CITY OF UNALASKA
UNALASKA, ALASKA

RESOLUTION NO. 2018-23

A RESOLUTION OF THE UNALASKA CITY COUNCIL AUTHORIZING THE CITY
MANAGER TO ENTER INTO AN AGREEMENT WITH SUPERION LLC TO PROVIDE
AN INTEGRATED CAD/RMS SOFTWARE SYSTEM FOR THE DEPARTMENT OF
PUBLIC SAFETY IN THE AMOUNT OF $408,911.79 FOR INSTALLATION AND
IMPLEMENTATION AND ONE YEAR OF SUPPORT SERVICES

WHEREAS, the City of Unalaska, Alaska has determined that it is necessary to upgrade
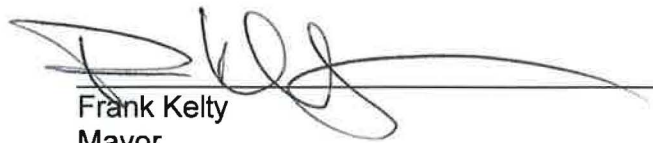the DPS CAD/RMS; and

WHEREAS, the City of Unalaska solicited proposals for the work and received six
proposals to provide an integrated CAD/RMS; and

WHEREAS, an evaluation committee reviewed all proposals and Superion LLC was
chosen as the most qualified to provide, install and implement the integrated system;
and

WHEREAS, the City has negotiated a fair and reasonable price for the software and
services to be provided.

NOW, THEREFORE, BE IT RESOLVED that the Unalaska City Council authorizes the
City Manager to enter into an agreement with Superion LLC to provide, install and
implement the integrated CAD/RMS system in the amount of $408,911.79, including
one year of support services.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on
March 13, 2018.

Frank Kelty
Mayor

ATTEST:

Marjie Veeder
City Clerk

MEMORANDUM TO COUNCIL

To: Mayor and City Council Members
From: Jennifer Shockley, Acting Director, Department of Public Safety
Through: Erin Reinders, Interim City Manager
Date: March 13, 2018
Re: A Resolution of the Unalaska City Council authorizing the City Manager to enter into an agreement with Superion LLC to provide an integrated CAD/RMS software system for the Department of Public Safety in the amount of $408,911.79 for installation and implementation and one year of support services

SUMMARY: Resolution 2018-23 authorizes the City Manager to enter into an agreement with Superion LLC for software and services required to upgrade the **CAD/RMS system at the Department of Public Safety**. Staff has been working for several months gathering information on this project, and published an RFP in late 2017. Staff recommends approval of the resolution in order to move forward on the CAD/RMS upgrade.

PREVIOUS COUNCIL ACTION: The City Council approved a capital project for this software upgrade in the amount of $500,000 on April 25, 2017 with the adoption of the FY18 Budget, and the associated FY18-22 CMMP.

BACKGROUND: This project is for replacement of the existing computer aided dispatch (CAD) and records management System (RMS) system at DPS. The CAD/RMS currently being used by DPS was purchased and implemented in 2004.The CAD/RMS, which houses virtually all calls for service for Police, Fire, EMS and Animal Control, is legacy software running on legacy server software, and is no longer being updated by the parent company. It is also out of compliance with federal requirements for storing, classifying, and reporting of criminal justice information. Limitations in the CAD/RMS and server software reduce hardware upgrade options and affect the ease and speed with which data is retrieved, stored and backed up. It has limited interoperability with federal, regional and state information-sharing databases. Modern RMS software packages are considerably more efficient than our current system, and have integrated access to state and/or regional criminal information networks, thus reducing the man-hours required for data input. User restrictions in many current RMSs can be personalized to ensure that users of the system—and the system itself – are in compliance with Federal requirements. Modern RMS software packages are also designed to work with Enhanced 9-1-1 call systems, which would allow a seamless transition to an E-9-1-1 system in Unalaska.

DISCUSSION: Staff developed an RFP to solicit proposals from qualified software vendors for a fully integrated CAD/RMS system. Six responses were received and

scored by an evaluation committee based on completeness of the proposal; the proposed software's ability to meet minimum requirements as determined by staff; the vendor's experience with similar engagements; the vendor's reputation and the software's utility as determined by other users of the vendor's software; and the cost for implementation, training and support services. Three vendors were selected to demonstrate their software to a team which included representatives from both IS and several DPS user groups.

After having evaluated the software demonstrations, Superion LLC was chosen as the most qualified vendor to install and implement a CAD/RMS software system because:

1. DPS user groups overwhelmingly felt that Superion LLC provided the most functionality of the three systems demonstrated, and users felt there was great potential for increasing both the quality and the quantity of work with the Superion LLC system.

2. Superion LLC offers a training database that will allow users to train on the software without corrupting the DPS records database.

3. The references provided by Superion LLC acknowledged that the products and services provided by Superion LLC were excellent, and that their implementation and training were well-planned.

4. As part of their proposal, Superion LLC personnel will travel to Unalaska several times to work in person with DPS and IS staff to gain a clear understanding of our organizational needs in the CAD/RMS system, to assist with customization of the system and to provide user and administrator level training.

The proposed contract with Superion LLC is attached, which details the scope of work and the proposed contract schedule. The goal is for the Superion LLC CAD/RMS to be implemented by late 2018/early 2019.

ALTERNATIVES: Council could choose another vendor; re-issue a Request for Proposal; or choose not to proceed with this project.

FINANCIAL IMPLICATIONS: The bid for Superion LLC is $408,911.79, including one year of support services. This is less than the budgeted amount of $500,000.

LEGAL: None.

STAFF RECOMMENDATION: Staff recommends approval of Resolution 2018-23.

PROPOSED MOTION: "I move to approve Resolution 2018-23."

CITY MANAGER COMMENTS: This system update was included in the CMMP and budgeted for in FY18. I support moving forward with this project.

