client is in compliance with this Agreement. (SaaS Provider will provide Client any SSAE 16 or similar audit reports that SaaS Provider provides for general distribution to its clients. Such reports are Proprietary Items.)

11.6. **Relationship.** The relationship between the Parties under this Agreement is that of independent contractors and not partners, joint venturers or agents.

11.7. **Entire Understanding.** This Agreement, which includes and incorporates Orders, attachments, and any other schedules, exhibits and addenda attached to it, states the entire understanding between the Parties with respect to its subject matter, and supersedes all prior proposals, marketing materials, negotiations and other written or oral communications between the Parties with respect to the subject matter of this Agreement. In the event of any conflict between these Terms and Conditions and an Order, the Order shall govern.

11.8. **Modification and Waiver.** No modification of this Agreement, and no waiver of any breach of this Agreement, shall be effective unless in writing and signed by an authorized representative of both Parties. This Agreement may not be modified or amended without written agreement of the Parties. No waiver of any breach of this Agreement, and no course of dealing between the Parties, shall be construed as a waiver of any subsequent breach of this Agreement.

11.9. **Severability.** If any portion of any provision of this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, (a) such unenforceable portion of the provision will be deemed severed from this Agreement, (b) the validity and enforceability of the remaining portion of the provision and the other provisions of this Agreement will not be affected or impaired, and (c) this Agreement will be amended in order to effect, to the maximum extent allowable by law, the original intent of such provision.

11.10. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

11.11. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the state of Delaware excluding choice of law; provided, however, that the terms of any applicable law now or hereafter enacted that is based on or similar to the uniform computer information transactions act drafted by the national conference of commissioners on uniform state laws shall not apply.

11.12. **Force Majeure.** Except with respect to Client's payment obligations, neither Party shall be liable for, nor shall either Party be considered in breach of this Agreement due to any failure to perform its obligations under this Agreement as a result of a cause beyond its control, including any act of God or a public enemy, act of any military, civil or regulatory authority, change in any law or regulation, fire, flood, earthquake, storm or other like event, disruption or outage of communications (including the Internet or other networked environment), power or other utility, labor problem, unavailability of supplies or any other cause which could not have been prevented by the non-performing Party with reasonable care.

11.13. **Restrictions on Use of Client's Name.** Client authorizes SaaS Provider to use Client's name in any routine list of SaaS Provider clients and as a reference. SaaS Provider may not use Client's name in any advertising or press release without the prior written consent of Client.

11.14. **Government End-Users.** Each of the Services, Platform, Documentation, and related items are intended to be "commercial items" to the maximum extent permitted under the US Code of Federal Regulations and any similar laws. All government end users only have the rights set forth herein.

11.15. **Award of Related Contracts.** Client may undertake or award supplemental or successor contracts for work related to this Agreement or any Order as mutually agreed by the Parties.

[END OF MASTER TERMS AND CONDITIONS]

Confidential

**Schedule A to Master Terms and Conditions  
Initial Subscription Order Form**

**[Renewal Subscription Order Form - *Separate File*]**

Confidential

**Schedule B to Master Terms and Conditions  
Professional Service Order Form**

***[Non-Applicable]***

**Schedule C to Master Terms and Conditions  
Service Levels: Hosting & Support**

*[Separate File]*

## Attachment 1 to Schedule C Synergy Disaster Recovery Service Addendum

SaaS Provider modifies its disaster recovery process as the state of technology, industry best practices and operational needs change.

SaaS Provider's current standard Disaster Recovery (D/R) approach employs a two data center strategy. In the event of a catastrophic disaster at the production data center, SaaS Provider begins a process of synchronizing network domain information at the secondary site via restoration of the backup of the production active directory. Non-production physical servers at the secondary facility are repurposed as production database servers. Existing physical capacity at the secondary site is used for initial application installation and restoration of the most recent database backups. Additional capacity is then provisioned on front end servers through virtualized physical servers and cloud computing services provided by our secondary data center hosting vendor (*cloud services only available at one of our data centers*). Once the initial footprint is operational, SaaS Provider initiates a DNS change to redirect the production application URL to the new production instance of the application running at the secondary data center. Until full DNS propagation is complete, SaaS Provider provides the customer with a direct interim IP address. Incremental capacity is provisioned until either:

- we reach full production capacity,
- we roll back to the original production data center, or
- a replacement footprint is established at another location

SaaS Provider defines the overall service level of our Disaster Recovery service in the form of "Recovery Objectives". These include:

- Recovery Point Objective (RPO) – Restoration point of database in event of disaster.
- Recovery Time Objective (RTO) – Time it takes to restore basic level of service after we officially declare a disaster.
- Recovery Capacity Objective (RCO) – The amount of capacity provided incrementally at various stages of the restoration process. This capacity is measured in percentages of normal production capacity.

