
MASTER SERVICES AGREEMENT

This Master Services Agreement (“Agreement”) is made effective as of the acceptance date indicated on the initial Purchase Schedule, any subsequent Purchase Schedules, or other signed documents referencing the acceptance of this Agreement (“Effective Date”) executed by the party named and with the address therein (“Customer”) and One Team Care, LLC DBA TRIARQ-One Team Care, a Michigan corporation whose address is 1050 Wilshire Drive, Suite 300, Troy, MI 48084 (“TRIARQ”), Telephone: 248-352-1700, Fax: 248-671-0330, Email: info@TRIARQhealth.com.

RECITALS

The Customer desires to purchase Services from TRIARQ and the terms of this Master Services agreement will govern the relationship. Services will be provided on condition that the Customer agrees to all of the terms of this Agreement.

Customer hereby engages TRIARQ as an independent contractor to perform “Services” as more fully described on any executed Purchase Schedule which is made subject to and is a part of this Agreement.

DEFINITIONS

1. “Deliverable(s)” means the items to be delivered to Customer in connection with Services TRIARQ performs pursuant to this Agreement and as set forth in an applicable Statement of Work.
2. “Documentation” shall mean all manuals, handbooks, training materials, or other written materials in any form or media, including electronic, which is packaged or delivered with the Software.
3. “Customer” shall mean the entity that purchases Services from TRIARQ as defined in a signed Statement of Work and/or a signed Purchase Schedule that includes Services subject to the terms of this Agreement.
4. “TRIARQ Certified Partner” shall mean an individual and/or organization that has signed any of TRIARQ’s Partner or Reseller agreements or has entered into any other strategic relationship with TRIARQ and has met the certification requirements applicable to the level of participation such that it is authorized by TRIARQ to sell, implement, extend, finance, integrate and/or support TRIARQ Products and Services.
5. “Guaranteed Minimum Monthly Payment” or “GMMP” shall mean the minimum contractually agreed upon payment to be charged to Customer for use of certain TRIARQ Services (as defined in the Master Services Agreement) including, but not limited to, TRIARQ services, software and web hosting support and services.

6. "Implementation" shall mean training Services for use of the Software provided either by TRIARQ or a TRIARQ Certified Partner.
7. "Purchase Schedule" shall mean the TRIARQ agreement which is the order document that shall initially accompany this Agreement and/or which is subsequently added hereto by consent of the parties. The Purchase Schedule identifies the specific Products, Support and Services, including Value Added Options, to be provided under this Agreement.
8. "Services" means the professional consulting Services, project management or telephone, remote, onsite support performed by TRIARQ or TRIARQ Certified Partner for Customer pursuant to this Agreement, Purchase Schedule, Support Agreement and/or a Statement of Work. The schedule for Services shall be agreed upon by the Parties, subject to availability of TRIARQ personnel, and reflected in the Statement of Work.
9. "Software" means TRIARQ's proprietary software products known as gloEMR™/Q EMR, gloPM™/Q PM, gloSuite™/Q Suite and all software modules listed on the TRIARQ website found at www.TRIARQhealth.com and/or developed by TRIARQ, including any and all associated source code, object code, all enhancements, modifications, updates, upgrades, releases and extensions and all Documentation relating thereto which is provided to Customer pursuant to a TRIARQ Software License Agreement.
10. "Support Services" shall mean telephone, web portal, remote or on-site software support provided by TRIARQ or a TRIARQ Partner to Customer subject to the terms of this Agreement.