ORDER

By the signatures of their duly authorized representatives below, the Superion ("Superion") entity identified below and the customer identified below ("Customer"), intending to be legally bound, agree to all of the provisions of this Order, and agree that this Order represents a separate contract between such Superion entity and Customer, effective upon the latest date shown on the signature page below ("Order Execution Date").

This Order incorporates and is governed by all of the terms of the Superion Standard Terms and Conditions attached hereto as Exhibit A ("SST") as if the Superion entity was "Superion" and Customer was "Customer" thereunder.

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

The terms and conditions contained in this Order, including prices, will be honored as set forth herein, provided the Order is fully executed and delivered by March 30, 2018.

Superion LLC	**City of Unalaska, AK**
By:	By:
Print Name:	Print Name:
Print Title:	Print Title:
Date Signed:	Date Signed:

CUSTOMER # _____   SUPERION ORDER # _____

1. **SOLUTION:** Superion ONESolution Public Safety and Justice

2. **INITIAL TERM: [Perpetual]**

3. **SCOPE OF USE:**

   a. **DESIGNATED LOCATION(s): _____**
   b. **REGION: UNITED STATES**

4. **LICENSE AND INITIAL SUPPORT FEES: See Project Cost Supplement**

   Software Notes:

   1. Interfaces are interfaces only. Customer is responsible for obtaining the applicable software, hardware and system software from the appropriate third party vendor.
   2. Mobiles applications do not include AVL hardware.
   3. Support for the Initial Support Term is provided at no charge. The Support/Maintenance Fee in the Project Cost Supplement represents the support fee for the first Renewal Support Term and is payable only if Customer elects to extend the term through the first Renewal Support Term as provided for in Section 9.3 of the SST.

5. **SUPPORT TERM:**

   a. **INITIAL SUPPORT TERM**:   12 months from the Order Execution Date.

   b. **RENEWAL SUPPORT TERM(S):** Additional one year renewal periods commencing upon the expiration of the Initial Support Term (or anniversary thereof).

6. **SERVICES: See Project Cost Supplement**

   Services Notes:

   1. Pricing is a good faith estimate based on the information available to Superion at the time of execution of this Order. The total amount that Customer will pay for these services (i.e., the "TOTAL SERVICES FEE") will vary based on the actual number of hours of services required to complete the services. If required, additional services will be provided on a time and materials basis at hourly rates equal to Superion's then-current list price rates for the services at issue.
   2. Travel and living expenses are additional and will be billed monthly as Superion renders the services.

7. **THIRD PARTY PRODUCTS: See Project Cost Supplement**

   Third Party Products Notes

   1. See Attached Supplements
   2. Actual shipping charges are additional and will be due upon delivery.

8. PAYMENT TERMS:

SUMMARY OF COSTS

	Price
License Fees (Reflecting Discount)	$ 120,655.79
Prof Svcs	241,360.00
Third Party Software	2,380.00
Third Party Hardware	6,372.00
Travel & Living Estimate	38,144.00
Totals	**$ 408,911.79**

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

The amounts noted above shall be payable as follows:

License Fee: 100% on the Execution Date.

Annual Support Fees: Support Fees are due thirty (30) days prior to the commencement of the Renewal Support Term for which such fees are being remitted.

Installation/Configuration: On invoice, upon completion.

Project Management: 100% on the Execution Date.

Training Fees: Due as incurred monthly.

Third Party Products Hardware & Software Fee: 100% on the Execution Date

Travel and Living Fee: Due as incurred monthly.

9. ADDRESSES:

    a. CUSTOMER ADDRESS FOR INVOICES: _____

    b. CUSTOMER ADDRESS FOR NOTICES: _____

    c. CUSTOMER ADDRESS FOR SOFTWARE SHIPMENT: _____

    d. SUPERION'S ADDRESS FOR NOTICES:

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

10. LIABILITY CAP: The greater of ten thousand US dollars ($10,000) or the License Fee actually paid by Customer to Superion under this Order

11. SPECIFIED CONFIGURATION: Host(s) or client server configuration(s) and/or combinations of host(s) and client server configuration(s) within the United States of America for which Superion supports the Solution. Customer acknowledges that certain Solutions software may require specific host or client configurations. Customer, as soon as reasonably practicable, will provide a detailed written description of the specified configuration so that Superion can confirm that it is a configuration on which Superion supports use of the Solution.

12. OTHER TERMS APPLICABLE TO THIS ORDER:

- **PROJECT COST SUPPLEMENT**
- **SUPERION STANDARD TERMS – EXHIBIT A**
- **SUPPORT SUPPLEMENT**
- **SUPERION TRAVEL EXPENSE GUIDELINES**
- **GIS SOFTWARE SUPPLEMENT**
- **GENERAL PROJECT CONDITIONS SUPPLEMENT**
- **DATA ACCESS SUBSCRIPTION SUPPLEMENT**