Specific recovery objectives can be accommodated upon customer request as a customized hosting service, for an additional fee. However, our recovery objectives with our standard disaster recovery service are listed below.

Recovery/Objective	Target	Likely
RPO	48hrs	24hrs
RCO/RTO	25% in 48 hours 50% in 96 hours 100% in 144 hours	

## Schedule C to Master Terms and Conditions

### Service Levels: Hosting & Support

This Schedule C sets forth SaaS Provider's hosting and support obligations under applicable Orders as of the Effective Date. From time-to-time these obligations and the contact information may change upon notice by SaaS Provider to Client. Such changes are not intended to materially change SaaS Provider's obligations or Client's rights, but may be necessitated by changing technologies, industry practices, or other circumstances.

#### SAAS SERVICES – HOSTING

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##### 1. Definitions

The following terms have the following meaning. Other terms are defined in the Master Terms and Conditions and have the meaning indicated.

1.1 **"Non-Core System Functionality"** means functionality that does not require real time availability for effective use of the SaaS Services. This explicitly includes, but is not limited to, reporting and background batch processing. Non-Core System Functionality availability is explicitly excluded from the calculation of Availability.

1.2 **"Scheduled Downtime"** means the total amount of time during any calendar month, measured in minutes, during which the SaaS Services' core features and functions are unavailable for the majority of Client's active Named Users according to the Access Protocols, due to planned system maintenance performed by or on behalf of SaaS Provider, as set forth in Schedule C. SaaS Provider will exercise reasonable efforts to perform scheduled system maintenance each Sunday between the hours of 6:00PM and 12:00 AM Eastern Standard Time. SaaS Provider reserves the right to change the scheduled downtime, provided that SaaS Provider provides reasonable prior notice prior to modifying such Scheduled Downtime. Client approved changes affecting core SaaS Service features and functions outside of the scheduled system maintenance window will also be deemed Scheduled Down Time.

1.3 **"Unscheduled Downtime"** means the total amount of time during any calendar month, measured in minutes, during which the SaaS Services' core features and functions are unavailable for access by a majority of Client's active Named Users according to the Access Protocols, other than Scheduled Downtime and the exceptions otherwise stated in the Agreement.

1.4 **"Disaster"** means a catastrophic event (or series of events that are collectively catastrophic) that results in significant or potentially significant downtime or disruption of the production environment and requires the SaaS Provider to invoke its Disaster Recovery plan. SaaS Provider has the sole and exclusive right to declare a disaster in its discretion.

1.5 **"Availability"** means, with respect to any particular calendar month, the ratio obtained by subtracting Unscheduled Downtime during such month from the total time during such month, and thereafter dividing the difference so obtained by the total time during such month. Represented algebraically, Availability for any particular calendar month is determined as follows:

$$\text{Availability} = \frac{\text{(Total Monthly Time - Unscheduled Downtime)}}{\text{Total Monthly Time}}$$

NOTE: **"Total Monthly Time"** is deemed to include all minutes in the relevant calendar month excluding scheduled downtime as described above.

1.6 **"Access Protocols"** means industry standard internet access protocols through which SaaS Provider makes the SaaS Services accessible to the Client which includes, unless otherwise specified, HTTPS and FTTPS.

1.7 **"Disaster Recovery"** means SaaS Provider's process to restore Availability in the event that SaaS Provider declares a Disaster.

#### 2. AVAILABILITY SERVICE STANDARD

Following deployment and implementation under a Professional Services Order, the Service Availability period will begin. This period will begin with the approval of the deployment by the Client and continue throughout the applicable Subscription Term. During the Service Availability period, SaaS Provider will provide Client with the following:

- A. Access to the hosted Platform and associated applications via the Internet twenty-four (24) hours a day, seven (7) days a week, in accordance with the Availability Service Standard requirements set out herein and the other provisions of the Agreement.