PERFORMANCE OF SERVICES

11. Statements of Work. Each Services project TRIARQ undertakes shall be described in statements of work (each a "Statement of Work" or "SOW") setting forth the agreed upon scope of the Statement of Work, Deliverables, and Services. If there is a conflict between the terms set forth in this Agreement and a Statement of Work, the terms set forth in the applicable Statement of Work will control. HOWEVER, NOTWITHSTANDING ANYTHING CONTAINED IN THE STATEMENT OF WORK TERMS, THE LIMITATION OF LIABILITY CONTAINED IN PARAGRAPH 29 BELOW SHALL CONTROL ALL CLAIMS FOR DAMAGES.
12. Changes to Statement of Work. Customer or TRIARQ may request changes to the scope of a Statement of Work, and any such change must be mutually agreed upon by the Parties. Any agreed upon changes to the scope of a Statement of Work shall result in a change order to such Statement of Work or a new Statement of Work. Notwithstanding the foregoing, if there are any changes to the scope of a Statement of Work and the changes result in an increase in the fees of less than two thousand dollars (\$2,000.00) or ten (10) percent of the estimated total cost, whichever is less, ("Additional Services") then TRIARQ will continue to provide the Services, including the Additional Services, pursuant to the then current Statement of Work without the need to execute a change order or a new Statement of Work. Customer agrees to pay TRIARQ for any applicable Additional Services pursuant to the then current

Statement of Work.

13. Delivery and Cooperation. Customer acknowledges that Customer's cooperation is essential to the timely performance of the Services. Customer will, to the extent required in connection with the performance of the Services: (i) provide TRIARQ with any necessary Customer materials; (ii) provide TRIARQ with any necessary access to Customer's personnel, facilities or data; (iii) cause the appropriate personnel to cooperate with TRIARQ as required for performance of the Services, including responding promptly to questions or issues; and (iv) make all payments when due. Customer's delay or failure to do so may delay the estimated delivery schedules set forth in the Statement of Work. If Customer fails to do any of the foregoing, both parties will cooperate in good faith to develop a revised written delivery schedule and written Statement of Work or change order signed by both parties with new pricing.

14. Place of Performance. Unless other agreements are made prior to undertaking a project, TRIARQ's standard corporate travel policy will be adhered to and if requested Customer will be provided a copy of the policy. Services to be provided on-site at Customer's facilities will be scheduled in advance by agreement of both parties. Both parties will use reasonable efforts to accommodate any requested changes in the scheduled dates for on-site Services, subject to the availability of appropriate personnel.

15. Qualified Personnel. TRIARQ will provide all Services in accordance with current industry standards and practices using qualified personnel with the necessary skills, qualifications and experience to provide the Deliverables or Services in accordance with the applicable Statement of Work. All personnel providing Services will be TRIARQ employees acting within the scope of their employment and under obligation to assign all rights in the Deliverables or Services to TRIARQ, or will be independent contractors under written obligation to assign all such rights to TRIARQ.

16. Subcontracting. TRIARQ may use a third-party contractor rather than its own consultants to perform Services provided that TRIARQ's agreement with the third party contractor is consistent with the terms of this Agreement and any related nondisclosure and/or confidentiality agreement.

OWNERSHIP AND RETENTION

17. Ownership Rights. Subject to TRIARQ's rights in TRIARQ Confidential Information as defined below, any inventions, designs, intellectual property or other derivative works of TRIARQ Confidential Information, as defined below, will vest in and be the exclusive property of TRIARQ ("TRIARQ Derivative Work").

18. Pre-Existing Work. Any pre-existing proprietary or Confidential Information of TRIARQ or its subcontractors used to perform the Services, or included in any Deliverable, including but not limited to software, appliances, methodologies, code, templates, tools, policies, records, working papers, know-how, data or other intellectual property, written or otherwise, including derivative works will remain the exclusive property of TRIARQ and its subcontractors (collectively, "TRIARQ Information"). To the extent

that TRIARQ incorporates any TRIARQ Confidential Information into any deliverable, TRIARQ hereby grants to Customer a non-exclusive, non-transferable license to use such TRIARQ Confidential Information at no additional charge solely for Customer's internal business purposes, in accordance with the limitations set forth in this Agreement and any applicable SOW. Any Customer's pre-existing information, including but not limited to any Customer's proprietary and Confidential Information of a similar nature to TRIARQ Confidential Information provided to TRIARQ by Customer will remain the exclusive property of Customer ("Customer Information").