PROJECT COST SUPPLEMENT

License Fees & Maintenance

Product Name		Quantity	License Fee	Maintenance
ONESolution Pagegate Interface		1	$1,000.00	$160.00
ONESolution Medical ProQA/Paramount Interface		1	$6,500.00	$1,040.00
ONESolution ImageTrend CAD Export Interface		1	$8,500.00	$1,360.00
ONESolution Fire ProQA/Paramount Interface		1	$6,500.00	$1,040.00
ONESolution Computer-Aided Dispatch System	*	1	$8,672.00	$1,387.52
ONESolution CAD Client License for Message Switch	*	1	$200.00	$32.00
ONESolution RMS Client License for Message Switch	*	1	$200.00	$32.00
ONESolution Residential Security Watch	*	1	$800.00	$128.00
ONESolution Records Management System	*	1	$4,975.00	$796.00
ONESolution Property & Evidence	*	1	$2,200.00	$352.00
ONESolution Professional Standards	*	1	$8,800.00	$1,408.00
ONESolution Generic Permit	*	1	$1,300.00	$208.00
ONESolution Crime Analysis Plus	*	1	$5,700.00	$912.00
ONESolution Barcoding Server License		1	$4,575.00	$732.00
ONESolution Barcoding Hand-Held Client License		1	$1,000.00	$160.00
ONESolution Accident Wizard Base Server License		1	$3,500.00	$560.00
ONESolution Accident Wizard	*	1	$1,000.00	$160.00
ONESolution Accident	*	1	$1,300.00	$208.00
ONESolution Mugshot Capture Station Software		1	$8,800.00	$1,408.00
ONESolution JMS VINE Interface		1	$1,500.00	$240.00
ONESolution JMS Client License for Message Switch	*	1	$200.00	$32.00
ONESolution Jail Management System	*	1	$2,260.00	$361.60
ONESolution Intelligence	*	1	$5,500.00	$880.00
ONESolution Civil Processing	*	1	$3,000.00	$480.00
ONESolution Fire Arms Application Permit	*	1	$800.00	$128.00
ONESolution Dashboard		1	$5,000.00	$800.00
ONESolution State/NCIC Messaging Software	*	1	$7,500.00	$1,200.00
ONESolution Mobile Server Software	*	1	$4,500.00	$720.00
ONESolution Mobile Field Reporting Server	*	1	$4,500.00	$720.00
ONESolution MFR Client-MOBLAN Version	*	1	$400.00	$64.00
ONESolution MFR Client-Citation	*	1	$400.00	$64.00
ONESolution MFR Client-Arrest	*	1	$300.00	$48.00
ONESolution MFR Client-Accident Wizard	*	1	$190.00	$30.40
ONESolution MFR Client-Accident Reporting	*	1	$400.00	$64.00
ONESolution MFR Client	*	1	$800.00	$128.00
ONESolution MCT Client-Digital Dispatch	*	1	$800.00	$128.00
ONESolution MCT Client License for Message Switch	*	1	$200.00	$32.00
ONESolution Freedom Server Software	*	1	$3,500.00	$560.00
ONESolution Freedom Premium	*	1	$400.00	$64.00
ONESolution AVL Server Host License	*	1	$13,200.00	$2,112.00
ONESolution RMS OpCenter		1	$3,000.00	$480.00
ONESolution Police-to-Citizen		1	$3,000.00	$480.00

Products with * are Site Licensed Products.   **Total**   **$136,872.00**   **$21,899.52**

Third-Party License Fees & Maintenance

Product Name	Quantity	License Fee	Maintenance
Notepage Pagegate Network Paging	1	$706.00	$0.00
Microsoft Visio	9	$1,674.00	$0.00
Total		**$2,380.00**	**$0.00**

Third-Party Hardware

Product Name	Quantity	Amount
Mugshot Capture Workstation Package IP Camera	1	$4,235.00
Local Property & Evidence Bar Coding Kit	1	$2,137.00
Total		**$6,372.00**

Professional Services

Installation & Configuration

Product Name	Amount
ONESolution Computer-Aided Dispatch Installation	$2,800.00
ONESolution Records Management Installation	$21,000.00
ONESolution Jails Management Installation	$8,400.00
Enterprise All Other Installation PS	$2,800.00
ONESolution MFR Client-Property & Evidence Voucher	$1,400.00
ONESolution Mobiles Management Installation	$14,700.00
ONESolution Internet Management Installation PS	$7,000.00
ONESolution Barcoding Installation Services	$700.00
Total	**$58,800.00**

Training

Product Name	Amount
ONESolution Computer-Aided Dispatch Training	$160.00
ONESolution Records Management Training	$56,320.00
ONESolution Jails Management Training	$26,240.00
Enterprise All Other Training PS	$640.00
ONESolution MFR Client-Property & Evidence Voucher	$640.00
ONESolution Mobiles Management Training	$49,920.00
ONESolution Internet Management Training PS	$1,280.00
Total	**$135,200.00**

Project Management

Product Name	Amount
ONESolution Computer-Aided Dispatch Project Management	$960.00
ONESolution Records Management Project Management	$21,440.00
ONESolution Jails Management Project Management	$8,000.00
Enterprise All Other Project Management PS	$800.00
ONESolution MFR Client-Property & Evidence Voucher	$160.00
ONESolution Mobiles Management Project Management	$14,720.00
ONESolution Internet Management Project Management PS	$960.00
ONESolution Barcoding Installation Services	$320.00
Total	**$47,360.00**

Summary

Product/Service	Amount	
License Fees	$136,872.00	
Professional Services	$241,360.00	
Subtotal		**$378,232.00**
Third-Party License Fees	$2,380.00	
Third-Party Hardware	$6,372.00	
Subtotal		**$8,752.00**
License/Subscription Fee Discounts		$16,216.21
Total		**$370,767.79**
Travel & Living Estimate		$38,144.00
Total with Travel & Living Estimate		**$408,911.79**
Net Maintenance		$21,899.52

Additional Information Section

Product Notes:

Purchase of ONESolution Computer-Aided Dispatch System includes the following features.
-ONESolution Computer-Aided Dispatch System
-ONESolution E911 Interface
-ONESolution CAD Map Display & Map Maintenance Software License
-ONESolution Multi-Jurisdictional Dispatch Option
-ONESolution Alpha Numeric Paging: Does not include third party paging solution or interface components to third party paging solutions.
-ONESolution Map Converter Software
-BOLO Entry and Search
-Employee
-Event History & Search
-Event Scheduler
-Message Scheduler
-Related Names
-Related Vehicles
-Situational Awareness
-Tow Rotation

ONESolution Records Management System: Purchase of ONESolution Records Management System includes the following features.
-ONESolution Records Management System
-ONESolution Crime Analysis
-ONESolution Generic Permit
-ONESolution Investigative Leads
-ONESolution RMS Map Display & Pin Mapping License
-ONESolution Multi-Jurisdictional RMS Option
-ONESolution Notification
-ONESolution Police-to-Police
-Arrest

