

ASP Order

By the signatures of their duly authorized representatives below, the Superior, LLC entity identified below ("**Superior**") and the customer identified below ("**Customer**"), intending to be legally bound, agree to all of the provisions of this Order (the "**Order**"), and agree that this Order represents a separate contract between such Superior entity and Customer, with an order execution date of the latest date shown on the signature page below ("**Order Execution Date**") and order effective date of the first of the month following the Order Execution Date ("**Order Effective Date**"). This Order incorporates and is governed by all of the terms of the Superior Standard Terms and Conditions version 2016 January, attached hereto as Exhibit 3 ("SST") as if the Superior entity was "Superior" and Customer was "Customer" thereunder.

Capitalized terms not defined in this Order have the meaning given them in the SST.

| Superior, LLC | City of Flagstaff |
|---|--|
| 1000 Business Center Dr. Lake Mary, FL 32746 | 211 W. Aspen Ave. Flagstaff, AZ 86001 |
| By: | By: |
| Print Name: Tom Amburgey | Print Name: |
| Print Title: General Manager | Print Title: |
| Date Signed: April 10, 2018 | Date Signed: |

SUPERION ORDER # 00003882

SOLUTION AND RELATED INFORMATION

- SOLUTION: Superior NaviLine Public Administration applications identified in Exhibit 1.**
- TRANSMISSION OF CUSTOMER SUPPLIED DATA:** The Solution will be operated by the Customer via workstations. Customer must provide remote access to its facility using a Superior approved remote access client so that Superior can perform the support obligations and/or services under this Order; and will provide appropriate security access and accounts for Superior staff and each session participant. In addition, and subject to a separate written agreement between the parties, including agreement upon the additional fees payable in that respect to cover dedicated communication costs, Superior may provide WAN/VPN connectivity to Customer for accessing the hosted environment for custom application and interfaces.
- DOCUMENTATION:** Superior's standard user manuals for the Solution listed above.
- INITIAL TERM:** Thirty-six (36) months commencing on the Order Effective Date.
- RENEWAL RIGHTS:** Upon expiration of the Initial Term set forth above this Order shall automatically renew for successive one (1) year Renewal Terms at the then-current rates. Either party may elect to not enter into a Renewal Term by providing the other party with written notice at least one hundred and twenty (120) days prior to the end of the Initial Term or then-current Renewal Term, as the case may be.

6. SCOPE OF USE

- a. **DESIGNATED LOCATION(s):** Customer's offices in City of Flagstaff, AZ. Customer's Authorized Users may access the Solution from anywhere in the United States, subject always to the Export Laws and the total number of Authorized Users licensed hereunder.

7. FEES

A. ANNUAL ACCESS FEES: SEE EXHIBIT 1

a. **ADDITIONAL AUTHORIZED USERS FEES:** Customer acknowledges that the Annual Access Fee set forth above has been determined based on the number of Authorized Users licensed on the Order Effective Date. If Customer desires at any time during the term of this Order to increase the number of Authorized Users beyond the number of Authorized Users set forth above, Customer shall provide Superior with advance written notice and Superior may increase the Access Fee payable under this Order accordingly.

b. **OTHER FEES:** If Customer's use of the Solution increases in any way which would reasonably cause Superior to incur additional hardware costs to maintain such increased usage, Superior shall invoice Customer for such fees as are reasonable in respect of such additional hardware cost incurred.

B. LICENSE FEES: SEE PROJECT COST SUMMARY - EXHIBIT 1

C. PROFESSIONAL SERVICES, START-UP, AND MAINTENANCE FEES– SEE PROJECT COST SUMMARY - EXHIBIT 1

D. THIRD PARTY PRODUCTS FEES: SEE PROJECT COST SUMMARY - EXHIBIT 1

8. **THE LIABILITY CAP:** Shall be the total of the Professional Services and Annual Access Fees actually paid by Customer to Superior under this Order during the twelve (12) month period immediately preceding the event giving rise to the claim occurring.

9. PAYMENT TERMS:

- a. License Fees are due as follows: 100% on the Execution Date.
- b. Start Up Fees are due as follows: 100% on the Execution Date.
- c. The Annual Access Fee is due upon the Order Effective Date and annually thereafter on the anniversary date thereof.
- d. Professional Services Fees are due as follows: Billed monthly as incurred.
- e. Third Party Products Software & Hardware Fees are due as follows: 100% on the Execution Date.
- f. Third Party Products Services Fees are due as follows: 50% Upon Execution Date; 50% upon Completion.
- g. Travel and Living Expenses: Travel and living expenses are in addition to the prices quoted above and will be invoiced as incurred and shall be governed by the Superior Corporate Travel Expense Guidelines attached hereto as Exhibit 2.

10. ADDRESSES

- a. **CUSTOMER ADDRESS FOR INVOICES:** 211 W. Aspen Ave., Flagstaff, AZ 86001
- b. **CUSTOMER ADDRESS FOR NOTICES:** 211 W. Aspen Ave., Flagstaff, AZ 86001
- c. **CUSTOMER ADDRESS FOR SOFTWARE SHIPMENT:** 211 W. Aspen Ave., Flagstaff, AZ 86001
- d. **SUPERION'S ADDRESS FOR NOTICES:**

Superion, LLC
Attn: Legal Counsel
1000 Business Center Drive
Lake Mary, FL 32746

11. OTHER TERMS:

- a. Customer shall procure the Specified Configuration set forth in Annex 1 in accordance with Section 2 of the SST.
- b. Superion shall provide the access to the Solution during the hours described in Annex 2 attached hereto, and provide the Solution Support described in Annex 2.
- c. Superion shall provide and install new releases of the Solution at no additional charge. However Customer shall be responsible for the payment of consulting fees on a time and material basis in respect of any professional services provided by Superion for the upgrade of any customizations to the Solution made by Superion at Customer's request; provided the parties enter into a professional services schedule in respect of any such upgrade which shall stipulate the applicable then-current professional fee rates in respect thereof.
- d. As and when Customer is required to upgrade to a new release, Superion shall make such new release available to Customer in a test environment for a period of at least sixty (60) days (the "**Parallel Run Period**"). Unless Customer reports to Superion any material errors in such new release, Customer shall accept modifications, revisions and updates in the Solution and Documentation, including changes in programming languages, rules of operation and screen or report format, as and when they are implemented by Superion. If material errors are discovered during the Parallel Run Period, the Parallel Run Period shall automatically be extended by the number of days between the date that any material errors were reported and the date that Superion has remedied such errors. Customer acknowledges that modifications, revisions and updates in the Solution permitted by this Order may result in changes in the form, timing or other features of on-line services, reports and other Solution provided under this Order.
- e. If Customer's use of the Solution increases in any way which would reasonably cause Superion to incur additional hardware costs to maintain such increased usage, Superion shall invoice Customer for such fees as are reasonable in respect of such additional hardware cost incurred.
- f. **Conversion:** Conversion, if provided for herein, or if requested by the Customer after contract execution, will be controlled by the Superion Systems Change Request (SCR) form which will be prepared for the Customer by the Superion Conversion Team Manager. There will be a Two Hundred Fifty dollar (\$250.00) non-refundable Access Fee for preparation of each SCR requested by the Customer. Superion will proceed on the SCR when the signed SCR is returned with the Customer's authorization along with fifty percent (50%) payment, which includes the non-refundable Access Fee. The final fifty percent (50%) payment is due upon completion. Data

must be given to Superior in an IBM compatible format on a specified magnetic media and must match data field definition. Input data file clean up shall be the responsibility of the Customer. Additional conversion, if necessary, will be invoiced at the prevailing rate per hour. It is agreed that no two systems and file structures are exactly alike and there may be a need for some manual conversion efforts to take place along with the electronic conversion. SCR form(s) for any conversion services included in this Order are attached for Customer signature and return to Superior along with this Order.

- g. If after the expiration of the term of this Order Customer converts to a different vendor's applications, Superior will provide, upon payment of Superior's then-current standard deconversion fee, reasonable assistance and documentation for such deconversion in order to assist Customer in removing its information and placing said information in Superior's standard format for input to the other vendor's applications. In the event Customer requests a non-standard deconversion, Superior shall be entitled to receive compensation for consultation, software and documentation provided to assist in the deconversion on a time and materials basis at the standard prevailing rate then charged by Superior for such services.

12. OTHER TERMS APPLICABLE TO THIS ORDER: (If applicable)

- **COGNOS THIRD PARTY PRODUCTS SUPPLEMENT**
- **SUPPORT STANDARDS SUPPLEMENT**
- **SUPERION STANDARD TERMS (SST) – EXHIBIT 3**
- **SUPERION TRAVEL EXPENSE GUIDELINES (EXHIBIT 2)**
- **TRANSACTION MANAGER SUPPLEMENT**
- **ANNEX 1 – SPECIFIED CONFIGURATION**
- **ANNEX 2 – SOLUTION AVAILABILITY AND SUPPORT**

EXHIBIT 1 – ACCESS AND SERVICES FEES

A. ACCESS FEES – INITIAL TERM

| Term | Annual Access Fees |
|-------------|---------------------------|
| Year 1 | \$74,481.98 |
| Year 2 | \$78,206.08 |
| Year 3 | \$81,116.39 |

Access Fees for any Year subsequent to the Initial Term are subject to change and will be specified by Superior in an annual invoice.

APPLICABLE TAXES ARE NOT INCLUDED IN THIS ORDER FORM, AND, IF APPLICABLE, WILL BE ADDED TO THE AMOUNT IN THE PAYMENT INVOICE(S) BEING SENT SEPARATELY TO THE CUSTOMER.

B. OTHER FEES - COST SUMMARY (License Fees, Professional Service Fees, Start-Up Fees, Annual Access Fees)

| | Applications and/or Services | License Fees | Professional Services | Start-Up Fee | Annual Access Fee |
|--|--|---------------------|-----------------------------------|--------------------------|-------------------------------|
| New NaviLine Products | GMBA w/Extended Reporting, Fixed Assets, Human Resources, Accounts Receivable, Purchasing/Inventory, Fleet Management, Work Orders/Facility Management, Land/Parcel Mgmt, Click2Gov3 Employee Self Service, Customer Information System, Cash Receipts | \$ 68,178.06 | Included in Professional Services | \$10,000.00 | \$ 74,481.98 |
| New Third Party Products | AnalyticsNOW | \$ 14,260.00 | Included in Professional Services | Included in Startup Fees | Included in Annual Access Fee |
| Professional Services | Installation & Configuration \$11,200.00 Training \$67,840.00 Project Management \$2,560.00 | N/A | \$ 81,600.00 | N/A | N/A |
| Professional Services Third Party | Installation & Configuration \$2,800.00 Training \$16,000.00 | | \$ 18,800.00 | N/A | N/A |
| Horizon Cloud Services | Hardware and software will be hosted and managed by Superior. Site to Site VPN, Setup, Implementation, HELP Card, Disaster Recovery Plan for Superior applications. | N/A | N/A | Included in Startup Fees | Included in Annual Access Fee |
| NaviLine Test Environment | 2 refreshes per year; \$600 per additional refresh. | N/A | N/A | Included in Startup Fees | Included in Annual Access Fee |
| Private Environment | | | | | |
| | Total Proposed System: | \$ 82,438.06 | \$100,400.00 | \$10,000.00 | \$ 74,481.98 |

EXHIBIT 2

SUPERION TRAVEL EXPENSE GUIDELINES

Superion will adhere to the following guidelines when incurring travel expenses:

All arrangements for travel are to be made through the Superior Corporate Travel Agent unless other arrangements have been made with the Customer and are documented in writing.

