

## Texas Department of Information Resources

### APPENDIX D TO DIR CONTRACT NUMBER DIR-TSO-3383

#### MASTER PRODUCT, SOFTWARE AND SERVICES AGREEMENT

This Master Product, Software and Services Agreement is entered into as of -the latest of the signatures below, (the "Master Agreement Effective Date"), by and between Radiant RFID, LLC ("Radiant") with offices at 12912 Hill Country Blvd, Suite F 245, Austin TX, 78738 and \_\_\_\_\_ ("Customer") with offices at \_\_\_\_\_. This Master Product, Software and Services Agreement includes the terms set forth in DIR Contract DIR-TSO-3383, any schedules or statements of work separately executed by the parties, and any attachments or exhibits, each of which is incorporated herein by reference (collectively the "Agreement"). The Agreement sets forth the terms and conditions under which Customer may (i) purchase Radiant's products ("Products") identified on a schedule (the "Schedule(s)") by Quantity, Product Number, Description, Location, Unit Price and Total Price; (ii) use Radiant's proprietary software (the "Application(s)") that is specifically licensed to Customer pursuant to a Schedule; and (iii) use the user documentation that Radiant makes generally available in hard copy or electronic form to its general customer base in conjunction with the licensing of Applications and use of Products (the "Documentation"). The Agreement also sets forth terms and conditions under which Customer may (i) purchase technical services ("Work") from Radiant pursuant to separate, mutually executed orders (the "Statement(s) of Work") as may from time to time be issued hereunder; and (ii) use any items developed and/or delivered within the scope of DIR Contract DIR-TSO-3383 solely by Radiant and paid for by Customer pursuant to a Statement of Work (the "Deliverables"). The term "Software" shall mean the Applications listed in any Schedule issued hereunder and the Documentation.

#### 1. LICENSE GRANT AND RIGHT OF USE

- 1.1. **License Grant.** Subject to all limitations and restrictions contained herein, Radiant grants Customer a subscription, nonexclusive and nontransferable right to use the Software as hosted by Radiant as described in each License Schedule ("Use").
- 1.2. **License Type.** Unless otherwise specifically stated in the Schedule, the type of license granted shall either be a Named User License, a Site License or a Device License. A "Named User License" shall mean that the Software licensed pursuant to the Schedule may be Used by a limited number of individual users, each identified by a unique user id (the "Named User"), the maximum number of which is specified in the Schedule. Customer may designate different Named Users at any time without notice to Radiant so long as the permitted number of Named Users is not exceeded. A "Site License" shall mean that the Software licensed pursuant to the Schedule may be Used by an unlimited number of individual users, subject to the terms of this Agreement and the scope of Use defined on the applicable Schedule. A "Device License" shall mean that the Software licensed pursuant to the Schedule may be Used by a limited number of individual devices ("Devices") so long as the permitted number of devices is not exceeded. Any license other than a Named User License, Site License or Device License shall be defined in a Schedule. In no event shall any of the licenses denoted above be construed to mean a concurrent user license.
- 1.3. **Use.** Individuals authorized under the applicable Schedule to Use the Software ("Authorized Users") may Use the Software solely to support Customer's own internal operations, in the operating software environment specified on the applicable Schedule (the "Platform") and only for the Software licensed herein. Individuals who access the Software, directly or indirectly, whether via a Radiant provided interface or otherwise, and/or cause the Software to perform any functions must be Authorized Users. Authorized Users shall not (i) access the Software to process, or permit to be processed, the data of any other party; or (ii) access the Software for service bureau or commercial time-sharing use. Unless otherwise expressly permitted in the Schedule and subject to Section 1.4 below, Customer shall not permit any subsidiaries, affiliated entities, or third parties to access the Software.
- 1.4. **Authorized Users.** Unless otherwise specifically provided in the Schedule, Authorized Users shall only consist of (i) employees of Customer and (ii) subject to Section 6 of this Agreement, "Confidentiality", third party contractors of Customer (unless Radiant specifically identifies and

documents that the contractor is a direct competitor with Radiant for the product(s) directly involved ("Permitted Contractors"). Permitted Contractors may Use the Software only at Customer's place of business or in the presence of Customer personnel.