-Case Management
-Case Supplements
-Citation -Employee
-Field Contact -Incident
-Investigator Dashboard
-Location
-Master Phone
-Names
-Property
-System Auditing
-System Logging
-Tow Impound
-Traffic Warning
-Vehicle
-Warrants

Purchase of ONESolution Professional Standards includes the following features. -ONESolution Citizen Complaint -ONESolution Fleet Vehicle Accident Tracking -ONESolution Injury Tracking -ONESolution Professional Standard -ONESolution Vehicle Pursuit Tracking -ONESolution Use of Force Tracking
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Purchase of ONESolution Jail Management System includes the following features.
-ONESolution Jail Management System
-ONESolution Multi-Jurisdictional JMS
-Arrest
-Bonds
-Court List Generation
-Disciplinary Hearing
-Employee

-Facility Housing
-Holds
-Inmate Booking
-Inmate Cash Account
-Inmate Grievance
-Inmate Screening-Medical
-Inmate Screening-Suicide
-Inmate Sentencing
-Inmate Summary
-Jail Incident
-Mass Movement
-Miscellaneous Receipts
-Names
-Scheduled Events
-Security Classification
-Sick Call
-Strip Search
-System Auditing
-Visitation
-Warrants

ONESolution State/NCIC Messaging Software: Purchase of base product includes the following features. -ONESolution State/NCIC Messaging Software -ONESolution Switch to Switch:
Separate services apply.

ONESolution MFR Client Includes the following features:
-ONESolution MFR Client
-Case Supplements
-Field Contacts
-Incident
-Names
-Tow Impound
-Warrant Tracking

ONESolution MCT Client-Digital Dispatch: Purchase of base product includes the following features. -ONESolution MCT Client-Digital Dispatch -ONESolution MCT Client-MAPS -Client access
to Message Switch

ONESolution AVL Server Host License: The option of Turn by Turn functionality is included in the ONESolution AVL Server Host License software however this feature requires specific data
elements to be in the agency Maps. If requested, Superion can provide information on that data. Once an agency enters that data, a map audit is required to insure the data is correct
before the Turn by Turn functionality can be used. This map audit consists of Professional Services hours with Project Management and is not included in the base map build.

Local Property & Evidence Bar Coding Kit: Kit for local installation includes one of each of the following: Unitech PA520 Windows mobile PDA operating system with barcode scanner is a
Marvell PXA320 806MHz windows embedded handheld 6.5 with 256MB SDRAM, 512MB flash ROM, Bluetooth® 2.0 wireless connections, 3.5-inch QVGA TFT LCD touch screen, 6 keys + 1
navigation cursor, 1D laser scanner, AC Power Supply, USB cradle and charging cable, Unitech Capacitive stylus for the PA520, 2200 mAh 3.7 V Rechargeable Li-ion Battery, and 3-Yr
Comprehensive Coverage warranty that includes battery and cradle coverage Unitech PA520 device cradle includes a USB cable and spare battery charging bay. The cradle utilizes the
power supply from the main. Unitech Capacitive Stylus for the PA520, Symbol LS-2208 handheld USB wedge scanner Sato Model CG408 label printer that includes thermal paper, ribbon,
and USB cable Topaz Systems Signature Gem LCD 4X3 signature pad
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SUPERION STANDARD TERMS - EXHIBIT A

These Superion 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 Superion Company identified on the Order ("Superion"), 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 Superion 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 Superion'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 Superion to complete the professional services described in Section 6. Superion 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 Superion the fees stated in the Order, in accordance with the payment terms stated on the Order. Superion 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 Superion, except for Disputed Amounts. Superion 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 Superion 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 Superion's net income.   Customer shall directly pay any such Taxes assessed against it, and Customer shall promptly reimburse Superion for any such Taxes payable or collectable by Superion.

3.3   **Certain Remedies for Non-payment**. If Customer fails to pay to Superion, within ten (10) days after Superion

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 Superion may have, Superion 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). Superion 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**. Superion 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**.   Superion shall indemnify and defend Customer against, any third-party claim asserting that the Solution, as and when made available to Customer by Superion 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 Superion.   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 Superion shall have no liability relating to such Open Source Software; provided, however, that Superion shall be responsible for fixing Errors caused by the Open Source Software to the same extent as Superion's ongoing support obligations as set forth in Section 8.5 and 9.33 of this Agreement.

4.13   **Open Negotiation**. Customer and Superion 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 Superion 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 Superion in this Agreement, and the obligations of Superion 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 Superion 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, Superion 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) Superion 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. Superion 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 Superion in the Solution and Documentation, and disclaim any liability or responsibility of Superion with respect to such Third Party Users.

5.3 **Personal Data**. If Superion processes or otherwise has access to any personal data or personal information on Customer's behalf when performing Superion'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 Superion 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 Superion so that Superion may lawfully use, process and transfer the personal data and personal information in accordance with this Agreement on Customer's behalf, which may include Superion processing and transferring the relevant personal data or personal information outside the country where Customer and the Authorized Users are located in order for Superion to provide the Solution and perform its other obligations under this Agreement; and (iii) Superion 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 Superion or its licensors, having great commercial value to Superion or its licensors. Title to all SG Solution Details and all related intellectual property and other ownership rights shall be and remain exclusively with Superion or its licensors, even with respect to such items that were created by Superion specifically for or on behalf of Customer. Superion and its Affiliates may freely use Feedback without attribution or the need for Superion, 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 Superion; (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 Superion 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 Superion's then standard professional services fee rates.

6.3 **Expense Reimbursements**. Customer shall reimburse Superion for reasonable travel, living and other out-of-pocket expenses incurred by Superion personnel in connection with all services, including, but not limited to, Professional Services and maintenance and support rendered by Superion. Reimbursable expenses shall be incurred by Superion personnel in accordance with Superion's then current per diem travel expense guidelines, a copy of which will be included in the Order. Superion 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 Superion to perform its obligations under this Agreement, Customer shall provide to Superion access to Customer's location site, equipment, data and employees, and shall otherwise cooperate with Superion in its performance hereunder, all as reasonably necessary for Superion to perform its obligations under this Agreement.