19. Retention. Customer acknowledges that TRIARQ provides similar Services to other customers and that nothing in this Agreement will be construed to prevent TRIARQ from carrying on such business. TRIARQ has the right to retain and use copies of the Deliverables, provided, however, that nothing in this Agreement will allow TRIARQ to distribute, disclose or create derivative works of Customer Information. Nothing in this Agreement will allow Customer to distribute, disclose or create derivative works of TRIARQ Information.

COMPENSATION & EXPENSES

20. TRIARQ will be paid fees as set forth in the applicable Purchase Schedule, plus applicable sales tax, if any, that details the Services, Statement of Work or Support Services purchased. In consideration for the use of certain TRIARQ Services, Software and applicable Software Subscription licenses, Customer agrees to pay TRIARQ, or its assignee ("Payment Assignee"), a Guaranteed Minimum Monthly Payment ("GMMP") as specifically defined in the TRIARQ Purchase Schedule and Agreement. Customer acknowledges and understands that TRIARQ may, at its sole discretion and without notice to the Customer, assign any amount of the GMMP to an authorized TRIARQ Certified Partner ("GMMP Assignment"). Customer further acknowledges and understands that the TRIARQ Certified Partner will have all the benefits of the GMMP Assignment and TRIARQ will retain all other obligations under this Agreement. NOTWITHSTANDING ANYTHING TO THE CONTRARY AND REGARDLESS OF CAUSE, CUSTOMER REMAINS OBLIGATED TO MAKE ALL GUARANTEED MONTHLY MINIMUM PAYMENTS FOR THE FULL TERM OF THE PURCHASE SCHEDULE AND AGREEMENT.

If Customer does not pay the amounts due TRIARQ and/or due its assignees plus applicable sales tax, if any, as specified in the Purchase Schedule, including but not limited to the GMMP, within twenty (20) days of its due date, Customer is in default. If Customer defaults, TRIARQ or its TRIARQ Certified Partner may do one or more of the following 1) Place Customer account on support hold and/or suspend services, 2) Charge a late fee of up to \$75 per day, and 3) Upon 10 days' notification of default to the Customer, accelerate the GMMP payment terms set forth on the applicable Purchase Schedule and demand that Customer immediately pay TRIARQ or its Payment Assignee all past due Payments, Guaranteed Minimum Monthly Payments, and future due balance of Guaranteed Minimum Monthly Payments under the MSA and applicable Purchase Schedule. Customer agrees to pay TRIARQ or its Payment Assignee reasonable attorney's fees of 20% of all amounts due and owing by Customer in enforcing the payment terms as set forth in the MSA and applicable Purchase Schedule. Customer agrees that any action or proceeding related to the collection of past due Payments,

Guaranteed Minimum Monthly Payments and/or future due balance of Guaranteed Minimum Monthly Payments under the MSA and applicable Purchase Schedule to which Customer is a party shall be EXCLUSIVELY ADJUDICATED IN THE APPROPRIATE COURTS LOCATED IN THE COUNTY OF OAKLAND, IN THE STATE OF MICHIGAN AND OF THE UNITED STATES DISTRICT COURT OF THE EASTERN DISTRICT OF MICHIGAN, AND ANY APPELLATE COURT FROM ANY THEREOF. EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE JURISDICTION OF SAID COURTS FOR ANY SUCH ACTION.

21. All taxes and withholding on all payments made subject to this Agreement will be each party's sole responsibility. Both parties will indemnify, defend and hold harmless the other party and its employees, principals shareholders or holders of an ownership interest, as the case may be, officers, directors, agents, affiliates, parent, subsidiaries and representatives ("Indemnified Parties") from and against any and all claims, losses, demands, damages, liabilities, costs and expenses (including reasonable attorneys' fees) ("Losses") arising out of or relating to payment of taxes on payments made subject to this Agreement.