AIR TRAVEL – Superior will use the least expensive class of service available with a minimum of seven (7) day, maximum of thirty (30) day, advance purchase. Upon request, Superior shall provide the travel itinerary as the receipt for reimbursement of the airfare and any fees. Fees not listed on the itinerary will require a receipt for reimbursement.

Trips fewer than 250 miles round are considered local. Unless a flight has been otherwise approved by the Customer, Customer will reimburse the current IRS approved mileage rate for all local trips.

LODGING – Superior will use the most reasonable accommodations possible, dependent on the city. All food items, movies, and phone/internet charges are not reimbursable.

RENTAL CAR – Compact or Intermediate cars will be required unless there are three or more Superior employees sharing the car in which case the use of a full size car is authorized. Gas is reimbursable however, pre-paid gas purchases will not be authorized and all rental cars are to be returned with a full tank of gas. Upon request, receipts for car rental and gas purchases will be submitted to Customer. Superior shall decline all rental car insurance offered by the car rental agency as staff members will be covered under the Superior auto insurance policy. Fines for traffic violations are not reimbursable expenses.

OTHER TRANSPORTATION – Superior staff members are expected to use the most economical means for traveling to and from the airport (Airport bus, hotel shuttle service). Airport taxi or mileage for the employee's personal vehicle (per IRS mileage guidelines) are reimbursable if necessary. Upon request, receipt(s) for the taxi will be submitted to Customer. Proof of mileage may be required and may be documented by a readily available electronic mapping service. The mileage rate will be the then-current IRS mileage guideline rate (subject to change with any change in IRS guidelines).

OTHER BUSINESS EXPENSES – Parking at the airport is reimbursable. Tolls to and from the airport and while traveling at the client site are reimbursable. Tipping on cab fare exceeding 15% is not reimbursable. Porter tips are reimbursable, not exceeding \$1.00 per bag. Laundry is reimbursable when travel includes a weekend day or Company Holiday and the hotel stay is four nights or more. Laundry charges must be incurred during the trip and the limit is one shirt and one pair of pants/skirt per day. With the exception of tips, receipts shall be provided to Customer upon request for all of the aforementioned items.

MEALS – Standard per Diem. Subject to change due to cost of living.

\$57.00 per day Standard Per Diem

\$11.40 – Breakfast

\$14.25 – Lunch

\$31.35 – Dinner

EXHIBIT 3

These Superior Standard Terms (“SST”) may be incorporated into one or more orders referencing these SST (each, an “Order”). Each Order, together with these SST, shall form a separate agreement (this “Agreement”), by and between the Person identified on the Order (“Customer”) and the Superior Company identified on the Order (“Superior”), applicable to the proprietary solution identified on the Order (the “Solution”), as such Solution may be modified, revised and updated from time to time. Only the Customer and Superior entities that execute the Order will be liable for the obligations under that Order. Each Order will be effective upon the latest date shown on the signature page of the Order (“Order Execution Date”).

1. **Scope.** Customer may use the Solution only in the ordinary course of Customer’s internal business operations for the benefit of Customer and only in accordance with the terms on the Order, the Documentation, this Agreement, including the Scope of Use. Customer shall be liable for any breach of the terms of this Agreement by any persons given access to the Solution by Customer.

2. **Specified Configuration.** Customer shall, at its expense, procure and maintain the computer hardware, systems software and other items required for use of, or access to, the Solution, including those described in the Order and Documentation (the “**Specified Configuration**”) and for updating the Specified Configuration in accordance with Superior’s published updates. If not yet completed, Customer shall complete its procurement and installation of the Specified Configuration prior to the scheduled start of implementation. Customer shall devote all equipment, facilities, personnel and other resources reasonably necessary to begin using the Solution in production on a timely basis as contemplated by this Agreement and satisfy any Customer requirements necessary for Superior to complete the professional services described in Section 6. Superior is not responsible for any delays or additional fees and costs associated with Customer’s failure to timely perform its obligations under this Section 2.

3. **Payments.**

3.1 **Fees.** Customer shall pay to Superior the fees stated in the Order, in accordance with the payment terms stated on the Order. Superior shall invoice all other fees, as and when incurred. All invoices shall be sent to Customer’s address for invoices stated on the Order. Except as otherwise specified on the Order, Customer’s payments shall be due within thirty (30) days after the invoice date. A late payment fee at the rate of 12% per year (or, if lower, the maximum rate permitted by applicable law) shall accrue on any amounts thirty (30) days past due and unpaid by Customer to Superior, except for Disputed Amounts. Superior may not increase the fees and charges payable under this Agreement, unless otherwise stated in this Agreement or in the Order. Except as provided

in Section 4.2(c), all fees and other amounts paid by Customer under this Agreement are non-refundable.

3.2 **Taxes.** The fees and other amounts payable by Customer to Superior under this Agreement do not include any taxes, duties, levies, fees or similar charges of any jurisdiction (“**Taxes**”) that may be assessed or imposed in connection with the transactions contemplated by this Agreement, excluding only taxes based upon Superior’s net income. Customer shall directly pay any such Taxes assessed against it, and Customer shall promptly reimburse Superior for any such Taxes payable or collectable by Superior.

3.3 **Certain Remedies for Non-payment.** If Customer fails to pay to Superior, within ten (10) days after Superior makes written demand therefor, any past-due amount payable under this Agreement (including any applicable late payment fee) that is not a Disputed Amount, in addition to all other rights and remedies which Superior may have, Superior may, in its sole discretion and with further notice to Customer stating the suspension date, suspend performance of any or all of its obligations under this Agreement (other than Section 5). Superior shall have no liability for Customer’s use of the Solution until all such past-due amounts and any applicable reinstatement fees are paid in full.

4. **Warranties, Covenants and Limitations.**

4.1 **Compliance with Laws.** Superior shall comply with all laws, enactments, orders and regulations applicable to it as the provider of services under this Agreement. Customer shall comply with all laws, enactments, orders and regulations applicable to it as the recipient and user of services under this Agreement.

4.2 **No Infringement.** Superior shall indemnify and defend Customer against, any third-party claim asserting that the Solution, as and when made available to Customer by Superior and when properly used for the purpose and in the manner specifically authorized by this Agreement, infringes upon (i) any patent issued as of the date of this Agreement by a country that is a signatory to the Paris Convention, (ii) any copyright of any country that is a member of the Berne Convention as of the date of this Agreement, or (iii) any trade

secret or other proprietary right of any Person (collectively, “**IP Rights**”). Superion shall have no obligation under this Section 4.2 unless Customer promptly gives notice to Superion within ten (10) days after the date Customer first receives notice of the applicable infringement claim (provided that later notice shall relieve Superion of its liability and obligations under this Section 4.2 only to the extent that Superion is prejudiced by such later notice) and allows Superion to have sole control of the defense or settlement of the claim. Customer may monitor any such litigation or proceeding at its expense, using counsel of its choosing. The remedies provided in this Section 4.2 are the sole remedies for a claim of infringement or misappropriation hereunder. If any applicable infringement claim is initiated, or in Superion's sole opinion is likely to be initiated, Superion may at its option and expense:

- (a) modify or replace all or the allegedly infringing part of the Solution so that it is no longer allegedly infringing, provided that the functionality does not change in any material adverse respect; or
- (b) procure for Customer the right to continue using the allegedly infringing part of the Solution; or
- (c) remove all or the allegedly infringing part of the Solution, and (i) if Customer has paid a one-time upfront initial license fee for the applicable Solution, refund to Customer the corresponding portion of the license fee paid by Customer to Superion for the applicable Solution, less a reasonable rental charge equal to one-sixtieth (1/60) of the initial license fee for each month of use following the Order Execution Date, or (ii) if Customer is paying for the use of the Solution on a recurring basis, refund to Customer the corresponding portion of the unused recurring fee(s) paid by Customer to Superion with respect to the applicable Solution, and in each such case this Agreement shall terminate with respect to the Solution or part thereof removed.

4.3 Harmful Code. Using a recent version of a reputable virus-checking product (to the extent commercially available), Superion will check the Solution, as well as any systems used to deliver the Solution, for any viruses, worms or similar harmful code (“**Harmful Code**”) and will use commercially reasonable efforts to eliminate any such Harmful Code that Superion discovers.

4.4 Exclusion for Unauthorized Actions. Superion is not liable under any provision of this Agreement for any performance problem, claim of infringement or other matter to the extent attributable to any unauthorized or improper use or modification of the Solution by or on behalf of Customer, any unauthorized combination of the Solution with other software

or services (other than as specified in the Specified Configuration), any use of any version of the Solution other than the Supported Release, a failure to subscribe to support services if then offered for the Solution, any Third-Party Hardware or Third-Party Services, and Third-Party Software or Open Source Software (except as set forth in Sections 4.10 and 4.12), any wrongful act or omission by Customer, its Affiliates or its customers or any breach of this Agreement by Customer.

4.5 Force Majeure. 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 (other than its payment obligations, which shall be suspended only for so long as the force majeure event renders Customer unable by any means to transmit payments when due hereunder) as a result of a cause beyond its control, including any act of God or a public enemy or terrorist, act of any military, civil or regulatory authority, change in any law or regulation, fire, flood, earthquake, storm or other like event, theft or criminal misconduct by unrelated third parties, disruption or outage of communications (including the Internet or other networked environment), power or other utility, unavailability of supplies or any other cause, whether similar or dissimilar to any of the foregoing, which could not have been prevented by the non-performing party with reasonable care.

4.6 Disclaimer. EXCEPT AS STATED IN SECTIONS 4, 6.5 AND 9.5, THE SOLUTION, DOCUMENTATION AND SERVICES ARE PROVIDED “AS IS,” AND ALL OTHER REPRESENTATIONS, WARRANTIES, TERMS OR CONDITIONS, ORAL OR WRITTEN, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, QUALITY OF INFORMATION, QUIET ENJOYMENT OR OTHERWISE (INCLUDING IMPLIED WARRANTIES, TERMS OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INTERFERENCE, OR NON-INFRINGEMENT) ARE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EXCLUDED FROM THIS AGREEMENT.