6.5 **Professional Services Warranty**. Superion warrants to Customer that Professional Services will be performed in a good and workmanlike manner by qualified personnel, subject to Section 6.4. Superion shall have no liability under this Section 6.5 unless, within thirty (30) days after the actual date of the particular Professional Services, Superion receives notice from Customer describing the breach of this warranty, together with adequate supporting documentation and data. Upon receipt of any such notice, Superion'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 Superion personnel are performing services at Customer's site, Superion 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 Superion in writing and in advance. Customer shall promptly reimburse Superion for any out-of-pocket costs incurred in complying with such procedures and policies.

6.7 **Contributed Material**. In the process of Superion's performing Professional Services, Customer may, from time to time, provide Superion 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 Superion 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 Superion, Superion's Affiliates and Superion'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 Superion 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 Superion 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 Superion 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 0 apply solely to Hosting Services and to Orders for and ASP Solution or SaaS Solution.

8.1 **Saas, ASP and Hosting.** Superion 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 Superion 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 Superion so that it can change, or assist Customer in changing, the applicable Password. To the extent the Solution is within Superion's network, Superion may suspend access to the Solution without advance notice if Superion reasonably believes the Solution is being used or accessed in an unauthorized, illegal or disruptive manner, provided that Superion 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 Superion by communications link or in another manner described on the Order. As between Superion and Customer, Customer shall be responsible for ensuring that the Customer Supplied Data is Accurate and complete. Customer represents and warrant to Superion that Customer has the full legal right for Customer and Superion, 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 Superion an instruction notice regarding the disposition of any tapes, data, files and other property belonging to Customer and then in Superion's possession. To the extent practicable and at Customer's expense after receipt of such notice, Superion shall use commercially reasonable efforts to comply with the notice, including converting the data on the Solution to machine-readable form. Superion may retain such property until Superion receives all payments due to Superion under that Order. If Customer fails to give that notice within thirty (30) days after such termination, then Superion may dispose of such property in a commercially reasonable manner.

(c) In order to improve Superion's product and service offerings for its customers, Superion may maintain a database of information residing on the Solution. Superion 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 Superion 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 Superion facilities under this Agreement. Customer will reimburse Superion for the reasonable out-of-pocket costs Superion 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**. Superion 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) Superion 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) Superion 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. Superion's disaster recovery plan shall be tested at least once each calendar year.

8.7 Interruption to Solution. From time to time, Superion 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 Superion'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, Superion will (a) give Customer reasonable prior notice of the interruption; (b) limit such interruptions to outside of Superion'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 Superion discovers.

8.9 Volume Increases. Customer shall give notice to Superion 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, Superion 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 Superion. 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**. Superion 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 Superion's network for downloading. Physical shipment is on F.O.B. terms, Superion's shipping point and electronic delivery is deemed effective at the time Superion 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"), Superion 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 annual support period (a"Renewal Support Term") unless, at least sixty (60) days prior to the expiration of the initial Contract Year, Customer notifies Superion in writing of Customer's intent not to renew for the second Contract Year. After the second Contract Year, 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 Superion will discontinue providing all on-going support services, improvements and warranties. Superion shall have no liability with respect to Customer's use of the Products for which support services are terminated.

Support Fees for the first Renewal Support Term shall be as provided in the Order. On an annual basis, Superion may increase the Support Fees payable however, for the second and third Renewal Support Terms, any such increase shall not exceed five percent (5%).

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) Superion shall discontinue providing all ongoing support services, including Superion's obligations under Section 9.3; (ii) any Superion warranties under this Agreement shall cease to apply for the period

after the Support Termination Date; and (iii) Superion shall not be liable for Customer's use of the Solution after the Support Termination Date except for Superion'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 Superion after the Support Termination Date).

9.5 **Software Warranty**. Superion warrants to Customer that for a period of twelve (12) months from the Delivery Date, the Solution (as delivered to Customer by Superion 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. Superion'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 Superion performs such services in accordance with the confidentiality provisions of this Agreement, Customer shall permit Superion, at Superion'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, Superion will comply with Customer's reasonable security procedures and company policies that have been provided to Superion in writing. Customer shall promptly reimburse Superion 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. Superion shall have no liability for any loss or damage caused by Customer's failure to maintain such backed-up copies.

9.8 **Audit**. At Superion's expense and upon written request with reasonable notice, Customer will permit Superion, 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 Superion 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 Superion to execute reasonable confidentiality agreements and comply with Customer's reasonable security requirements, but the requirement will not apply to Superion'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. Superion'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 Superion 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 Superion; and (ii) with respect to Superion, Superion, 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) "**Contract Year"** means, with respect to each Baseline License and Custom Modification, each one (1) year period beginning on the Execution date or the anniversary thereof, and ending one (1) year thereafter.

(f) "**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.

(g) "**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.

(h) "**Customer Supplied Data**" means any information or data introduced into the Solution by or on behalf of Customer.

(i) **"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 Superion 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.

(j) **Documentation**" means the standard user documentation Superion provides for the Solution, as such Documentation may be updated from time to time.

(k) "**Error**" means a failure of a Supported Release to perform in all material respects in accordance with the Documentation.

(l) "**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.

(m) "**Feedback**" means any suggestions or recommendations for improvements or modifications to the Solution made by or on behalf of Customer.

(n) "**including**" whether capitalized or not, means including but not limited to.

(o) "**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).

(p) "**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.

(q) "**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.

(r) "**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 Superion under this Agreement.

(s) "**Release**" means a modification or update to the Solution, which Superion, in its sole discretion, incorporates into the Solution without requiring its then existing client base to pay a separate fee (other than support fees).

(t) "**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.

(u) "**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.