22. In the event Customer's account is in arrears for more than twenty (20) days for any reason, TRIARQ shall be entitled to cease providing services or immediately place Customer on support hold and/or TRIARQ shall have the right to suspend, disable, modify, and/or remove the Software, third-party services, and/or any of the Software modules or components.

INSURANCE

23. At all times during the performance of Services, TRIARQ will (or in the case of subcontractors, TRIARQ will cause its subcontractors to) keep in full force and effect and maintain, at no additional cost to Customer, the following policies of insurance:

24. Comprehensive General Liability Insurance, including contractual liability, personal or bodily injury, products liability, premises/operations, completed operations, and broad form property damage, with a combined single limit of not less than one million dollars (\$1,000,000.00) per occurrence;

25. Workers' Compensation Insurance (in compliance with State and Federal laws) covering all of TRIARQ's (and/or its subcontractors') employees engaged in the performance of Services hereunder, and Employers' Liability Insurance, with a limit of not less than five hundred thousand dollars (\$500,000.00) per occurrence;

26. Professional Liability covering acts, errors, and omissions arising out of TRIARQ's (or its subcontractors') operations or Services, with a limit of not less than one million dollars (\$1,000,000.00) per occurrence.

REPRESENTATIONS AND WARRANTIES

27. TRIARQ represents and warrants to Customer that: (i) All Services will be performed in accordance with the industry standards; (ii) all Services performed and/or Deliverables provided, including any materials and/or equipment utilized or supplied in the performance of such Service, will not violate, infringe, or misappropriate any patent, trade secret, copyright, trademark or other proprietary right; (iii) TRIARQ has full right and power to enter into this Agreement and perform the Services without the consent of any third party; and (iv) TRIARQ will perform the Services in compliance with all applicable local, state, federal, and international laws, regulations and statutes.

LIMITATIONS

28. LIMITATION OF WARRANTY. THE WARRANTIES ABOVE OR REFERENCED IN A STATEMENT OF WORK ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE WITH RESPECT TO THE SERVICES, DELIVERABLES OR WORK PRODUCT PROVIDED UNDER THIS AGREEMENT. ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON- INFRINGEMENT ARE HEREBY DISCLAIMED. HOWEVER, NOTWITHSTANDING ANYTHING TO THE CONTRAY, ALL WARRANTIES AND LIMITATIONS THERETO RELATED TO TRIARQ SOFTWARE ARE GOVERNED EXCLUSIVELY BY THE TERMS AND CONDITIONS OF THE TRIARQ SUBSCRIPTION SOFTWARE AGREEMENT.

29. LIMITATION OF LIABILITY. EXCEPT FOR EITHER PARTY'S BREACH OF ITS CONFIDENTIALITY, OWNERSHIP, AND NON-DISPARAGEMENT OBLIGATIONS UNDER THIS AGREEMENT (I) TRIARQ'S LIABILITY (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY IN TORT OR BY STATUTE OR OTHERWISE) RELATED TO THIS AGREEMENT, FOR ANY AND ALL CLAIMS, WILL NOT IN THE AGGREGATE EXCEED THE LESSER OF; THE AMOUNT OF PAYMENTS MADE BY CUSTOMER TO TRIARQ UNDER THE RELEVANT STATEMENT OF WORK SUBJECT TO THIS AGREEMENT WITH RESPECT TO THE WORK INVOLVED UNDER THE APPLICABLE STATEMENT OF WORK OR THE LOWEST THREE MONTHS OF FEES PAID TO THE TRIARQ PURSUANT TO THE PURCHASE SCHEDULE AND AGREEMENT PROVISIONS OF THE Q COLLECT REVENUE CYCLE MANAGEMENT SOLUTION AND (II) TRIARQ WILL NOT BE LIABLE TO CUSTOMER FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL, INDIRECT, OR PUNITIVE DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF USE OR THE LOSS OF DATA OR INFORMATION OF ANY KIND, LOSS OR DELAY OF REVENUE, ADDITIONAL EMPLOYEE HOURS OR EXPENSES, OR LOSS OF ANTICIPATED SAVINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE PERFORMANCE THEREOF, HOWEVER CAUSED, OR ANY LIABILITY TO END-USERS OR TO THIRD PARTIES), REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTIES, FAILURE OF ESSENTIAL PURPOSE OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