4.7 Limitations Cap. EACH PARTY’S TOTAL LIABILITY UNDER THIS AGREEMENT SHALL UNDER NO CIRCUMSTANCES EXCEED THE LIABILITY CAP.

4.8 Consequential Damage Exclusion. UNDER NO CIRCUMSTANCES SHALL EITHER PARTY (OR ANY OF ITS AFFILIATES PROVIDING OR RECEIVING THE SOLUTION, SERVICES OR OTHER SOFTWARE UNDER THIS AGREEMENT) BE LIABLE TO THE OTHER OR ANY

OTHER PERSON FOR LOSSES OR DAMAGES WHICH FALL INTO ANY OF THE FOLLOWING CATEGORIES: (a) LOST REVENUES, (b) LOST PROFITS, (c) LOSS OF BUSINESS, (d) TRADING LOSSES, (e) INACCURATE DISTRIBUTIONS OR (f) ANY INCIDENTAL, INDIRECT, EXEMPLARY, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING ANY OF THE FOREGOING LOSSES OR DAMAGES RESULTING FROM CUSTOMER'S USE OF THE SOLUTION OR SERVICES PROVIDED HEREUNDER, OR ARISING FROM ANY BREACH OF THIS AGREEMENT OR ANY TERMINATION OF THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE AND WHETHER OR NOT FORESEEABLE, EVEN IF THE RELEVANT PARTY HAS BEEN ADVISED OR WAS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. FOR PURPOSES OF CLARIFICATION, THE FOLLOWING SHALL BE DEEMED "DIRECT DAMAGES" AS BETWEEN CUSTOMER AND SUPERION FOR THE PURPOSES OF THIS AGREEMENT (i) ANY AND ALL DAMAGES, INCLUDING CONSEQUENTIAL AND SIMILAR DAMAGES, AWARDED TO A THIRD PARTY FOR WHICH INDEMNIFICATION IS PROVIDED BY A PARTY UNDER SECTION 4.2; (ii) CUSTOMER'S OUT-OF-POCKET COSTS TO NOTIFY AFFECTED PERSONS AND/OR PAY FOR CREDIT MONITORING SERVICES FOR SUCH PERSONS FOR A ONE-YEAR PERIOD INCURRED AS A RESULT OF SUPERION'S BREACH OF SECTION 5.

4.9 Exceptions. THE LIMITATIONS AND EXCLUSIONS SET FORTH IN SECTIONS 4.7 AND 4.8 SHALL NOT APPLY TO: (a) BREACHES OF THE SCOPE OF USE; (b) FAILURE TO PAY FEES WHEN DUE; (c) DAMAGES CAUSED BY EITHER PARTY'S FRAUD OR WILLFUL MISCONDUCT; (d) A PARTY'S LIABILITY FOR DEATH OR PERSONAL INJURY DUE TO THAT PARTY'S NEGLIGENCE; OR (e) A PARTY'S LIABILITY FOR DAMAGES TO THE EXTENT THAT SUCH LIMITATION OR EXCLUSION IS NOT PERMITTED BY APPLICABLE LAW. THE LIMITATIONS SET FORTH IN SECTION 4.7 DO NOT APPLY TO CLAIMS FOR WHICH INDEMNIFICATION IS PROVIDED BY A PARTY UNDER SECTION 4.2.

4.10 Third-Party Software. To facilitate Customer's access and use of the Third-Party Software, the licensor(s) of such Third-Party Software have agreed to allow Superion to provide the Third-Party Software to Customer subject to the following additional conditions: (i) the Third-Party Software shall be used only in conjunction with any permissible use of the Solution specifically authorized in this Agreement, and (ii) the Third-Party Software shall be used only in accordance with licensor's terms and conditions and documentation for

the Third-Party Software which, unless otherwise included in a specific Supplement to the Order, shall be provided to Customer with the receipt of such Third-Party Software. Superion shall use reasonable efforts to provide Customer the benefit of all indemnities and warranties granted to Superion by the licensor(s) of the Third-Party Software, to the extent possible without additional cost to Superion, as and if permitted by Superion's agreement with the licensor of the Third-Party Software, and to the extent such warranties and indemnities pertain to Customer's use of the Third-Party Software hereunder. In the event of any defect in any Third-Party Software (in the form delivered by Superion and when properly used for the purpose and in the manner specifically authorized by this Agreement), Superion will use commercially reasonable efforts to replace or correct the Third-Party Software without charge. If Superion complies with this provision, it shall face no further liability with respect to any defect in any Third-Party Software.

Unless as otherwise provided in a specific Supplement to the Order, or as provided in the licensor's terms and conditions, Superion shall provide Level 1 support of the Third-Party Software. For purposes herein, Level 1 Support shall mean:

- 1) Taking the first support call from Customer and qualifying the call priority, or if an existing case, obtaining case information;
- 2) Gathering information about the case, defining and describing the problem, and determining if the Third Party Software is the cause of the problem. Analyze problem symptoms, attempt to find root cause if appropriate and document result of such attempts. Determining if the problem is a known Third-Party Software problem by accessing third party online support resources; and
- 3) If it is determined to be a Third-Party Software problem, contacting the Third-Party Software technical support. For new cases, opening a case and selecting a priority. For existing cases, providing the case number and information gathered to the Third-Party Software support engineer.

4.11 Third-Party Hardware and Third-Party Services. Customer is hereby advised that the third party, and not Superion, assumes all responsibility for and liability in connection with the Third-Party Hardware and Third-Party Services, and is solely responsible for delivering the Third-Party Hardware and Third-Party Services to Customer. Superion is not authorized to make any representations or warranties that are binding upon the third party or to engage in any other acts that are binding upon the third party, excepting specifically that Superion is authorized to represent

the fees for the Third-Party Hardware or Third-Party Services as the same is provided for in the Order and to accept payment of such amounts from Customer on behalf of the third party.

4.12 Open Source Software Components. The Solution may be provided with or included Open Source Software, including that Open Source Software identified in the Documentation or on the support services website for the Solution. The Open Source Software is licensed under the terms of the open source license that accompanies or is made available with such Open Source Software, including via a website designated by Superior. Nothing in this Agreement limits Customer's rights under, or grants Customer rights that supersede, the terms and conditions of any applicable license for such Open Source Software. Open Source Software shall not be deemed to be part of the Solution under this Agreement and Superior shall have no liability relating to such Open Source Software; provided, however, that Superior shall be responsible for fixing Errors caused by the Open Source Software to the same extent as Superior's ongoing support obligations as set forth in Section 8.5 and 9.3 of this Agreement.

4.13 Open Negotiation. Customer and Superior have freely and openly negotiated this Agreement, including the pricing, with the knowledge that the liability of the parties is to be limited in accordance with the provisions of this Agreement.

4.14 Title and Risk of Loss. In no event will Superior be deemed to have taken title or any similar right or interest in or of any Third-Party Software or Third-Party Hardware in the chain of distribution to Customer, and title, risk of loss, and/or such similar right or interest in or to the Third-Party Software or Third-Party Hardware will be deemed to vest in Customer either at the point of delivery to carrier for shipment or as otherwise provided for in the licensor's terms and conditions.

4.15 Disclaimer. Except as may be provided in Section 4.10 above, Customer agrees and understands that **SUPERION MAKES NO WARRANTIES WHATSOEVER, EXPRESSED OR IMPLIED, WITH REGARD TO THE THIRD-PARTY PRODUCTS. ALL WARRANTIES (IF ANY) ARE PROVIDED TO CUSTOMER BY THE LICENSORS, MANUFACTURERS OR PROVIDERS OF SUCH THIRD-PARTY PRODUCTS. SUPERION EXPLICITLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. EXCEPT FOR ITS OBLIGATION TO REMIT PAYMENT RECEIVED FROM CUSTOMER TO THE THIRD PARTY PURSUANT TO THIS AGREEMENT, SUPERION WILL HAVE NO LIABILITY**

WHATSOEVER IN CONNECTION WITH THE THIRD-PARTY PRODUCTS.

4.16 Other Limitations. The warranties made by Superior in this Agreement, and the obligations of Superior under this Agreement, run only to Customer and not to its Affiliates, its customers or any other Persons. Under no circumstances shall any Affiliate or customer of Customer or any other Person be considered a third-party beneficiary of this Agreement or otherwise entitled to any rights or remedies under this Agreement (including any right to be consulted in connection with any variation or rescission of the Agreement agreed between Superior and Customer), even if such Affiliates, customers or other Persons are provided access to the Solution or data maintained in the Solution via the Internet or other networked environment. Except to the extent specified in an Order, Superior shall not be deemed Customer's official record keeper for regulatory or other purposes and shall have no obligation to retain any records or data on Customer's behalf after termination or expiration of this Agreement.

5. Confidentiality, Security, Ownership and Use Restrictions.

5.1 Confidentiality. The party receiving Confidential Information ("**Receiving Party**") of the other ("**Disclosing Party**") shall not, and shall cause its Authorized Recipients not to, use Confidential Information for any purpose except as necessary to implement, perform or enforce this Agreement. Receiving Party will use the same reasonable efforts to: (a) protect the Confidential Information of Disclosing Party as it uses to protect its own proprietary information and data. Prior to disclosing the Confidential Information to its Authorized Recipients, Receiving Party shall inform them of the confidential nature of the Confidential Information and require them to abide by the terms of this Agreement. Receiving Party will promptly notify Disclosing Party if Receiving Party discovers any improper use or disclosure of Confidential Information and will promptly commence all reasonable efforts to investigate and correct the causes of such improper use or disclosure. If Receiving Party believes the Confidential Information must be disclosed under applicable law, Receiving Party may do so provided that, to the extent permitted by law, the other party is given a reasonable opportunity to contest such disclosure or obtain a protective order.

5.2 Security.

- (a) Superior will implement commercially reasonable administrative, technical and physical safeguards designed to: (i) ensure the security and confidentiality of Customer Data; (ii) protect against any anticipated

threats or hazards to the security or integrity of Customer Data; and (iii) protect against unauthorized access to or use of Customer Data. Superior will review and test such safeguards on no less than an annual basis.