- 1.5. **Additional Restrictions.** In no event shall Customer disassemble, decompile, or reverse engineer the Software or Confidential Information (as defined in Section 6) or permit others to do so. Disassembling, decompiling, and reverse engineering include, without limitation: (i) converting the Software from a machine-readable form into a human-readable form; (ii) disassembling or decompiling the Software by using any means or methods to translate machine-dependent or machine-independent object code into the original human-readable source code or any approximation thereof; (iii) examining the machine-readable object code that controls the Software's operation and creating the original source code or any approximation thereof by, for example, studying the Software's behavior in response to a variety of inputs; or (iv) performing any other activity related to the Software that could be construed to be reverse engineering, disassembling, or decompiling. To the extent any such activity may be permitted pursuant to written agreement, the results thereof shall be deemed Confidential Information subject to the requirements of this Agreement. Customer may use Radiant's Confidential Information solely in connection with the Software and Products and pursuant to the terms of this Agreement.
- 1.6. **Rights to Deliverables.** Subject to Customer's full payment of undisputed amounts for Deliverables created under a Statement of Work, Radiant hereby grants to Customer, at no additional charge, an internal, worldwide, nonexclusive, nontransferable license to the object code and source code versions of the Deliverables to (i) modify and otherwise create derivative works based on the Deliverables; and (ii) reproduce, distribute, perform, display (publicly or otherwise), and otherwise use and exploit the Deliverables and derivative works thereof solely in connection with the Software and Products.
- 1.7. **Rights to Product.** Subject to Customer's full payment of undisputed amounts for the Products, Customer may use the Products solely as described in the Specifications (as defined herein) for each Product and as described in the applicable Schedule. In the event a Product is lost or stolen from Customer's facility or otherwise damaged, Customer shall be fully responsible for all costs of replacement or repair.
- 1.8. **Hosting.** To the extent the Applications are hosted by Radiant, the Applications shall be provided in accordance with the hosting service levels in Exhibit A hereto.
- 1.9. **Support and Enhancement Services.** Radiant shall provide Support and Enhancement Services for the Software in accordance with Exhibit B.

## 2. PAYMENT

- 2.1. **Fees.** Unless otherwise provided in the Schedule, and always subject to Section 8 of Appendix A, Radiant may invoice Customer for all fees and all other charges due thereunder immediately following the Schedule Effective Date. The Work and Deliverables provided by Radiant shall be at the pricing set forth in the applicable Statement of Work, which prices must be at or below the prices detailed in the Pricing Index.
- 2.2. **Payment Due Date.** Shall be handled in accordance with DIR Contract DIR-TSO-3383, Appendix A, Standard Terms and Conditions For Product and Related Services Contracts, Section 8.J, Payments.
- 2.3. **Purchase Orders.** shall be handled in accordance with DIR Contract DIR-TSO-3383, Appendix A, Standard Terms and Conditions For Product and Related Services Contracts, Section 8.H, Purchase Orders.
- 2.4. **Late Payment.** Any late undisputed payment shall bear interest as provided for in the Texas Prompt Payment Act, Texas Government Code Chapter 2251.
- 2.5. **Taxes.** Shall be handled in accordance with DIR Contract DIR-TSO-3383, Appendix A, Standard Terms and Conditions For Product and Related Services Contracts, Section 8, E, Tax-Exempt.

### **3. DELIVERY**

- 3.1. **Product Delivery.** Shall be handled in accordance with DIR Contract DIR-TSO-3383, Appendix A, Standard Terms and Conditions For Product and Related Services Contracts, Section 8.D, Shipping and Handling Fees.
- 3.2. **Marking.** Customer shall include all copyright notices, proprietary legends, any trademark and service mark attributions, any patent markings, and other indicia of ownership and confidential markings on all copies of the Products, Software and any other Radiant materials provided to Customer, in the content and format contained on the Master Copy and such Radiant materials. Customer shall pay all duplication and distribution costs incurred by Customer in making copies of the Software, and shall also pay all custom duties and fees if applicable. Subject only to the license granted herein, all copies of the Software and any other Radiant materials provided to Customer are the property of Radiant or its third party licensors from whom Radiant has obtained marketing rights (the "Third Party Licensors").
- 3.3. **Records.** Shall be handled in accordance with DIR Contract DIR-TSO-3383, Appendix A, Standard Terms and Conditions For Product and Related Services Contracts, Section 9.C, Records and Audit. In addition, if the license is a Named User License, Customer shall, upon Radiant's request, provide reports to Radiant specifying the cumulative total of copies, and all other reasonably pertinent distribution information. All reports shall be delivered to Radiant within thirty (30) days of such request.
- 3.4. **Verification.** Customer agrees that Radiant may, upon ten (10) days prior written notice, and subject to Customer's security and confidentiality requirements, enter Customer's premises to verify Customer's compliance with the provisions of this Agreement. Radiant's inspections shall be limited to (i) Customer's normal business hours; and (ii) those records pertaining to the Software licensed hereunder or other Radiant Confidential Information. Radiant's rights of inspection shall remain in effect through the period ending one (1) year from the termination or expiration of this Agreement and any applicable license hereunder. In the event Radiant determines that Customer's usage of the Software or Products exceeds the number of Named Users or is otherwise not in compliance with this Agreement or the applicable Schedule, Radiant may invoice Customer for the additional usage, and, if such invoice is not paid or disputed in due course, Radiant may remove the applicable Software and/or Products, as applicable.