(v) "**Supported Release**" means, unless otherwise stated in the Order, the latest Release of the Solution that is generally available to Superion's client base.

(w) "**Third-Party Product**" means Third-Party Software, Third Party Hardware, Third-Party Data or Third-Party Services.

(y) "**Third-Party Hardware**" means that hardware specified as third party hardware on the Order.

(z) "**Third-Party Services**" means those services specified as third party services on the Order.

(aa) "**Third-Party Software**" means the software specified as third-party software on the Order.

(bb) "**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 Superion 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 Superion'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 Superion, 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 Superion notifying Superion 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 Superion 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 Superion 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) Superion 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 ("**Superion Personnel**"); (b) Superion'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 Superion Personnel, then Superion may suffer lost sales opportunities and would incur substantial time and money in hiring and training replacement(s) for those Superion Personnel. Accordingly, if Customer, directly or through one or more subsidiaries or other controlled entities, hires any Superion Personnel at any time when such Superion Personnel is employed or engaged by Superion or during the six (6) months after such employment or engagement ends,

then Customer shall pay to Superion as liquidated damages (and not a penalty) an amount equal to twelve (12) months of such Superion Personnel's salary and other compensation (including bonus or commission payments) at the time of leaving his/her employment or engagement with Superion. 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.

SUPPORT SUPPLEMENT

1. Superion shall provide to Customer, during Superion'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 or Custom Modification (the "Release"), as applicable.

2. Superion 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 Superion reasonably detailed documentation and explanation, together with underlying data, to substantiate any Error and to assist Superion in its efforts to diagnose, reproduce and correct the Error. These support services shall be provided by Superion at Customer location(s) if and when Superion 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 Superion, then Customer shall pay for Superion's investigation and related services at Superion's standard professional services rates. Customer must provide Superion with such facilities, equipment and support as are reasonably necessary for Superion 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 Superion 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 Superion determines, in its sole discretion, that such updates are necessary.

4. Support Surcharge Imposed In Certain Instances: At the commencement of any Renewal Support Term where Customer is operating on a Solution version that is more than two (2) general release versions behind the then-current release for any Solution, Superion will assess a ten percent (10%) surcharge over and above the support fee for that Renewal Support Term, with such surcharge to be imposed on a prorated basis for the portion of the Renewal Support Term that Customer remains on a general release version that is more than two (2) releases behind the then-current release of the Solution in question. Once Customer is using a release that is no more than two (2) general release versions behind the then-current release, the support surcharge will be removed on a prospective basis, as of the date that Customer is using the release that is no more than two (2) general release versions behind the then-current release.

Support Standards

I. Support Hours: Hours During Which Superion's Telephone Support Will be Available to Customer in Connection with the Provision of Maintenance: Support Hours are twenty-four hours per day, seven days a week ("7x24").

II. Targeted Response Times.

"Notification" means a communication to Superion's help desk by means of: (i) Superion's web helpline; (ii) the placement of a telephone call; or (iii) the sending of an e-mail, in each case, in accordance with Superion's then-current policies and procedures for submitting such communications.

With respect to Superion's support obligations, Superion will use diligent, commercially reasonable efforts to respond to Notifications from Customer relating to the Solution or Custom Modifications identified in the Order in accordance with the following guidelines with the time period to be measured beginning with the first applicable Superion "Telephone Support" hour occurring after Superion'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 Superion's Solution/Custom Modification is not performing a process that has caused a complete work stoppage.	Superion 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, Superion 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.

A resolution plan details the steps necessary to understand and possibly resolve the issue. |
Critical 2	A support issue shall be considered **Critical** when a critical failure in operations occurs; meaning Superion's Solution/Custom Modification 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.	Superion has a stated goal to respond within two hours of the issue being reported.	
Non-Critical 3	A support issue shall be considered **Non-Critical** when a non-critical failure in operations occurs; meaning Superion's Solution/Custom Modification is not performing non-critical processes, but the system is still usable for its intended purpose or there is a workaround.	Superion 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.	Superion 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) Superion's support representative has been directly contacted by Customer either by phone, email, in person, or through Superion's online support portal, and b) when Superion'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 Superion approved remote access client so that Superion can perform the support obligations and/or services under this Order; and will provide appropriate security access and accounts for Superion staff and each session participant.

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 Superion Corporate Travel Agent unless other arrangements have been made with the Customer and are documented in writing.

AIR TRAVEL – Superion 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, Superion 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 –Superion 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 Superion 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. Superion shall decline all rental car insurance offered by the car rental agency as staff members will be covered under the Superion auto insurance policy. Fines for traffic violations are not reimbursable expenses.

OTHER TRANSPORTATION – Superion 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.

GIS SOFTWARE SUPPLEMENT

Customer is solely responsible for providing Superion with accurate and complete data in connection with any Component Systems and Superion services relating to Geographic Information Systems ("GIS"), maps or other geographic analysis.

Customer must provide Superion with accurate GIS resources and accurate data in an ASCII EOO format file or Shape (SHP) format file for street centerlines containing:

- Block ranges (**address ranges are required**)
- Street names
- Street prefixes
- Street suffixes
- Jurisdiction/City Code

Customer, and not Superion, is solely responsible for the accuracy of Customer's street inventory and all attribute data associated with street segments. Common data errors and inaccuracies include:

- Missing streets
- Missing street segments
- Missing intersections
- Errors in street names, street prefixes and street type

Without limiting Customer's obligation to provide accurate data, Superion will return to Customer a list of the logical errors discovered by Superion when Customer's street inventory and attribute data are reviewed by Superion's editing/data validation utility tool ("Validation Tool"). The Validation Tool checks for the following logical errors:

- Address range undershoots
- Address range overshoots
- Missing street names
- Missing street ranges

Customer, and not Superion, is solely responsible for correcting all errors and ensuring the accuracy of all GIS provided data. Customer is additionally responsible to digitize all required map layers to support the Public Safety GIS-based CAD and RMS subsystems.