- (b) If Customer makes the Solution or data maintained by the Solution accessible through the Internet or other networked environment, Customer shall be solely responsible for all aspects of Internet use, and shall maintain, in connection with the operation or use of the Solution, adequate technical and procedural access controls and system security requirements and devices, necessary for data privacy, confidentiality, integrity, authorization, authentication and non-repudiation and virus detection and eradication.
- (c) To the extent that Third-Party Users are permitted to have access to the Solution, Customer shall maintain agreements with such Third Party Users that adequately protect the confidentiality and intellectual property rights of Superior in the Solution and Documentation, and disclaim any liability or responsibility of Superior with respect to such Third Party Users.

5.3 Personal Data. If Superior processes or otherwise has access to any personal data or personal information on Customer's behalf when performing Superior's obligations under this Agreement, then: (i) Customer shall be the data controller (where "**data controller**" means an entity which alone or jointly with others determines purposes for which and the manner in which any personal data are, or are to be, processed) and Superior shall be a data processor (where "**data processor**" means an entity which processes the data only on behalf of the data controller and not for any purposes of its own); (ii) Customer shall ensure that it has obtained all necessary consents and it is entitled to transfer the relevant personal data or personal information to Superior so that Superior may lawfully use, process and transfer the personal data and personal information in accordance with this Agreement on Customer's behalf, which may include Superior processing and transferring the relevant personal data or personal information outside the country where Customer and the Authorized Users are located in order for Superior to provide the Solution and perform its other obligations under this Agreement; and (iii) Superior shall process the personal data and personal information only in accordance with any lawful and reasonable instructions given by Customer from time to time as set out in and in accordance with the terms of this Agreement; and (iv) each party shall take appropriate technical and organizational measures against unauthorized or unlawful processing of the personal data and personal information or its accidental loss, destruction or damage so that, having regard to the state of technological

development and the cost of implementing any measures, the measures taken ensure a level of security appropriate to the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction or damage in relation to the personal data and personal information and the nature of the personal data and personal information being protected. If necessary, the parties will cooperate to document these measures taken.

5.4 SG Solution Details. The SG Solution Details are trade secrets and proprietary property of Superior or its licensors, having great commercial value to Superior or its licensors. Title to all SG Solution Details and all related intellectual property and other ownership rights shall be and remain exclusively with Superior or its licensors, even with respect to such items that were created by Superior specifically for or on behalf of Customer. Superior and its Affiliates may freely use Feedback without attribution or the need for Superior, its Affiliates or any third party to pay Customer or any third party any royalties or other fees of any kind. This Agreement is not an agreement of sale, and no intellectual property or other ownership rights to any SG Solution Details are transferred to Customer by virtue of this Agreement. All copies of SG Solution Details in Customer's possession shall be deemed to be on loan to Customer during the term of this Agreement.

5.5 Use Restrictions. Except to the extent specifically authorized by this Agreement, Customer shall not, shall not attempt to, and shall not permit any other Person under its reasonable control to: (a) use any SG Solution Detail for any purpose, at any location or in any manner not specifically authorized by this Agreement; (b) make or retain any Copy of any SG Solution Detail; (c) create or recreate the source code for the Solution, or re-engineer, reverse engineer, decompile or disassemble the Solution except to the extent specifically permitted by applicable law; (d) modify, adapt, translate or create derivative works based upon the Solution or Documentation, or combine or merge any part of the Solution or Documentation with or into any other software or documentation except to the extent specifically permitted by applicable law; (e) refer to, disclose or otherwise use any SG Solution Detail as part of any effort either (i) to develop a program having any functional attributes, visual expressions or other features similar to those of the Solution or (ii) to compete with Superior; (f) remove, erase or tamper with any copyright or other proprietary notice printed or stamped on, affixed to, or encoded or recorded in any SG Solution Detail, or fail to preserve all copyright and other proprietary notices in any Copy of any SG Solution Detail made by Customer; (g) sell, market, license, sublicense, distribute or otherwise grant to any Person, including any outsourcer, vendor, sub-contractor, consultant or partner, any right to use any SG

Solution Detail or allow such other Person to use or have access to any SG Solution Detail, whether on Customer's behalf or otherwise; or (h) use the Solution to conduct any type of application service provider, service bureau or time-sharing operation or to provide remote processing, network processing, network telecommunications or similar services to any Person, whether on a fee basis or otherwise.

5.6 Notice and Remedy of Breaches. Each party shall promptly give notice to the other of any actual or suspected breach by it of any of the provisions of this Section 5, whether or not intentional, and the breaching party shall, at its expense, take all steps reasonably requested by the other party to prevent or remedy the breach.

5.7 Enforcement. Each party acknowledges that any breach of any of the provisions of this Section 5 may result in irreparable injury to the other for which money damages would not adequately compensate. If there is a breach, then the injured party shall be entitled, in addition to all other rights and remedies which it may have, to have a decree of specific performance or an injunction issued by any competent court, requiring the breach to be cured or enjoining all Persons involved from continuing the breach.

6. Professional Services.

6.1 Professional Services. An Order may identify certain Professional Services.

6.2 Professional Services Fees. Customer shall pay to Superior the professional services fees stated on the Order. In each case where professional services fees are not specified on the Order, then the fees for such services shall be based upon Superior's then standard professional services fee rates.

6.3 Expense Reimbursements. Customer shall reimburse Superior for reasonable travel, living and other out-of-pocket expenses incurred by Superior personnel in connection with all services, including, but not limited to, Professional Services and maintenance and support rendered by Superior. Reimbursable expenses shall be incurred by Superior personnel in accordance with Superior's then current per diem travel expense guidelines, a copy of which will be included in the Order. Superior shall invoice Customer for reimbursement of these expenses on a monthly basis, as incurred.

6.4 Cooperation and Access to Facilities, Data and Employees. To the extent reasonably necessary for Superior to perform its obligations under this Agreement, Customer shall provide to Superior access to Customer's location site, equipment, data and employees, and shall otherwise cooperate with Superior in its performance

hereunder, all as reasonably necessary for Superior to perform its obligations under this Agreement.

6.5 Professional Services Warranty. Superior warrants to Customer that Professional Services will be performed in a good and workmanlike manner by qualified personnel, subject to Section 6.4. Superior shall have no liability under this Section 6.5 unless, within thirty (30) days after the actual date of the particular Professional Services, Superior receives notice from Customer describing the breach of this warranty, together with adequate supporting documentation and data. Upon receipt of any such notice, Superior's only obligation under this Section 6.5 is to remedy the breach and reperform the particular Professional Services affected as soon as reasonably practical at no additional charge.

6.6 Compliance with Customer Policies. While Superior personnel are performing services at Customer's site, Superior will ensure that such personnel comply with Customer's reasonable security procedures and site policies that are generally applicable to Customer's other suppliers providing similar services and that have been provided to Superior in writing and in advance. Customer shall promptly reimburse Superior for any out-of-pocket costs incurred in complying with such procedures and policies.

6.7 Contributed Material. In the process of Superior's performing Professional Services, Customer may, from time to time, provide Superior with designs, plans, or specifications, improvements, works or other material for inclusion in, or making modifications to, the Solution, the Documentation or any other deliverables ("**Contributed Material**"). Customer grants to Superior a nonexclusive, irrevocable, perpetual, transferable right, without the payment of any royalties or other compensation of any kind and without the right of attribution, for Superior, Superior's Affiliates and Superior's licensees to make, use, sell and create derivative works of the Contributed Material.

7. Term and Termination.

7.1 Order Term. The Order may state an initial term for the use of the Solution ("**Initial Term**") and may state renewal terms (each a "**Renewal Term**"). "**Order Term**" means the Initial Term together with any Renewal Terms.

7.2 Termination. Either party may terminate this Agreement by giving notice of termination to the other party if the other party breaches any of its material obligations (other than Customer's failure to pay Support Fees during a Renewal Support Term) under this Agreement and does not cure the breach within thirty (30) days after receiving notice describing the breach in reasonable detail.

7.3 Effect of Termination. The provisions of Sections 3, 4, 5, 7.3 and 10 shall survive any termination of this Agreement, whether under this Section 7 or otherwise. Customer shall be liable for all payments due to Superior for the period ending on the date of termination. Upon a termination of this Agreement, whether under this Section 7 or otherwise, or upon the expiration or termination of an Order Term, Customer shall: (i) discontinue all use of the affected Solution and Documentation, (ii) promptly return to Superior all copies of the affected Solution and Documentation and any other affected SG Solution Details then in Customer's possession; and (iii) give notice to Superior certifying that all copies of such items have been permanently deleted.

8. Terms Applicable To SaaS, ASP and Hosting. The following provisions in this Section 8 apply solely to Hosting Services and to Orders for and ASP Solution or SaaS Solution.

8.1 SaaS, ASP and Hosting. Superior shall provide the Hosting Services and/or access to the ASP Solution or SaaS solution, as described and for the term specified on the Order.

8.2 Passwords and Solution Access. If Superior provides Customer or its Authorized Users with unique access codes to access the Solution (each, a "Password"), Customer shall hold any such Passwords in strict confidence and shall not assign, share, misuse or abuse the Passwords or attempt to render ineffective the password protection of the Solution. If Customer suspects or learns that a Password is being used to gain unauthorized access to the Solution, Customer will immediately notify Superior so that it can change, or assist Customer in changing, the applicable Password. To the extent the Solution is within Superior's network, Superior may suspend access to the Solution without advance notice if Superior reasonably believes the Solution is being used or accessed in an unauthorized, illegal or disruptive manner, provided that Superior will promptly notify Customer of any such event.

8.3 Customer Data.

(a) Customer shall supply, or cause to be supplied, all Customer Supplied Data. Customer shall transmit the Customer Supplied Data to Superior by communications link or in another manner described on the Order. As between Superior and Customer, Customer shall be responsible for ensuring that the Customer Supplied Data is Accurate and complete. Customer represents and warrant to Superior that Customer has the full legal right for Customer and Superior, its affiliates and agents to use the Customer Supplied Data for processing hereunder.

(b) Within thirty (30) days after termination of Hosting Services or of an Order for an ASP Solution or SaaS Solution, Customer shall give Superior an instruction notice regarding the disposition of any tapes, data, files and other property belonging to Customer and then in Superior's possession. To the extent practicable and at Customer's expense after receipt of such notice, Superior shall use commercially reasonable efforts to comply with the notice, including converting the data on the Solution to machine-readable form. Superior may retain such property until Superior receives all payments due to Superior under that Order. If Customer fails to give that notice within thirty (30) days after such termination, then Superior may dispose of such property in a commercially reasonable manner.

(c) In order to improve Superior's product and service offerings for its customers, Superior may maintain a database of information residing on the Solution. Superior and its affiliates may use and distribute such data in an aggregated and de-identified format, including as a part of the development, distribution and licensing of any Superior product or service offering.