- B. Maintenance of subscribed applications.
- C. Maintenance of the Platform.
- D. System performance monitoring and adjustments as necessary to support the number of required Named Users.
- E. Periodic backup of all server software components and applicable databases. (See the section on Platform and Data Backup for details on backups performed.)
- F. Security and virus scanning of all Platform hard drives.
- G. Access to a toll-free technical support number for technical support related to the use and availability of the hosting services described herein. Technical support response time for system availability will be within two (2) hours of the original call during extended normal business hours (8:30am – 8pm Eastern Time). Note that "technical support" is defined as addressing SaaS Provider hosting network issues, and does not include individualized assistance on how to use applications. For information regarding SaaS Provider's software support guidelines, please refer to the support requirements below.

SaaS Provider will undertake commercially reasonable measures to ensure that Availability equals or exceeds ninety-nine percent (99%) during each calendar month (the "*Service Standard*"), provided that any Unscheduled Downtime occurring as a result of circumstances beyond SaaS Provider's reasonable control shall not be considered Unscheduled Downtime. Unscheduled Downtime will not include, without limitation, any downtime arising from: (i) Client's breach of any provision of this Agreement; (ii) non-compliance by Client with any provision of this Agreement; (iii) incompatibility of Client's equipment or software with the SaaS Services or Platform; (iv) poor or inadequate performance of Client's systems; (v) Client's equipment failures; (vi) acts or omissions of Client or its Named Users, contractors or suppliers; (vii) telecommunication or transportation difficulties; (viii) Client's network and internet service provider; (ix) public internet, (x) security exposure, or (xi) force majeure (as described in the Master Terms and Conditions). In the event of a "Disaster", the Availability Service Standard does not apply.

### 3. NAMED USER SERVICE TERMINATION

Service will be terminated for individual Named Users per the direction of Client. Termination requests must be submitted in writing or via email to SaaS Provider. SaaS Provider reserves the right to terminate Services for any Named User at any time for reasons related to system security or integrity. Also, Named User access will be terminated for any Named User or group of Named Users who are more than sixty (60) days late on payment of fees.

### 4. SCHEDULED DOWNTIME

Periodically, SaaS Provider will schedule times when the Platform and Services will be unavailable due to extended maintenance. If at all possible, these periods will be scheduled outside of normal business hours, and the Client will receive twenty-four (24) hour notice in advance of the downtime. Depending upon the immediacy of the maintenance required, the downtime may be rescheduled at the request of a Client if reasonably possible. It is anticipated that there will be a weekly Scheduled Downtime for system maintenance on Sunday evenings from 6:00 PM to 12:00 AM Eastern.

### 5. REPORTING UNSCHEDULED DOWNTIME

Client will timely report Unscheduled Downtime by calling 800-318-7260 during SaaS Provider's normal business hours (8:00 am to 9:00pm EST). SaaS Provider will exercise commercially reasonable efforts to respond to reports of Unscheduled Downtime by telephone or email acknowledgement within one hundred and eighty (180) minutes of each such report. The report will be assigned a case number for tracking purposes.

### 6. INTERNET CONNECTION DEPENDENCE

It should be noted that the performance and availability of the Services are directly dependent upon the quality of the Client's Internet connection. SaaS Provider will aid the Client in determining the quality of their Internet connection via the use of tools designed to measure throughput. This information may then be used to make an informed decision by Client regarding Internet Service Provider ("ISP") selection. Failure of the Client's Internet connection to maintain satisfactory throughput and latency is outside the scope of SaaS Provider's responsibility, and should be addressed by Client directly with the ISP. SaaS Provider cannot be held responsible for Internet infrastructure failures, and as such this Schedule only applies to those components within the SaaS Provider's hosting obligations and server farm.

## 7. MEASUREMENT AND REPORTS

**7.1 Monitoring and Measurement:** SaaS Provider will provide for monitoring of Availability on an ongoing basis during the Subscription Term. All measurements of Availability will be calculated on a monthly basis for each calendar month during the Subscription Term. This monitoring will be performed through a combination of monitoring services, including, without limitation, internal SaaS Provider tools and an external web site URL monitor that validates the availability of any applicable Client application URLs. These tools are intended to serve as initial alert to SaaS Provider. SaaS Provider will conduct a series of tests to confirm Availability if it is alerted to potential Unscheduled Downtime.