General Project Conditions - Applies to Entire Project

Item 1:   This Agreement is based on the assumption that a Windows 2000 or higher Domain is already in place and functional. If this is not the case, the Customer is required to provide all necessary equipment and services for such implementation.

Item 2:   The Customer shall provide a certified TCP/IP network with all communications equipment and any other required components. The cabling of this network, installation of punch down panels, hubs, routers, etc. will be the responsibility of the Customer. Additionally, the Customer is responsible for acquiring software that is needed for monitoring and maintaining the network. Customer must provide remote access to its facility using a Superion approved remote access client so that Superion can perform the support obligations and/or services under this Agreement; and will provide appropriate security access and accounts for Superion staff and each session participant.

Item 3:   Superion always recommends the highest performance connection for all LAN and WAN connections. Listed below are Superion's recommendations in order of highest throughput:

   a. 1 Gb CAT5 (LAN) or Fiber (WAN)
   b. 100 Mb CAT5 (LAN) or Fiber (WAN)
   c. 10 Mb CAT5 (LAN) or Fiber (WAN)
   d. Line of Site Technology

Item 4:   If applicable, all RMS/JMS Workstations must be connected to a 10 Mb/sec or faster TCP/IP LAN. Superion recommends a 100 Mb/sec Switched LAN for optimum performance.

Item 5:   If applicable, all CAD Workstations must be connected to a dedicated 100 Mb/sec switched TCP/IP LAN.

Item 6:   The Customer is responsible for the physical placement of all CAD and/or RMS/JMS workstations and certifying that they are operational on the Customer's network. Superion will load our CAD and/or RMS/JMS software on up to five (5) CAD and/or RMS/JMS workstations and train the Customer on the loading process.

Item 7:   Superion's CAD Application Software interfaces with the E911 telephone switch via an RS-232 Serial Cable. The Customer must provide this cable (with accurate pin-outs) to connect their E911 ALI Controller's CAD Port to the Superion Services Workstation's serial port. The maximum length of this cable is 50 feet. In the event that a single CAD Server is servicing multiple communication centers (one CAD Server and multiple E911 ALI sources), a Superion Services Workstation will be required for each PSAP for proper ALI functionality. The Customer must also provide Superion with accurate ALI interface data formats from their E911 Vendor.

Item 8: In acquiring Superion's Message Switch and Mobile Software, the Customer is responsible for all of the associated costs for wireless, WAN and LAN communication with the local provider/State/NCIC networks. This may include the following:

    i. Dedicated Line
    ii. Any encryption to meet State and FBI requirements
    iii. DSU to State
    iv. Any wireless carrier charges and setup
    v. Any installation Charges
    vi. Recurring charges or costs
    vii. Surcharges by the State

Item 9: The Customer shall implement an Uninterruptible Power Supply (UPS) system for all servers and all CAD workstations. This can be at the machine level or at the site level. Superion recommends the use of an enterprise level Master UPS and external generator for full power backup.

Item 10: Superion software is designed for use with laser jet printers for report output in order to utilize the wider margins available. Report output on non-laser printers (inkjet, dot-matrix, etc.) may be adequate, but is not guaranteed by Superion.

Item 11: Virtual Environment Platform

Infrastructure Overview.
The server hardware may be made up of physical servers, virtual servers (using VMware ESX or Hyper-V), or a combination of the two, provided, however, that following conditions apply.

Customer and VMware are responsible for selecting the appropriate VMware application software and solution.

VMware supports a set of certified operating systems and hardware. Customer and VMware are responsible for any interactions and/or issues that arise at the hardware or operating system layer as a result of their use of VMware.

The use of a VMware virtual machine adds software overhead, which may impact performance or scalability. Any statements made by Superion on expected product performance on a hardware platform cannot be interpreted to apply to a virtual machine running on the same hardware platform. Customer must allocate at least an equivalent amount of virtualized resources to the OSSI systems in order to address performance issues. The VMware organization can provide information on how to tune your environment to maximize the performance within a virtual machine. If a performance issue is reported, the VMware layer, as well as the software, will be suspect in the research. Any research required on the VMware performance will be the responsibility of the Customer.

Superion will use commercially reasonable efforts to investigate potential issues with OSSI software running in conjunction with VMware. Where issues are confirmed to be unrelated to the VMware software, Superion will support its software in a manner that is consistent with support provided when that software is running natively under the host operating system.

Required and/or optional software vendors may not support VMware software. These vendors may require the issue to be reproduced independently from VMware software.

DATA ACCESS SUBSCRIPTON SUPPLEMENT (POLICE TO POLICE)

1. **Additional Definitions.**

"Agency" means any law enforcement organization that hosts an Agency Database on its own computer system and that makes its Agency Database available for query and retrieval access by other law enforcement agencies having a public service interest in obtaining the information contained on that Agency Database.

"Agency Database" means a compilation of data related to law enforcement, public safety or emergency activities, events or records, made available by an Agency for remote, electronic access. Each Agency maintains sole control over the nature and extent of access to its own Agency Databases.

"Data Sharing Network" means the combination of hardware, software and Agency Databases that enable Agencies to exchange data electronically through Internet protocols.

"Security System" means the combination of a User ID, an Agency Code and a password that uniquely identifies each individual using the Data Sharing Network, and that is required in order for such individual to obtain access to the Server and Agency Databases via the Server.

"Server" means the computer system maintained and operated by Superion, and through which Users obtain remote access to Agency Databases.

"User" means Customer, and includes for purposes of this Supplement the User's employees and agents on a "need to know" basis. Where the Exhibit 1 to which this Supplement is attached identifies a limitation on the number of "Sworn Officers," the term "User" shall mean only that quantity of sworn police officers or State/NCIC query-certified officers employed by User. For the avoidance of doubt, no license is deemed granted to any person meeting the definition of "User" other than Customer itself. The right that any other User acting for on behalf of Customer has pursuant to this Supplement is derivative of Customer's right of use.