8.4 Regulatory Access. To the extent permitted by law, each party will notify the other promptly of any formal request by an authorized governmental agency or regulator to examine Customer Data or other records, if any, regarding Customer that are maintained in Superior facilities under this Agreement. Customer will reimburse Superior for the reasonable out-of-pocket costs Superior incurs, and for time spent, in making such Customer Data or other records, if any, available for examination and audit by the governmental agency or regulatory authority that has jurisdiction over Customer's business.

8.5 Support. Superior shall provide to Customer the ongoing support services as described in the Order.

8.6 Data Backup and Disaster Recovery. If the Solution maintains a database then, unless otherwise stated on the Order:

(a) Superior shall provide an electronic backup of the Customer Data accordance with the backup cycle defined in the Order (and if no backup cycle is defined, at reasonable intervals); and

(b) Superior shall maintain a disaster recovery plan which includes a procedure for the restoration of Customer's production environment at an alternate facility in the event of a disaster. Superior's disaster recovery plan shall be tested at least once each calendar year.

8.7 Interruption to Solution. From time to time, Superior shall be entitled (at its discretion, without incurring liability for

so doing) to interrupt the Solution to: (i) perform repairs and other maintenance and install enhancements on Superior's equipment, software and/or other systems that are required for the provision of the Solution, or (ii) make adjustments to its infrastructure (including, for example, in relation to resources shared by its other customers) and thereby cause a disruption in the provision of the Solution. Except in the case of emergency repairs, maintenance or adjustments, Superior will (a) give Customer reasonable prior notice of the interruption; (b) limit such interruptions to outside of Superior's normal business hours; and (c) use commercially reasonable efforts to minimize the impact of the interruption.

8.8 Harmful Code. Using a recent version of a reputable virus-checking product (to the extent commercially available), Customer will check the Specified Configuration for Harmful Code and ensure no Harmful Code is introduced by its end users or from its systems into any systems used in the Solution and will use commercially reasonable efforts to eliminate any such Harmful Code that either Customer or Superior discovers.

8.9 Volume Increases. Customer shall give notice to Superior whenever Customer intends to materially increase the volume of data to be processed on the Solution. Any such increase that results in an increase beyond the Scope of Use requires an additional executed Order and the payment of additional fees.

9. Terms Applicable to Software Licenses. The following provisions in this Section 9 apply solely to an Order that provides the right for Customer to install the Solution at the facility identified on the Order.

9.1 Grant. Except as otherwise provided in an Order, Superior grants to Customer a non-transferable, non-exclusive, term license to use the Solution in accordance with this Agreement and the Scope of Use. The Solution shall be installed in object code form only at Customer's location(s) listed on the Order ("**Designated Location(s)**"). Customer may, subject to Section 10.4, use or access the Solution at or from Customer locations worldwide. Customer may change a Designated Location by giving prompt notice thereof to Superior. Customer may copy and use the Solution installed at the Designated Location for inactive back-up and disaster recovery purposes. Customer may copy the Documentation to the extent reasonably necessary for use of the Solution under this Agreement.

9.2 Initial Installation. Superior shall deliver to Customer the initial Copies of the Solution stated on the Order by supplying such initial Copies (a) by physical shipment, such as on a disc or other media, or (b) by electronic delivery, such as by posting it on Superior's network for downloading.

Physical shipment is on F.O.B. terms, Superior's shipping point and electronic delivery is deemed effective at the time Superior provides Customer with access to download the Solution. The date of such delivery shall be referred to as the "**Delivery Date.**"

9.3 Support. Beginning on the Order Execution Date and continuing for twelve (12) months thereafter ("Initial Support Term"), Superior shall provide the ongoing support services described in that Order. Support for the Initial Support Term are provided at no charge. Upon expiration of the Initial Support Term, the ongoing support services shall automatically renew for an additional Contract Year unless, at least sixty (60) days prior to the expiration of the initial Contract Year, Customer notifies Superior in writing of Customer's intent not to renew for the second Contract Year. After the second Contract Year, the Support will automatically be extended for consecutive Contract Years on a year-to-year basis unless either party notifies the other in writing of its intent not to extend the support at least sixty (60) days prior to the expiration of the then-current Contract Year.

However, upon termination Superior will discontinue providing all on-going support services, improvements and warranties. Superior shall have no liability with respect to Customer's use of the Products for which support services are terminated.

Support Fees for the second Support Term shall be as provided in the Order Form.

On an annual basis, Superior may increase the Support Fees payable.

9.4 Support Termination. Upon the effective date of termination of ongoing support services by either party or at any time when Customer has failed to pay Support Fees ("**Support Termination Date**"): (i) Superior shall discontinue providing all ongoing support services, including Superior's obligations under Section 9.3; (ii) any Superior warranties under this Agreement shall cease to apply for the period after the Support Termination Date; and (iii) Superior shall not be liable for Customer's use of the Solution after the Support Termination Date except for Superior's indemnification obligations for any third-party claims covered by Section 4.2 that arose prior to the Support Termination Date (but only to the extent such claim would not have been remedied by a Release made available by Superior after the Support Termination Date).

9.5 Software Warranty. Superior warrants to Customer that for a period of twelve (12) months from the Delivery Date, the Solution (as delivered to Customer by Superior and when properly used for the purpose and in the manner specifically

authorized by this Agreement), will perform as described in the Documentation in all material respects. Superior's sole obligation and liability under this warranty is to comply with the provisions of Section 9.3 of this Agreement.

9.6 Remote Access of Installed Software. Provided that Superior performs such services in accordance with the confidentiality provisions of this Agreement, Customer shall permit Superior, at Superior's option, to remotely access the Solution installed at the Designated Location for the purpose of providing support services to Customer under Section 9.3 and otherwise implementing the purposes of this Agreement. In remotely accessing such Solution, Superior will comply with Customer's reasonable security procedures and company policies that have been provided to Superior in writing. Customer shall promptly reimburse Superior for any out-of-pocket costs incurred in complying with such procedures and policies.

9.7 Backup. Customer acknowledges that it is the best judge of the value and importance of the data held on Customer's systems and that Customer shall be solely responsible for maintaining secure and complete back-up copies of all data that Customer processes using the Solution, which data will be backed-up on not less than a daily basis and which will be readily available on machines controlled by Customer to facilitate the prompt restoration of such data in the event of any loss of or damage to it. Superior shall have no liability for any loss or damage caused by Customer's failure to maintain such backed-up copies.

9.8 Audit. At Superior's expense and upon written request with reasonable notice, Customer will permit Superior, its personnel or its outside auditors to enter the relevant Customer locations during normal business hours and audit the number of copies of the Solution and Documentation in Customer's possession and information pertaining to Customer's compliance with this Agreement. Such audits shall not occur more than once in any twelve (12) month period (unless Superior believes, in good faith, that there has been a breach of this Agreement by Customer) and shall be performed in a manner not to disrupt Customer's business and operations and will respect the confidentiality of Customer, its suppliers and customers. Customer will, in a timely manner, reasonably cooperate with the auditors and provide the auditors all assistance as they may reasonably request in connection with the audit. Customer may require auditors acting on behalf of Superior to execute reasonable confidentiality agreements and comply with Customer's reasonable security requirements, but the requirement will not apply to Superior's internal auditors otherwise bound by the confidentiality conditions of this Agreement.

10. Other Provisions.

10.1 Notices. 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: (a) the date of actual receipt; (b) the third business day after being mailed by first class, certified or air mail or (c) the first business day after being sent by a reputable overnight delivery service. Any notice may be given by facsimile, or email if notice by one of the foregoing is provided promptly thereafter. Customer's address for notices is stated on the Order. Superior's address for notices is stated on the Order. In the case of (i) any notice by Customer alleging a breach of this Agreement by Superior or (ii) a termination of this Agreement. Either party may change its address for notices by giving written notice of the new address to the other party.

10.2 Defined Terms. As used in this Agreement, the terms below (and their plural forms) have the following meanings:

- (a) **"affiliate"** whether capitalized or not, means, with respect to a specified Person, any Person which directly or indirectly controls, is controlled by, or is under common control with the specified Person as of the date of this Agreement, for as long as such relationship remains in effect.
- (b) **"Authorized Recipient"** means: (i) with respect to Customer, Customer, any Authorized User and any employee of a Customer contractor, provided that the contractor is not a competitor of Superior; and (ii) with respect to Superior, Superior, its foreign and domestic Affiliates and their respective contractors.
- (c) **"Authorized User"** means a Customer employee.
- (d) **"Confidential Information"** means all business or technical information disclosed by Disclosing Party to Receiving Party in connection with this Agreement. Confidential Information includes without limitation: (i) Customer Data and the details of Customer's computer operations; and (ii) the SG Solution Details. Confidential Information does not include information that: (aa) prior to the receipt thereof under this Agreement, had been developed independently by Receiving Party, or was lawfully known to Receiving Party, or had been lawfully received by Receiving Party from other sources, provided such other source did not receive it due to a breach of an agreement with Disclosing Party, and Receiving Party knew of such breach or ought to have reasonably known of such breach; (bb) is publicly known at or after the time either party first learns of such information, or generic information or knowledge which either party would have learned in the course of its work