### **4. TECHNICAL SERVICES**

- 4.1 **Statement of Work.** Each Statement of Work shall define the Work to be provided to Customer, the applicable pricing, Deliverables to be created thereunder, Customer deliverables and obligations, and all other appropriate terms and conditions. Radiant will not begin any Work unless a Statement of Work governing such Work has been executed by both parties.
- 4.2 **Third Parties.** Shall be handled in accordance with DIR Contract DIR-TSO-3383, Appendix A, Standard Terms and Conditions For Product and Related Services Contracts, Section 8.I, Third-Party Underlying and Derivative Works.

### **5. OWNERSHIP**

- 5.1. Shall be handled in accordance with DIR Contract DIR-TSO-3383, Appendix A, Standard Terms and Conditions For Product and Related Services Contracts, Section 5.B, Ownership.

### **6. CONFIDENTIALITY**

- 6.1. Shall be handled in accordance with DIR Contract DIR-TSO-3383, Appendix A, Standard Terms and Conditions For Product and Related Services Contracts, Section 5.E, Confidentiality.
- 6.2. **Suggestions/Improvements to Software.** Notwithstanding this Section 6, unless otherwise expressly agreed in writing, all suggestions, solutions, improvements, corrections, and other contributions provided by Customer regarding the Software, Products, or other Radiant materials provided to Customer shall be owned by Radiant, and Customer hereby agrees to assign any such rights to Radiant. Nothing in this Agreement shall preclude Radiant from using in any manner or for any purpose it deems necessary, the know-how, techniques, or procedures acquired or used by Radiant

in the performance of services hereunder, provided the foregoing is not Customer Confidential Information.】

## **7. WARRANTY**

- 7.1. Shall be handled in accordance with DIR Contract DIR-TSO-3383, Appendix A, Standard Terms and Conditions For Product and Related Services Contracts, Section 7.C, Product Warranty and Return Policies.
- 7.2. **Disclaimer of Warranties.** EXCEPT AS OTHERWISE STATED IN Section 7.C of Appendix A of DIR-TSO-3383, RADIANT MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT.

## **8. LIMITATION OF LIABILITY**

- 8.1. Shall be handled in accordance with DIR Contract DIR-TSO-3383, Appendix A, Standard Terms and Conditions For Product and Related Services Contracts, Section 10.K, Limitation of Liability.
- 8.2. **Disclaimer of Damages.** Shall be handled in accordance with DIR Contract DIR-TSO-3383, Appendix A, Standard Terms and Conditions For Product and Related Services Contracts, Section 10.A, Indemnification.

## **9. TERM AND TERMINATION**

- 9.1. Termination Shall be handled in accordance with DIR Contract DIR-TSO-3383, Appendix A, Standard Terms and Conditions For Product and Related Services Contracts, Section 11.B, Termination.

## **10. CUSTOMER OBLIGATIONS**

- 10.1. **Customer's Facilities.** To the extent required by Radiant, Customer will, upon request, promptly make available to Radiant certain of its facilities, computer resources, software programs, networks, personnel, and business information as are required to perform any Work, service, or other obligation hereunder. Radiant agrees to comply with Customer's rules and regulations regarding safety, security, and conduct, provided Radiant has been made aware of such rules and regulations.
- 10.2. **Unauthorized Access.** In no event shall Radiant be responsible to the extent anyone gains access to Customer's facilities by means of misuse or misapplication of the Software or Products. By way of example, but not limitation, if more than one individual enters an access point at a time, an access point is propped open, or there is a failure of a third party system, such as described in the Force Majeure provision below, Radiant shall not be liable and Customer will defend, indemnify and hold Radiant and its affiliates and their employees, owners, and officers from and against any claims arising from misuse or misapplication of the Software or Products.