- If one of the above alerting mechanisms report that the SaaS Services' core features and functions is unavailable and the SaaS Provider confirms the unavailability, then
  - Unscheduled Downtime will be calculated as the time between when the initial notification or alert was received until SaaS Provider confirms availability has been restored.
- If one of the above alerting mechanisms report that the SaaS Service's core features and functions is potentially unavailable, but the SaaS Provider's tests and assessments confirms that is available, then
  - Unscheduled Downtime will be calculated as the time between when the initial notification or alert was received until SaaS Provider confirms availability has been restored if the SaaS Provider is unable to determine that such SaaS Services were, in fact, available during the period between the initial notification or alert and the point at which SaaS Provider confirmed that such SaaS Services were available.

**7.2 System Performance Reports:** Upon Client's request and subject to additional fees, SaaS Provider will provide standard Availability reports to Client on a quarterly basis setting forth measurements of Unscheduled Downtime and a calculation of Availability for the relevant preceding quarter. Client agrees that SaaS Provider's monitoring and measurement method and standard Availability reports are the sole and exclusive methods of measuring Availability under this Agreement. No other measure shall be accepted unless validated, and mutually agreed to in writing by both Parties before implementation. If Client disagrees with any measurement or other information set forth in any such report, it must so inform SaaS Provider in writing within five (5) calendar days after receipt of the report. The accuracy of any such report shall be deemed conclusive unless such notice is timely provided by Client as described in this Section. Any such notice must indicate specific measurements in dispute and must include a detailed description of the nature of the dispute. The Parties agree to attempt to settle any such disputes regarding Availability and/or related measurements in a timely manner by mutual good faith discussions.

## 8. CLIENT REQUIREMENTS

**8.1 Minimum System:** The service standards set forth in this Agreement assume that Client and its Named Users, agents, and service desk personnel, as applicable, meet and remain current with all minimum requirements relating to the SaaS Services. These minimum system requirements may vary over time due to SaaS Services version levels and other factors. As these requirements change, the SaaS Provider will inform the Client such that the Client can remain compliant with these requirements.

**8.2 Additional Client Obligations:** Except as otherwise agreed between the Parties in a separate written agreement, Client is responsible for (i) maintenance and management of its computer network(s), servers, software, and any equipment or services related to its receipt and use of the SaaS Services; and (ii) correctly configuring Client's systems in accordance with the Access Protocols.

## 9. PLATFORM AND DATA BACKUP

SaaS Provider will perform regular automated disk and tape backups of SQL database(s) (Client Data), system configurations, and applications. Such backups shall be encrypted, saved to disk and backed up onto removable tape media. SaaS Provider will undertake commercially reasonable measures, regarding data storage and transport, to move regularly to an offsite secure location these backup tapes. In compliance with HIPPA standards (as of the Effective Date), end-of-year backup tapes shall be stored for not less than seven (7) years.

## 10. SERVICE STANDARD REMEDIES

If SaaS Provider fails to meet or exceed the Availability Service Standard, subject to the other provisions of this Agreement, due to circumstances within SaaS Provider's control and area of responsibility, then a pro-rata portion of the monthly subscription service fee for the adversely impacted Services will be credited on a subsequent invoice on a pro-rata basis based on the duration and extent of such failure as liquidated damages, not to exceed 10% of the monthly subscription service fees. Any such failure must be reported to SaaS Provider within thirty (30) days following the failure to be eligible for a refund.

**SAAS SERVICES - SUPPORT**

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SaaS Provider shall provide Client and its Named Users with Email support and web-based and telephone support during the Subscription Term.

**Standard Hours of Operation**

SaaS Provider customer service provides you with support available between the hours of 8:30 a.m. to 9:00 p.m. Eastern Standard Time Monday through Friday, excluding holidays. SaaS Provider reserves the right to be closed on other days from time-to-time throughout the year with notice prior to the actual day.