- in the trade, business or industry; or (cc) subsequent to the receipt thereof under this Agreement; (1) is published by Disclosing Party or is disclosed generally by Disclosing Party to others without restriction on its use and disclosure; or (2) has been lawfully obtained by Receiving Party from other sources which Receiving Party reasonably believes lawfully came to possess it.
- (e) “**copy**” whether capitalized or not, means any paper, disk, tape, film, memory device or other material or object on or in which any words, object code, source code or other symbols are written, recorded or encoded, whether permanent or transitory.
- (f) “**Customer Data**” means data stored in, or processed by, the Solution; provided that aggregated data that is not personally identifiable data and not identifiable to Customer shall not be deemed Customer Data nor Customer’s Confidential Information.
- (g) “**Customer Supplied Data**” means any information or data introduced into the Solution by or on behalf of Customer.
- (h) “**Disputed Amount**” means a good faith dispute by Customer of certain amounts invoiced under this Agreement. An amount will only constitute a Disputed Amount if (i) Customer has given notice of the dispute to Superior promptly after receiving the invoice and (ii) the notice explains Customer’s position in reasonable detail. A disputed will not exist as to an invoice in its entirety merely because certain amounts on the invoice are Disputed Amounts.
- (i) “**Documentation**” means the standard user documentation Superior provides for the Solution, as such Documentation may be updated from time to time.
- (j) “**Error**” means a failure of a Supported Release to perform in all material respects in accordance with the Documentation.
- (k) “**Export Laws**” means any laws, administrative regulations and executive orders of the U.S., the United Kingdom and any other jurisdiction where any SG Solution Details will be located or from where any SG Solution Details will be accessed under this Agreement relating to the control of imports and exports of commodities and technical data, use or remote use of software and related property or services, embargo of goods or services or registration of this Agreement including the Export Administration Regulations of the U.S. Department of Commerce and the regulations and executive orders administered by the Office of Foreign Asset Control of the U.S. Department of the Treasury.
- (l) “**Feedback**” means any suggestions or recommendations for improvements or modifications to the Solution made by or on behalf of Customer.
- (m) “**including**” whether capitalized or not, means including but not limited to.
- (n) “**Liability Cap**” means the greater of Fifty Thousand U.S. Dollars (US\$50,000) or the amount identified on the Order as the liability cap, provided however that, if no amount is identified on the Order then the liability cap shall be Fifty Thousand U.S. Dollars (US\$50,000).
- (o) “**Open Source Software**” means computer software made generally available at no charge by the copyright holder under a license which provides the right to modify and distribute the software to anyone for any purpose at no charge.
- (p) “**person**” whether capitalized or not, means any individual, sole proprietorship, joint venture, partnership, corporation, company, firm, bank, association, cooperative, trust, estate, government, governmental agency, regulatory authority or other entity of any nature.
- (q) “**Professional Services**” means installation, implementation, training or consulting services including custom modification programming, support services relating to custom modifications, on-site support services, assistance with data transfers, system restarts and reinstallations provided by Superior under this Agreement.
- (r) “**Release**” means a modification or update to the Solution, which Superior, in its sole discretion, incorporates into the Solution without requiring its then existing client base to pay a separate fee (other than support fees).
- (s) “**Scope of Use**” means the Designated Computer(s), Designated Location(s), License Term, Platform, Business Purpose, Number of Trades, Number of Work Stations, Number of Developers, Number of Users, Volume Limit, Number of Production Databases, Number of Production Servers, and/or other restrictions or parameters as are stated in Section 5.5 or on the Order. Scope of Use shall not include the processing of any Acquired Business. Customer shall use the Solution in production to process Customer’s business; provided that all increases in the Scope of Use require the execution of an amendment amending the Scope of Use.

- (t) **“SG Solution Details”** means any of the following: the Solution and Documentation, the object code and the source code for the Solution, the visual expressions, screen formats, report formats and other design features of the Solution, all ideas, methods, algorithms, formulae and concepts used in developing and/or incorporated into the Solution or Documentation, all future modifications, updates, Releases, improvements and enhancements of the Solution or Documentation, all derivative works (as such term is used in the U.S. copyright laws) based upon any of the foregoing and all copies of the foregoing.
- (u) **“Supported Release”** means, unless otherwise stated in the Order, the latest Release of the Solution that is generally available to Superior's client base.
- (v) **“Third-Party Product”** means Third-Party Software, Third Party Hardware, Third-Party Data or Third-Party Services.
- (w) **“Third-Party Hardware”** means that hardware specified as third party hardware on the Order.
- (x) **“Third-Party Services”** means those services specified as third party services on the Order.
- (y) **“Third-Party Software”** means the software specified as third-party software on the Order.
- (z) **“Third-Party User”** means any of Customer's customers, or their customers, to the extent such persons are provided access to the Solution or Third-Party Data hereunder.

10.3 Parties in Interest.

- (a) This Agreement shall bind, benefit and be enforceable by and against Superior and Customer and, their respective permitted successors and assigns.
- (b) Customer shall not assign this Agreement or any of its rights hereunder, nor delegate any of its obligations hereunder, without Superior's prior written consent, except such consent shall not be required in the case of an assignment of this Agreement (but not of any individual rights or obligations hereunder) to (i) a purchaser of or successor to substantially all of Customer's business (unless such purchaser or successor is a software, data processing or computer services vendor that is a competitor of Superior, its parent company or any of its Affiliates) or (ii) an Affiliate of Customer, provided in the case of such an assignment, Customer guarantees the obligations of the assignee and the use of the Solution is not broadened

beyond the Scope of Use. Any assignment by Customer in breach of this Section shall be void. Any express assignment of this Agreement, any change in control of Customer (or its Affiliate in the case of an assignment to that Affiliate under this Section 10.3(b) and any assignment by merger or otherwise by operation of law, shall constitute an assignment of this Agreement by Customer for purposes of this Section 0 (**“Customer Assignment”**). In the event of a Customer Assignment, or any acquisition of additional business by Customer, whether by asset acquisition, merger or otherwise by operation of law (collectively with the Customer Assignment, **“Customer Additional Business Acquisition”**), Customer shall give notice to Superior notifying Superior if Customer desires to use the Solution to process any additional business related to such Customer Additional Business Acquisition (**“Acquired Business”**).

10.4 Export Laws. Customer acknowledges that the SG Solution Details and the services provided by Superior hereunder and this Agreement are subject to the Export Laws. Customer shall not violate the Export Laws or otherwise export, re-export or use, directly or indirectly (including via remote access), any part of the Solution, Confidential Information or services in a manner, or to or for any person or entity, for which a license or other authorization is required under the Export Laws without first obtaining such license or authorization.

10.5 Relationship. The relationship between the parties created by this Agreement is that of independent contractors and not partners, joint venturers or agents.

10.6 Entire Understanding. This Agreement, which includes and incorporates the Order, and any other schedules, exhibits and addenda hereto states the entire understanding between the parties with respect to its subject matter, and supersedes all prior proposals, marketing materials, negotiations, representations (whether negligently or innocently made), agreements and other written or oral communications between the parties with respect to the subject matter of this Agreement. In the event of a conflict between the provisions of the SST and an Order incorporating the SST, the terms of such Order shall prevail. Any written, printed or other materials which Superior provides to Customer that are not included in the Documentation are provided on an “as is” basis, without warranty, and solely as an accommodation to Customer. In entering into this Agreement each party acknowledges and agrees that it has not relied on any express or implied representation, warranty, collateral contract or other assurance (whether negligently or innocently made), except those expressly set out in this

Agreement. Each party waives all rights and remedies which, but for this Section 10.6, might otherwise be available to it in respect of any such representation (whether negligently or innocently made), warranty, collateral contract or other assurance. Nothing in this Agreement shall limit or exclude any liability for fraud or fraudulent misrepresentation.

10.7 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 the party against whom enforcement is sought. This Agreement may not be modified or amended by electronic means without written agreement of the parties with respect to formats and protocols. 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.

10.8 Severability, Heading and Counterparts. A determination that any provision of this Agreement is invalid or unenforceable shall not affect the other provisions of this Agreement. Section headings are for convenience of reference only and shall not affect the interpretation of this Agreement. 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.

10.9 Personnel. Customer acknowledges that: (a) Superior expends substantial time and money, on an ongoing basis, to recruit and train its programmers, trainers, data processing, customer support and professional services team personnel ("**Superior Personnel**"); (b) Superior's business is highly competitive, is marketed throughout the United States, Europe and in many other locations worldwide, and requires long sales lead times often exceeding one (1) year; and (c) if Customer were to hire Superior Personnel, then Superior may suffer lost sales opportunities and would incur substantial time and money in hiring and training

replacement(s) for those Superior Personnel. Accordingly, if Customer, directly or through one or more subsidiaries or other controlled entities, hires any Superior Personnel at any time when such Superior Personnel is employed or engaged by Superior or during the six (6) months after such employment or engagement ends, then Customer shall pay to Superior as liquidated damages (and not a penalty) an amount equal to twelve (12) months of such Superior Personnel's salary and other compensation (including bonus or commission payments) at the time of leaving his/her employment or engagement with Superior. For purposes of this provision, "**hire**" means to employ as an employee or to engage as an independent contractor, whether on a full-time, part-time or temporary basis. This provision will remain in effect during the term of this Agreement and for a period of one (1) year after expiration or termination of this Agreement.

10.10 Jurisdiction and Governing Law. This Agreement and any dispute or claim arising, directly or indirectly, out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is governed by, and shall be construed and enforced in accordance with, the laws of the State of Florida excluding choice of law. Each party irrevocably (i) agrees that a County or Circuit Court in the Eighteenth Judicial Circuit, in and for Seminole County, Florida, or the United States District for the Middle District of Florida, shall have exclusive jurisdiction to settle any dispute, controversy or claim arising, directly or indirectly, out of or in connection with this Agreement, or the breach, termination or validity thereof (including non-contractual disputes or claims) and that such court shall be the proper venue therefor; (ii) waives the right to trial by jury, (iii) consents to service of process by first class certified mail, return receipt requested, postage prepaid, to the address at which the party is to receive notice and (iv) agrees that the prevailing party shall be entitled to recover its reasonable attorney's fees (including, if applicable, charges for in-house counsel), court costs and other legal expenses from the other party.

ANNEX 1 - SPECIFIED CONFIGURATION

Hardware. It is agreed by Customer and Superior that hardware, operating systems, and application software required to implement and operate the systems described in this agreement shall be provided by Superior and shall reside in a Superior data center with the following exceptions:

DMS Server. In the event that the customer has licensed the DMS forms printing system, Customer is responsible for providing the hardware required for the DMS server. The DMS server shall be owned by the customer and shall reside at Customer's location for ease of management by Customer.

Virtual Private Network (VPN) Concentrator. The VPN Concentrator includes a router, which will be provided by Superior to Customer. The router shall reside at Customer's location but is, and shall remain, the property of Superior.

ANNEX 2 - SOLUTION AVAILABILITY AND SUPPORT

1. Superior's Responsibilities

Superior undertakes all responsibilities as outlined under Parts 1 and 2 of this Annex 2.

2. Customer Responsibilities

Superior will not be liable for a failure to perform its responsibilities under this Annex 2 to the extent such failure is directly caused by the Customer not complying with its obligations under this Agreement.

- A. Customer will designate named contacts for contacting support. These named contacts will have undertaken specific training under the supervision of Superior in order to log faults and interact with support services.
- B. Customer may be asked to perform problem determination activities as suggested by Superior. Problem determination activities may include capturing error messages, documenting steps taken and collecting configuration information. Customer may also be requested to perform resolution activities including modifying processes. Customer agrees to cooperate with such requests, if reasonable.
- C. Customer is responsible for the training and organization of its staff.
- D. Superior is not required to provide any services relating to problems arising out of any alterations of or additions to the Solution performed or authorized by parties other than Superior (including its contractors, or third parties under Superior's control). The Solution does not include development work on software not licensed from Superior or development work for enhancements or features that are outside the documented functionality of the Solution except such work described in Exhibit 1. Customer may request consulting and development work from Superior as a separate billable service.
- E. Customer will appoint a vendor liaison manager who will be Customer's primary contact with Superior on all commercial matters related to the Solution.