## **11. MISCELLANEOUS**

- 11.1. **Compliance With Laws.** The parties agree to comply with all applicable laws, regulations, and ordinances relating to their performance under this Agreement. The parties agree that the Agreement shall not be governed by the United Nations Convention on the International Sale of Goods or by UCITA, the application of which is expressly excluded.
- 11.2. **Assignment.** Shall be handled in accordance with DIR Contract DIR-TSO-3383, Appendix A, Standard Terms and Conditions For Product and Related Services Contracts, Section 4.D, Assignment,
- 11.3. **Survival.** Shall be handled in accordance with DIR Contract DIR-TSO-3383, Appendix A, Standard Terms and Conditions For Product and Related Services Contracts, Section 4.E, Survival. The provisions of this Agreement that by their nature survive termination or expiration, shall survive termination or expiration of this Agreement.
- 11.4. **Notices.** Shall be handled in accordance with DIR Contract DIR-TSO-3383, Appendix A, Standard Terms and Conditions For Product and Related Services Contracts, Section 12.A, Notices.
- 11.5. **Force Majeure.** Shall be handled in accordance with DIR Contract DIR-TSO-3383, Appendix A, Standard Terms and Conditions For Product and Related Services Contracts, Section 11.C, Force Majeure.
- 11.6. **Conflict.** Shall be addressed as provided for in Appendix A of DIR Contract DIR-TSO-3383.

- 11.7. **Restricted Rights.** Use of the Software by or for the United States Government is conditioned upon the Government agreeing that the Software is subject to Restricted Rights as provided under the provisions set forth in FAR 52.227-19. Customer shall be responsible for assuring that this provision is included in all agreements with the United States Government and that the Software, when delivered to the Government, is correctly marked as required by applicable Government regulations governing such Restricted Rights as of such delivery.
- 11.8. **Entire Agreement.** This Agreement, including any separately executed Schedules, Statements of Work and any exhibits, all subject to the requirements of DIR Contract DIR-TSO-3383, shall constitute the entire agreement between the parties regarding the subject matter hereof and supersede all proposals and prior discussions and writings between the parties with respect thereto. Any signed copy of this Agreement made by reliable means (e.g., photocopy or facsimile) shall be considered an original. Customer acknowledges and agrees that it is not relying on any statement or warranty not expressly provided herein with respect to the Products, Software, Deliverables, Work, or other services provided hereunder.
- 11.9. **Modifications.** The parties agree that this Agreement cannot be altered, amended or modified, except by a writing signed by an authorized representative of each party.
- 11.10. **Headings.** Headings are for reference purposes only, have no substantive effect, and shall not enter into the interpretation hereof.
- 11.11. **No Waiver.** No failure or delay in enforcing any right or exercising any remedy will be deemed a waiver of any right or remedy.
- 11.12. **Severability and Reformation.** If any provision of this Agreement is determined to be or becomes unenforceable or illegal, such provision shall be reformed to the minimum extent necessary in order for this Agreement to remain in effect in accordance with its terms as modified by such reformation.
- 11.13. **Independent Contractor.** Radiant is an independent contractor and nothing in this Agreement shall be deemed to make Radiant an agent, employee, partner or joint venturer of Customer. Radiant shall have no authority to bind, commit, or otherwise obligate Customer in any manner whatsoever.
- 11.14. **Choice of Law.** THIS AGREEMENT SHALL BE GOVERNED AND INTERPRETED BY THE LAWS OF THE STATE OF TEXAS WITHOUT REGARD TO THE CONFLICTS OF LAW PROVISIONS OF ANY STATE OR JURISDICTION.

By signing below, each party acknowledges that it has read, understands, and agrees to the terms of this Agreement.

**Agreed to By:**

**RADIANT RFID, LLC**

**CUSTOMER**

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name typed or printed)

\_\_\_\_\_  
(Name typed or printed)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