*It is highly recommended that a focal point be established within the Client's organization for reporting defects prior to submission to SaaS Provider. This approach improves communication efficiency, and reduces the potential for confusion.*

**Email Support**

The SaaS Provider Customer Service Center is staffed by qualified customer service representatives and can be reached through the following Email address:

[support@synergysw.com](mailto:support@synergysw.com)

SaaS Provider will respond to all Email requests within forty-eight (48) hours (excluding weekends and holidays). This initial response may not contain a resolution to the issue depending on the severity and nature of the reported problem.

Email support is limited to questions directly related to the use of SaaS Provider Services, and does not include general computer questions, or support for third-party software packages. Email support does not include SaaS Provider Service demonstrations, personal tutorials or walkthroughs on functionality or features. It is assumed that the person contacting SaaS Provider customer service has been fully trained and has read all applicable Documentation.

**Telephone Support**

The SaaS Provider Customer Service Center can be reached at the following phone number:

800-318-7260

Customer service representatives will assist with the troubleshooting of issues that cannot be resolved by Clients. If a customer service representative cannot be reached then all voice mails will be responded to within 48 hours (excluding weekends and holidays).

Telephone support is limited to questions directly related to the use of SaaS Provider Services, and does not include general computer questions, or support for third-party software packages. Telephone support does not include SaaS Provider demonstrations or personal tutorials or walkthroughs on function or features. It is assumed that the person contacting SaaS Provider customer service has been fully trained and has read all applicable Documentation.

**Shadowing through Hosting Support:**

SaaS Provider customer service representatives may 'shadow' the Named User in order to resolve issues. Remote access allows a SaaS Provider customer service representative to:

1. Shadow the Named User to review the issue at-hand.
2. Troubleshoot reported problems

Unless stated otherwise at the beginning of a remote access session, Client and each Named User explicitly agree to allow SaaS Provider to access and shadow Named Users to facilitate the resolution of reported support issues.

Shadowing does not include SaaS Provider demonstrations or personal tutorials or walkthroughs on function or features. It is assumed that the person contacting SaaS Provider customer service has been fully trained and has read all applicable Documentation.

### On-site Consulting/Training

On-site consulting/training is not covered by this Schedule and will be billed at an hourly rate (for consulting) or a per-student rate (for trainings), plus any associated expenses in accordance with a separate Professional Services Order. Please call the SaaS Provider Customer Service Department at 703.674.5100 for rate information.

### Defect Correction

If you experience a problem, which is a result of a defect in an unmodified portion of the SaaS Provider Services (including the Platform and software relating thereto) or the Documentation, contact SaaS Provider Customer Service by the means mentioned above. You may be asked for a written description of the problem and related configuration information. A defect is defined as a reproducible variation from published Documentation and specifications. At times it may be necessary for the Client to submit additional information to SaaS Provider in order for SaaS Provider to resolve the problem. Such information shall be kept confidential.

Upon confirmation of receipt of notification within forty-eight (48) hours (excluding weekends and holidays), SaaS Provider will log the defect, and a response to the defect report will be provided to the Client. If the defect is reproducible, then a fix will be made available either as a "hotfix" or as part of SaaS Provider's standard software update process, depending on the severity of it. If the defect is not repeatable, then SaaS Provider will make every reasonable effort to address the problem, but cannot guarantee resolution within a specific time period.

*NOTE: SaaS Provider does not guarantee defects will be fixed in any specific time duration due to the nature of any Service or the Platform operating in a multi-vendor environment. It is the goal of SaaS Provider to deliver reasonable efforts during normal hours of operation to satisfactorily resolve each incident.*

### Updates and Enhancements

SaaS Provider will periodically add enhancements, and make them available through an update. All enhancements are developed as a result of both internal enhancements and client-requested enhancements or feedback.

### Problem Severity Definitions

Issues will be resolved based on the following severity, as determined by SaaS Provider:

High (Level 1) - Defect significantly impacting production network

Level 1 Defects will be resolved as quickly as possible, within standard business hours.

Medium (Level 2) - Defect impacts business operation, however there is a workaround available

Level 2 Defects will be resolved within the next scheduled upgrade, as determined by SaaS Provider Software.

Low (Level 3) - Defect does not significantly impact network

Level 3 Defects will be resolved in a future upgrade, as determined by SaaS Provider Software