2. **Access Subscription to Data Sharing Network.** In connection with Customer's license to use the RMS Component Systems as otherwise provided for in the Agreement, Customer, as the "User," is also obtaining a subscription to access and use the Data Sharing Network, subject to the following additional terms and restrictions:

a. For the term provided for in Section 2(b) below, Customer will have the right to access the Server to participate in and use the Data Sharing Network. Customer's subscription to use the Data Sharing Network (the "Subscription") permits Customer to send queries and to receive information from Agency Databases made available by other participating Agencies. In connection with the Subscription:;

   i. User may create on-line or printed reports of information retrieved from Agency Databases, and reproduce, reformat, print, display and distribute internally such reports, consistent with User's normal internal procedures.

   ii. Notwithstanding the foregoing, User is prohibited from copying, distributing or displaying any information obtained from the Data Sharing Network for commercial sale, redistribution, broadcast or transfer, or to otherwise use such information in breach of any duty of confidentiality or privacy; and further, User is prohibited from allowing any other person or entity from using the information in any manner that is prohibited by the terms of this Supplement.

   iii. User shall not, nor authorize or enable anyone else to, access the Server or use the Software or Data Sharing Network except as expressly permitted in this Supplement.

b. The Subscription will be co-terminus with the term during which Customer is a subscriber to "Improvements" for the Baseline RMS Component Systems pursuant to the Software Maintenance Agreement entered into by the parties on or about the Execution Date. For the avoidance of doubt, neither Customer nor any User having access to the Data Sharing Network pursuant to Customer's Subscription will have any right to access the Data Sharing Network if Customer is no longer a subscriber to Improvements for the Baseline RMS Component Systems pursuant to the Software Maintenance Agreement.

3. Security System. User has sole responsibility and liability for the use and security of all user IDs, Agency Codes and passwords provided by it to any individual. User will comply with all policies and procedures established by Superion from time to time related to the issuance, validation and use of individual passwords. User will promptly notify Superion of the identity of the individual assigned to a particular password and of the loss or misuse of any password or other Security System element. All passwords are subject to cancellation or suspension by Superion at any time and without notice, if Superion has reason to believe that a password has been or is being utilized in any manner or for any purpose not expressly authorized under this Supplement.

4. Services. Each Agency Database and all information available through the Data Sharing Network is created by and is under the care, custody and control of, the individual Agencies that makes the same available to the Data Sharing Network. **SUPERION DISCLAIMS ALL RESPONSIBILITY OR LIABILITY WHATSOEVER FOR THE CONTENT OF ANY AGENCY DATABASE OR RETRIEVED INFORMATION, FOR ITS ACCURACY, COMPLETENESS OR TIMELINESS OR FOR ANY DELAY OR NON-AVAILABILITY OF THE DATA SHARING NETWORK OR ANY DATA THEREIN. USER ACCEPTS SOLE RESPONSIBILITY FOR THE ACCURACY, COMPLETENESS AND TIMELINESS OF SUCH CONTENT, FOR ITS AVAILABILITY AND FOR ANY USE TO WHICH IT IS PUT OR RESULTS OBTAINED THEREFROM. CUSTOMER AGREES AND UNDERSTANDS THAT SUPERION MAKES NO WARRANTIES WHATSOEVER, EXPRESSED OR IMPLIED, WITH REGARD TO ANY INFORMATION USED, ACCESSED OR PLACED ON ANY AGENCY DATABASE, AND SUPERION EXPLICITLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE IN CONNECTION THEREWITH.**

5. User Responsibilities.

a. User is responsible for procuring, installing, and operating the individual computers used to access the Server, for providing a proper physical environment and remote access for such computers, for obtaining and installing an Superion-approved firewall and security system, for securing a dedicated Internet connection sufficient to meet User's data access needs and for providing such training and ongoing support services for individual users.

b. User is solely responsible for adopting and maintaining procedures and security measures in connection with its use of the Data Sharing Network, any Agency Databases that it maintains, and in connection with any Agency Databases that it accesses. Superion has no responsibility and/or liability whatsoever for any: (1) security breaches or unauthorized access to the Data Sharing Network or to User's system, (2) interruption, delay, errors, or omissions of or in any Agency Database, or the results thereof, including (without limitation) examination and confirmation of data prior to use thereof, (3) provision for identification and correction of errors and omissions, (4) preparation and storage of backup data, and (5) replacement or reconstruction of lost or damaged data or media. User is advised to maintain alternative procedures for obtaining, as needed, information otherwise available through the Data Sharing Network.

c. User is responsible for complying with all local, state, and federal laws pertaining to the use and disclosure of any information or data obtained through the Data Sharing Network, including without limitation any confidentiality or privacy requirements.

d. User shall not permit any third party to access or use the Software provided by Superion, nor shall User decompile, disassemble or reverse engineer any of the Software or data structures utilized by the Data Sharing Network or permit any third party to do so.

e. User warrants and represents that it has sufficient right and authority to grant Superion and other users access to its Agency Databases, to cooperate with Superion, as necessary, in the performance of this Agreement and to authorize and permit Superion to perform all work required to allow the Data Sharing Network access to User's Agency Databases (if applicable according to Section 6).

6. Agency Database Sharing.   As part of the Subscription, Customer, as User, agrees to make its Agency Databases available to the Data Sharing Network. User shall host such Agency Databases on its server and shall cooperate if and when Superion, at its sole discretion, implements minor modifications reasonably required to provide Agency Database compatibility with and accessibility to the Data Sharing Network. Notwithstanding the foregoing, this Section 6 is not applicable where User has purchased a Non-RMS (view only) license and shall not be sharing any data on the P2P network (querying data from other agencies only). Notwithstanding anything to the contrary, User grants Superion permission to use the information contained in User's Agency Database to demonstrate solely to other law enforcement personnel the capabilities of the Data Sharing Network for purposes of increasing the number of departments utilizing the Data Sharing Network.