**Exhibit A**  
**SaaS Hosting Service Level Agreement**

1. **Definitions.** The following are definitions of capitalized words used in this SLA:
  - 1.1 "Service" means the website hosting service for the Applications
  - 1.2 "Business Hours" means 8:00 a.m. to 5:00 p.m. (CST), Monday through Friday, and, notwithstanding the foregoing, does not include Holidays or times during Service Maintenance.
  - 1.3 "Service Maintenance" means Radiant's maintaining of the Applications.
  - 1.4 "Error" means an error that causes complete unavailability of the Applications.
2. **Service Availability.**
  - 2.1. Service Availability - General. Radiant's goal is to provide Service Availability twenty-four hours per day, seven (7) days per week (referred to as "24x7 Availability") EXCEPT during times of Service Maintenance as set forth herein. However, the parties recognize that 24x7 Availability is only a GOAL, and Radiant cannot represent or guarantee that such goal can be achieved.
  - 2.2. Service Availability Level Goals. Radiant shall achieve 99.9% Availability Goals during Business Hours. Customer shall report issues utilizing the Radiant ticketing system. For Errors, Customer follows up report on Radiant web-based ticketing system with a call to the 24x7 Radiant support telephone at 512-493-2070 and properly identifies the issue as being an Error. If Customer feels a problem is not being properly addressed, Customer may request escalation to the Support Manager.
  - 2.3. Service Maintenance. The parties agree that Radiant shall provide Service Maintenance which may cause Errors. Radiant shall use commercially reasonable efforts to limit Service Maintenance which causes Errors. The Service Availability goals exclude any time Customer requests site be taken down for scheduled updates. Radiant shall use commercially reasonable efforts to provide five (5) days notice of schedule Service Maintenance.
  - 2.4. Disclaimer of Actions Caused by and/or Under the Control of Third Parties. Radiant does not and cannot control the flow of data to or from Radiant's network and other portions of the internet. Such flow depends in large part on the performance of internet services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt customer's connections to the Internet (or portions thereof). Although Radiant will use commercially reasonable efforts to take actions it deems appropriate to remedy and avoid such events, Radiant cannot guarantee that such events will not occur. Accordingly, Radiant disclaims any and all liability resulting from or related to such events.
3. Limitations. Radiant cannot assume responsibility and shall not be liable for any impacts on Service Availability due to (i) any requests for non-standard environment or Customer machine access, (ii) any downtime caused by Customer produced code, or (iii) any changes to the Service.

Customer initials \_\_\_\_\_ Radiant initials \_\_\_\_\_

**EXHIBIT B**  
**SUPPORT AND ENHANCEMENT SERVICES**

**1. Support and Enhancement Services**

This Support and Enhancement Services Exhibit sets forth the terms and conditions pursuant to which Radiant shall provide Customer with certain support and enhancement services for the Software ("Support and Enhancement").

**2. Definitions**

**2.1 Support Release.** A "Support Release" of the Software shall mean any Update Releases and Versioned Releases that are made generally available to Radiant's general client base as an Update Release or Versioned Release in Radiant's sole discretion.

**2.2 Update Release.** An "Update Release" shall mean bug fixes and patches intended to correct Errors.

**2.3 Versioned Release.** "Versioned Release" shall mean releases containing minor enhancements.

**2.4 New Product Release.** A "New Product Release" shall mean any release of the software that is not a Support Release.

**2.5 Errors.** "Errors" are reported problems that (i) prevent the Software from conforming in material respects to applicable Documentation, and (ii) are replicated and diagnosed by Radiant as defects in the Software.

**3. Delivery of Enhancements**

**3.1 Support Releases.** Radiant shall provide Customer with Support Releases of the Software.

**3.2 New Product Releases.** New Product Releases will NOT be provided to Customer pursuant to Support and Enhancement services. Such New Product Releases would be subject to mutual negotiation and execution of a separate Schedule and payment of an additional license fee for such New Product Releases.

**4. Support**

**4.1 Error Corrections.** Radiant shall use commercially reasonable efforts to provide solutions, changes and corrections to the Software as are required to correct Errors.

**4.2 Support Obligations of the Parties.** Radiant shall provide Level 2 Support as set forth below. Customer shall be responsible for those Level 1 Support activities described below.

**4.3 Level 1 Support.** "Level 1 Support" shall mean that Customer shall provide all assistance reasonably requested by Radiant. Assistance required by Radiant from Customer in replicating and diagnosing Errors includes, but is not limited to the following:

- i) serving as the primary contact for questions by the Authorized Users and gathering information and descriptions of any problem so as to ascertain its severity;
- ii) providing available resolution to issues if known;
- iii) analyzing problem symptoms and gathering additional data from Authorized Users as required;
- iv) recreating problems on a Customer test system and reporting the result to Radiant if such tests indicate an Error in the Software;
- v) determining if a suspected error is due to (1) improper installation of the Software by the Authorized User or (2) prerequisite or operationally related equipment or software at the location of the Software;
- vi) attempting a bypass or circumvention of the suspected error; and
- vii) if after performing all such Level 1 support functions, Customer finds that the suspected error appears to be in the Software, notifying Radiant pursuant to Section 4.6 below and providing a description of the problem and all supporting documentation and materials necessary to replicate the Error in the Software in Radiant's development environment in Austin, Texas.