3. Disagreement procedure

In case the parties are in disagreement as to whether Superior has fulfilled its obligations under this ASP Order the parties shall use all reasonable efforts to amicably settle such dispute within five (5) working days. If the disagreement remains following such five working day period, the parties shall escalate the problem to the following representatives for the respective company to resolve the dispute:

Superior: Director of Operations (first level); VP of Services (escalation – 1st level); General Manager (escalation – 2nd level)

Customer: _____

The disagreement procedure proposed herein shall not limit either party's right to bring a claim as provided for in the Agreement. Notwithstanding any dispute under this Annex 2, the parties have a duty to continue fulfilling all their other obligations under this Agreement.

PART 1 – SERVICE LEVEL COMMITMENT AND CLOUD PROCEDURES

CLOUD SOLUTIONS

Hosted Systems Standards Sheet

Service Level Commitments and Cloud Procedures

Service Level Commitments

The following Service Level commitments apply to the Customer's production systems. This does not include testing or training systems.

A. Availability

1. SERVICE LEVELS FOR THE APPLICATION SERVICES

Superion shall provide the Application Services in accordance with the following service level commitment provisions.

1. Overall System Availability

1.1 **Target.** In each Service Period, the target for availability of the Application Services is 99.9% ("Availability Target"). "Service Period" means 24 hours per day Monday through Sunday each calendar month that Customer receives the Application Services, excluding Sundays between the hours of 12:01AM and 12 noon Eastern Time for scheduled maintenance. During this time, Customers *may* experience intermittent interruptions. Superion will make commercially reasonable efforts to minimize the frequency and duration of these interruptions. Superion will notify the Customer if the entire maintenance window will be required.

1.2 **Measurement.** Service availability is measured as the total time that the Application Services are available during each Service Period for access by Customer ("Service Availability"). Unless otherwise specified, the measurement period for Service Availability is each Service Period and Service Availability shall be calculated at the end of each Service Period. Service Availability measurement shall be applied to the production environment, and the points of measurement for all Application Services monitoring shall be the servers and the Internet connections at Superion's hosted environment.

Superion has technology monitoring, measuring, and recording Service Availability. The Client, at their discretion, may also employ monitoring tools. Said additional reporting tool must be non-invasive and may not reside in total or in part on Superions systems. Additionally, the use of said to must be mutually agreed upon by Superion and the Client. The Client shall be wholly responsible for any and all costs associated including but not limited to licenses, installation on Client's systems, support, maintenance, and renewal costs. In the event service availability does not meet contracted service levels and a discrepancy exists between Superion's monitoring tools and the Client's, the Service Availability indicated by Superion's system shall apply for the purposes of this Appendix B Standards Sheet.

1.3 **Calculation.** Service Availability Targets are subject to change monthly due to the variance of the number of days in a month. The total number of minutes which the service was NOT available in a given month shall exclude those items listed in Section G. Service Availability for a given month shall be calculated using the following calculation:

The total number of minutes which the service was NOT available in a given month shall be subtracted from the total number of minutes available in the given month. The resulting figure is divided by the total number of minutes available in the given month.

1.4 **Remedy.** If the Service Period target measurement, as calculated in 1.3, is not met with the result that the Customer's use of the Application Services is severely interrupted in a given month, then the Customer shall be entitled to a credit calculated as follows:

| Actual Service Availability in the relevant Service Period | Percentage Reduction in Monthly Fee payable by Customer in the Immediately Subsequent Service Period |
|---|---|
| Less than 99.9% but greater than or equal to 99.0% | 5% |
| Less than 99.0% but greater than or equal to 95% | 10% |
| Less than 95% | 25% |

If during the term of this Agreement, Superior fails to meet the service level commitment targets specified above, the Customer's sole and exclusive remedy in relation to such failure shall be the applicable credits specified. In no event shall Superior be obliged to provide any refund in relation to any credit, but rather the credit shall be applied to the next following invoice due to the Customer. Superior will utilize monitoring software to track and report actual service availability in the relevant service period. If the actual service availability during the relevant service period does not achieve the Availability Target, Superior will apply a service credit per the specifications above.

However, any credit entitlement that is not reported by Superior must be requested by the Customer within six (6) months of its occurrence or it shall no longer be available and the Customer will be deemed to have waived any rights in relation thereto and (for the avoidance of doubt) Superior's failure to meet the relevant service level commitment. In no event will credits due in any given month exceed twenty-five percent (25%) of that month's fees. Customer shall not be entitled to offset any monthly Application Services fee payments, nor withhold fee payments, on account of a pending credit. Customer shall not be eligible for credits for any period where Customer is more than thirty (30) days past due on their account. The amount of any unused credit shall be paid in cash to Customer upon termination of the Agreement.

Superior will provide reporting, as provided in Section G, showing performance and monthly service levels.

B. Server Performance

Superior shall provide sufficient server capacity for the duration of this hosting Agreement to meet the reasonable performance requirements for the number of concurrent system users provided for in this hosting Agreement.

Superior shall provide hardware resources sized for the number of users and software modules licensed in the hosting Agreement. If the Customer requests, at some later date, to add additional software modules, increase user licenses, increase storage requirement, and/or request additional environments, the hardware and software requirements of such additions will be evaluated. If additional resources are required to support such modifications, additional fees may apply.

If the addition of users, unusually heavy use, or other factors require additional resources for support of the Customer (e.g., hardware, software, people, data communications link, etc.), Superior and the Customer will confer on the matter until a mutually agreeable solution is identified.

Performance monitoring and tuning will be performed as necessary to maintain an average in-network interactive response time. "In-network" is defined as any point between which the data packet enters the Superior environment and subsequently departs the Superior environment. Any point of communications outside of the Superior protected network environment shall be deemed as "out-of-network."

Superion is not responsible for Internet connectivity and/or performance outside the internal Superion host site infrastructure.

C. Server Performance Stress Test

At the request of the Customer, Superion will coordinate a performance stress test with the Customer, at an agreed upon time, during implementation and upon request after go-live. Superion will work with the Customer to identify critical application screens to benchmark during the performance stress test and coordinate with the Customer to create an accurate test scenario with the Customer’s End Users. Upon completion of the performance stress test, Superion and the Customer will mutually agree to the performance benchmarks for the identified critical screens taking into consideration Internet latency, End User workstations limitations, and the Customer’s Local Area Network.

D. Scheduled and Emergency Maintenance for Application Services

Scheduled maintenance

System maintenance

Superion will provide all hosted systems and network maintenance as deemed appropriate and necessary by Superion. All maintenance will be completed outside of the Customer’s standard business hours of operation, unless requested by Customer.

Superion application maintenance and upgrades

Software maintenance and upgrades will be performed outside of the Customer’s standard business hours of operation, traditionally 8AM to 5PM Monday through Friday, unless requested by Customer. Software maintenance and upgrades will be scheduled in advance with the Customer’s primary contact.

Hardware maintenance and upgrades

Hardware maintenance and upgrades will be performed outside of the Customer’s standard business hours of operation, unless requested by Customer. The primary Customer contact will be notified, via the on-file e-mail address, prior to hardware upgrades being performed.

Emergency maintenance

Emergency situations will be handled on a case-by-case basis in such a manner as to cause the least possible disruption to overall system operations and availability without negatively affecting system stability and integrity. The primary Customer contact will be notified, when possible, via the on-file e-mail address, prior to emergency maintenance being performed. If no contact is made, emergency maintenance will move forward as deemed necessary by Superion management.

E. Incident Response

Incidents are defined as interruptions to existing service and can range in priority from urgent to low depending on the impact to the Customer. Incident priorities are defined as the following:

| Priority Level | Impact | Description |
|----------------|----------|---|
| 1 | Urgent | An Incident that (a) results in loss of Customer connectivity to all of the Application Services or (b) results in loss, corruption or damage to Customer’s Data. |
| 2 | Critical | An Incident that has an adverse material impact on the performance of the Application Services or materially restricts Customer’s day-to-day operations. |

| | | |
|----------|--------------|---|
| 3 | Non-Critical | An Incident that does not result in a failure of the Application Services but a fault exists in the Managed IT Services that restricts Customer's use of the Managed IT Services. |
| 4 | Minor | An Incident that does not affect or which has minimal adverse impact on the use of the Application Services. |

Superion will make commercially reasonable efforts to respond to Application Services incidents for live production systems using the following guidelines:

| Priority Level | Performance Target | Minimum Performance % Goal |
|----------------------------------|--|----------------------------|
| Priority 1 (Urgent) | Superion will respond within 1 hour of the issue being reported. | 95% |
| Priority 2 (Critical) | Superion will respond within 2 hours of the issue being reported. | 95% |
| Priority 3 (Non-Critical) | Superion will respond within 4 hours of the issue being reported. | 95% |
| Priority 4 (Minor) | Superion will respond within 24 hours of the issue being reported. | 95% |

Measurement. Superion shall track and report on response and resolution time for application and hosting support issues identified by the Customer.

F. Disaster Recovery.

Superion provides Disaster Recovery (DR) services for the systems hosted in a Superion data center for our hosted clients. The costs for DR services are included in the monthly fees. Services cover the following scenarios:

- (a) Loss of client data center. In the event the client's data center is inaccessible or rendered non-functional. Superion will provide the ability to connect to the appropriate Superion data center using software provided by Superion. This will provide the appropriate software to allow the client to connect to their systems from a remote site to previously identified critical. Functionality may be diminished due to lack of access to hardware and/or software located in the client's facilities.

G. Reporting

Superion shall measure its performance against the performance metrics, as set forth herein, and shall provide a report of such performance on a monthly basis. Such report(s) shall be delivered via an agreed upon method and within ten (10) days following the end of the applicable monthly measurement period. Superion will schedule a performance review with the Customer upon request.

H. Exceptions.

Notwithstanding anything herein, Superion shall not be responsible for failure to carry out any of its obligations under this Exhibit A and Exhibit C (including liability to apply any credit for any failure to meet a service level commitment target) if the failure is caused by:

- (a) scheduled downtime in order to carry out maintenance or suspensions in the Application Services that Customer has been notified of in advance that occurs outside of Normal Business Hours, provided that, in event of any critical or urgent system issue, that does not reasonably permit advance notice to Customer. Superion shall

provide notice as and when commercially reasonable with respect to such urgent issue, or as otherwise reasonably agreed between Customer and Superior. The system is reserved for maintenance on Sundays from 8am to 12 noon Eastern Time;

- (b) adverse impact due to the defectiveness of the Customer's environment, Customer's systems, or due to Customer corrupt, incomplete, or inaccurate data supplied to the Application Services;
- (c) adverse impact as a result of denial of reasonable access by Superior personnel to relevant portion of Customer's systems or premises that prevents Superior from addressing and provided that no other commercially reasonable method is available to attain such information;
- (d) adverse impact due to material changes made to the usage of the Application Services by Customer where Superior has not agreed to such changes in advance and in writing;
- (e) adverse impact due to the modification or alteration, in any way, by Customer or its subcontractors, of communications links necessary to the proper performance of the Application Services;
- (f) adverse impact due to a Documented Defect;
- (g) a force majeure event, or the negligence, intentional acts, or omissions of Customer or its agents.