**4.4 Level 2 Support Representatives.** Customer shall identify exactly two (2) Authorized Users who will correspond with Radiant's support personnel as provided hereunder (the "Level 2 Support Representatives"). Customer agrees to provide Radiant with the names, locations, telephone numbers and email addresses of the Level 2 Support Representatives within two (2) weeks from the applicable

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Schedule Effective Date. Customer may change Level 2 Support Representatives by providing Radiant with notice either in writing or by email to Radiant's support personnel at [support@Radiantrfid.com](mailto:support@Radiantrfid.com).

4.5 **Level 2 Support.** "Level 2 Support" shall mean reasonable telephone and email support in the form of advice and counsel in support of Level 1 Support activities as well as Error corrections, all of which shall be performed pursuant to following:

- (i) Level 2 Support shall be provided to the Level 2 Support Representatives only;
- (ii) Level 2 Support shall be provided Monday through Friday from 8:00 AM to 6:00 PM (Central Time), exclusive of those holidays observed by Radiant. The holidays observed by Radiant are as follows: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, Christmas Eve and Christmas Day. Customer shall not be limited in the number of incidents reported to Radiant; and
- (iii) In the event that Customer fails to provide Level 1 Support and Radiant is required to provide such Level 1 Support, Customer shall pay Radiant on a time and materials basis, at Radiant's then-current rates, for Level 1 Support and Radiant shall not be bound by the Response Schedule below.

4.6 **Contacting Radiant Support.** Subject to Customer's Level 1 Support obligations, the Level 2 Support Representative shall report Errors to Radiant via the following contacts:

- (i) Radiant's general level support engineers via email at [support@Radiantrfid.com](mailto:support@Radiantrfid.com) or phone at 512-351-4915 Option 2.
- (ii) For Severity 1 and/or Severity 2 Errors (as defined below), the Level 2 Support Representative shall, in addition to any notification by any other means, notify Radiant by telephoning a support specialist. In the event the Level 2 Support Representative cannot make contact with a Radiant support specialist, the Level 2 Support Representative shall continue their efforts to personally notify Radiant by calling the following Radiant representatives in the order listed until a Radiant Representative is contacted in person:
  - a. Project Manager
  - b. Account Manager
  - c. Vice President
  - d. President

## 5. Error Classification

5.1 **Severity One Errors.** Errors that meet the following criteria:

- ◆ Errors that prevent all useful work from being done;
- ◆ material Errors in essential functions for which no non-manual work around exists; or
- ◆ Errors that cause a material loss of data.

5.2 **Severity Two Errors.** Errors that meet the following criteria:

- ◆ Errors that disable essential functions but for which a non-manual work around exists;
- ◆ Errors that block systems test or deliverables; or
- ◆ Errors that violate material specifications in the Documentation.

5.3 **Classification Dispute Resolution.** The parties shall mutually agree to a classification based on the description of the Error. In the event there is a dispute between the Level 2 Support Representative and Radiant regarding the classification of an Error that is not resolved within 24 hours after the report from the Level 2 Support Representative, such dispute shall be referred to Radiant's project manager and Customer's project manager for resolution. In the event such personnel cannot resolve the dispute within 24 hours from the referral of the dispute to them, the issue shall be escalated to the Customer's Vice President and Radiant's Customer Partner. In the event the Vice President and Customer Partner cannot resolve the dispute within 24 hours, the dispute will ultimately be resolved by Customer's Senior Vice President and Radiant's General Manager.

## 6. Response Times

6.1 **Response Schedule.** Radiant's support specialist shall use commercially reasonable efforts to respond to Severity 1 and Severity 2 Errors in accordance with the following Response Schedule. Such response times

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shall be measured from the time the Level 2 Support Representative contacts Radiant support pursuant to Section 4.6.

Response Schedule

	<b>1<sup>st</sup> Stage</b>	<b>2<sup>nd</sup> Stage</b>
Severity 1	4 business hours	1 business day
Severity 2	8 business hours	3 business days

Stage Identification

Stage 1- acknowledgment of receipt of Error report and all Level 1 support data.

Stage 2- subject to Customer's completion of its obligations herein, commencement of work on identifying and diagnosing the problem, and subsequent work around, temporary fix, or other temporary resolution of the Error and documentation of corrections.