Cloud Procedures

A. Incident Resolution

Performance targets vary due to issue complexity and priority. For critical requests, Superior provides a continuous resolution effort until the issue is resolved.

B. Service Requests

Service requests are new requests that will take less than 8 hours to accomplish. The Superior Cloud Solutions management team will perform the prioritization for these requests. There will be a targeted resolution goal of up to five (5) days, with extra time being allowed if equipment or software needs to be ordered or multiple products have to be analyzed. However, more complex requests may take longer to complete. Any new service requests requiring more than 8 hours to accomplish may constitute a project and must be scheduled.

C. Non-Production Environments

Superior will make commercially reasonable efforts to provide non-production environment during Customer business hours. For avoidance of doubt, the aforementioned non-production environment are not included under the SLA metrics period(s) hereunder.

Scheduled Maintenance

System maintenance

Superior will provide all necessary hosted systems and network maintenance for non-production environments as deemed appropriate and necessary by Superior Cloud Solutions. All necessary maintenance will be scheduled with the Customer and may be completed during business hours.

Superior application maintenance and upgrades

Software maintenance and upgrades for non-production environments may be performed during the Customer's standard business hours. Software maintenance and upgrades will be scheduled in advance, with the Customer's primary contact.

Hardware maintenance and upgrades

Hardware maintenance and upgrades for non-production environments may be performed during the Customer's standard business hours. The primary Customer contact will be notified, via the on-file e-mail address, prior to hardware upgrades being performed.

Emergency maintenance

Emergency situations will be handled on a case-by-case basis in such a manner as to cause the least possible disruption to overall system operations and availability without negatively affecting system stability and integrity. The primary Customer contact will be notified, when possible, via the on-file e-mail address, prior to emergency maintenance being performed. If no contact is made, emergency maintenance will move forward as deemed necessary by Superior Cloud Solutions management.

Incidents and service requests.

Non-production environment incidents will be considered priority 3 or priority 4 incidents as circumstances dictate and handled as such. Service requests will be prioritized and scheduled similar to production service requests.

Non-Production environment refreshes

Non-Production environment refreshes will be provided in accordance to the Customer's Superior Application Services Provider agreement, which indicates the number of refreshes provided in a calendar year. Upon written receipt of a Customer's refresh request, Superior will schedule and complete the refresh within 4 weeks of the request.

I. Responsibility Summary Matrix

| Responsibility Summary Matrix | | |
|---|-------------------------|-------------------------|
| Description | Superion Responsibility | Customer Responsibility |
| ASP Server Hardware management | X | |
| ASP Server File system management | X | |
| ASP Server OS upgrades and maintenance | X | |
| ASP Database product upgrades and maintenance | X | |
| ASP 3 rd Party product upgrades and maintenance | X | |
| Application Update Installation | | |
| Request to install application updates | | X |
| Installation of application updates | X | |
| ASP Backup Management | X | |
| Data and or File restoration | | |
| Request to restore data and or files | | X |
| Restoration of data and or files | X | |
| Network | | |
| ASP Network up to and including the router at Superion's location | X | |
| ASP Router at Customer's location | X | |
| Customer's network up to the router at Customer's location | | X |
| Customer Workstations | | X |
| System Performance | X | X |
| Add/Change users | | |
| User add/change requests | | X |
| User add/change implementation for System Access | X | |
| User add/change implementation for Software Applications | | X |
| Add/Change Printers | | |
| Printer add/change requests | | X |
| Printer add/change implementation on ASP network | X | |
| Printer add/change implementation for Software Applications | | X |
| Disaster Recovery | X | |
| Password Management | X | X |
| Application Management | | |
| Application Configuration | | X |
| Application Security Management | | X |
| Accuracy and Control of Data | | X |
| Security | | |
| Intrusion and Penetration Testing | X | |

PART 2 – ERROR CORRECTION

1. Superior shall provide to Customer, during Superior's support hours as set forth in the Support Standards below ("Support Hours"), telephone assistance regarding Customer's proper and authorized use of a new edition of a Solution (the "Release"), as applicable.
2. Superior shall provide to Customer, during the Support Hours, commercially reasonable efforts in solving errors reported by Customer in accordance with this Order. Customer shall provide to Superior reasonably detailed documentation and explanation, together with underlying data, to substantiate any error and to assist Superior in its efforts to diagnose, reproduce and correct the error. These support services shall be provided by Superior at Customer location(s) if and when Superior and Customer agree that on-site services are necessary to diagnose or resolve the problem. If a reported error did not, in fact, exist or was not attributable to a defect in the Solution or an act or omission of Superior, then Customer shall pay for Superior's investigation and related services at Superior's standard professional services rates. Customer must provide Superior with such facilities, equipment and support as are reasonably necessary for Superior to perform its obligations under this Order, including remote access to the Specified Configuration.
3. Customer shall promptly install and/or use any Release provided by Superior to avoid or mitigate a performance problem or infringement claim. All modifications, revisions and updates to the Solution shall be furnished by means of new Releases of the Solution and shall be accompanied by updates to the Documentation whenever Superior determines, in its sole discretion, that such updates are necessary.

Support Standards

I. Support Hours: Hours During Which Superior’s Telephone Support Will be Available to Customer in Connection with the Provision of Maintenance: Unless otherwise noted in the Order as to Support Type, support hours are Monday through Friday, 8:00 A.M. to 5:00 P.M. Customer’s Local Time within the continental United States, excluding holidays (“5x9”).

II. Targeted Response Times.

“Notification” means a communication to Superior’s help desk by means of Superior’s web portal or the placement of a telephone call.

With respect to Superior’s support obligations, Superior will use diligent, commercially reasonable efforts to respond to Notifications from Customer relating to the Solution identified in the Order in accordance with the following guidelines with the time period to be measured beginning with the first applicable Superior “Telephone Support” hour occurring after Superior’s receipt of the Notification:

| Priority | Description | Response Goal* | Resolution Goal* |
|--------------------------|--|---|--|
| Urgent 1 | A support issue shall be considered Urgent when it produces a Total System Failure; meaning Superior’s Solution is not performing a process that has caused a complete work stoppage. | Superior has a stated goal to respond within 60 minutes of the issue being reported and have a resolution plan within 24 hours. | Although resolution times vary depending on the exact issue and customer environment, Superior has a stated goal to resolve an urgent issue within 24 hours or provide a resolution plan with urgent issues within 24 hours of the issue being reported. |
| Critical 2 | A support issue shall be considered Critical when a critical failure in operations occurs; meaning Superior’s Solution is not performing a critical process and prevents the continuation of basic operations. Critical problems do not have a workaround. This classification does not apply to intermittent problems. | Superior has a stated goal to respond within two hours of the issue being reported. | A resolution plan details the steps necessary to understand and possibly resolve the issue. |
| Non-Critical 3 | A support issue shall be considered Non-Critical when a non-critical failure in operations occurs; meaning Superior’s Solution is not performing non-critical processes, but the system is still usable for its intended purpose or there is a workaround. | Superior has a stated goal to respond within four hours of the issue being reported. | |
| Minor 4 | A support issue will be considered Minor when the issue causes minor disruptions in the way tasks are performed, but does not affect workflow or operations. This may include cosmetic issues, general questions, and how to use certain features of the system. | Superior has a stated goal to respond within 24 hours of the issue being reported. | |

* Measured from the moment a Case number is created. As used herein a “Case number” is created when a) Superior’s support representative has been directly contacted by Customer either by phone, in person, or through Superior’s online support web portal, and b) when Superior’s support representative assigns a case number and conveys that case number to the Customer. Customer must provide remote access to its facility using a Superior

approved remote access client so that Superior can perform the support obligations and/or services under this Order; and will provide appropriate security access and accounts for Superior staff and each session participant.

COGNOS THIRD PARTY PRODUCTS SUPPLEMENT

1. Additional Definitions. "Cognos Component Systems" means any of the software provided to Superior by Cognos Corporation ("Cognos") and identified under the name "Cognos" in Exhibit 1.

2. Ownership. Cognos owns the Cognos Component Systems.

3. Restrictions on Use of Cognos Component Systems. Customer's use of the Cognos Component System(s) is subject to the following additional terms and conditions:
 - (a) Customer has the right to use the Cognos Component System(s) only in Object Code form, and only with the Superior Licensed Software.

 - (b) Customer acknowledges that the Cognos Component System(s) are proprietary to Cognos and are supplied by Superior under license from Cognos. Title to the Cognos Component System(s) shall at all times remain vested in Cognos or its designated successor. Except for the right of use that is expressly provided to Customer under the Agreement, no right, title or interest in or to the Cognos Component System(s) is granted to Customer;

 - (c) Customer agrees that Cognos shall not be liable for any damages, whether direct, indirect, incidental, special, or consequential, arising from the Customer's use of the Cognos Component System(s) or related materials;

 - (d) Customer acknowledges and agrees that Cognos is a third party beneficiary of this Agreement;

 - (e) Customer acknowledges and understands that the Cognos Component System(s) may only be used by the number of users for the specific functions for which the license has been granted, as otherwise specified in Exhibit 1; and

 - (f) Customer acknowledges and understands that it is licensing the Cognos Component System(s) on a "restricted use" basis. "Restricted use" means the use of the Cognos Component System(s) only with the following Component Systems, to the extent licensed as set forth in Exhibit 1. Such restricted use shall include Customer's right to extract, analyze, and report data from disparate systems, provided that such data is extracted, analyzed and reported by the software applications system(s) set forth in Exhibit 1.

 - (g) In lieu of the warranty provided in Section 7 of the Agreement, Customer shall be provided with the limited, thirty (30) day warranty from Cognos as set forth below. Cognos warrants to Customer that (a) for a period of thirty (30) days following the initial delivery/download/access of the Cognos Component System(s) to or by Customer, the Cognos Component System(s) will perform in accordance with its related documentation, and (b) the media on which the Cognos Component System(s) is provided, if applicable, is free from defects in materials and workmanship under normal use. Subject to applicable law, all other warranties, express or implied, or otherwise, are excluded. Customer's only remedy against Cognos if this warranty is breached will be, at the option of Cognos, (a) to repair or replace the Cognos Component System(s) or (b) to refund the amounts paid in respect of the defective Cognos Component System(s). This remedy is void if Customer misuses the Cognos Component System(s) contrary to its related documentation.