INDEMNIFICATION

30. Each party will indemnify, defend and hold harmless the other and its Indemnified Parties from and against any and all third party claims, damages or losses arising out of or relating to: (i) either party's breach or failure to fulfill any of the terms and conditions of this Agreement or the applicable Statement of Work, whether due to such party's willful acts or willful failures to act and (ii) either party's gross negligence or willful misconduct.

31. TRIARQ agrees to indemnify Customer for: (i) TRIARQ's failure to pay all wages, salaries, fringe benefits and other compensation of or claimed by TRIARQ employees including, without limitation, contributions to any employee benefit, medical or savings plan and all payroll taxes with respect to such employees including without limitation, the withholding of all federal, state and local income taxes, FICA, unemployment taxes and all other payroll taxes; (ii) assertions under Workers' Compensation or similar laws made by persons furnished by TRIARQ while such persons are engaged by TRIARQ or thereafter if the incident giving rise to the claim itself arose while such persons were engaged by TRIARQ or the failure of TRIARQ; and (iii) any violation, infringement, or misappropriation of any patent, trade secret, copyright, trademark or other proprietary right of others based on any Services performed and/or Deliverables provided, including any materials and/or equipment utilized or supplied in the performance of such Service and/or provision of such Deliverable and any claim pertaining to libel, slander, defamation, invasion of privacy, piracy and/or plagiarism based on the Services or Deliverables ("IP Claim").

32. If any Deliverable is, or in TRIARQ's reasonable opinion is likely to be, subject to an IP Claim, TRIARQ will at its expense and option either: (i) procure the right for Customer to continue using it; (ii) replace it with a non-infringing equivalent, provided such modification does not materially adversely impact the functionality of the same; or (iii) modify it to make it non-infringing. The foregoing remedies constitute Customer's sole and exclusive remedies and TRIARQ's entire liability with respect to an IP Claim.

33. To receive the foregoing indemnities, the party seeking indemnification must promptly notify the other in writing of a claim or suit and provide reasonable cooperation (at the indemnifying party's expense) and full authority to defend or settle the claim or suit. The indemnifying party will have no obligation to indemnify the indemnified party under any settlement made without the indemnifying party's written consent.

CONFIDENTIALITY

34. "Confidential Information", unless an otherwise permitted disclosure in [the 21st Century Cures Act](#), means (i) a party's proprietary technology, methods, processes or computer software in all versions and forms of expression, whether or not the same has been patented or the copyright thereto registered, is the subject of a pending patent or registration application, or forms the basis for a patentable invention (collectively the "Proprietary Technology"); (ii) manuals, notes, documentation, technical information,

drawings, diagrams, specifications, formulas or know-how related to any of the Proprietary Technology; (iii) information regarding current or proposed products, customers, contracts, business methods, financial data or marketing data, financial results and projections, company and market strategy, product roadmaps, product and competitive sales analysis and plans, product or marketing plans, pricing plans or structures, personnel and recruiting matters, and future releases; and (iv) offers or proposals which are provided by a Discloser, including, but not limited to, the fees charged by Discloser and such Confidential Information is either (1) in tangible or other form and labeled “confidential” or the like, or (2) in a non-tangible form, including, but not limited to, oral information and is followed up within two (2) weeks in a tangible form that is appropriately labeled.

35. A party receiving Confidential Information (“Recipient”) of the other party (“Discloser”) shall: (i) not disclose the Confidential Information to any third party at any time and Recipient shall limit disclosure of Confidential Information within its own organization to its employees or its legal, financial and accounting advisors having a need to know and who have agreed to be bound by the terms of this Agreement; and (ii) protect the confidentiality of the Confidential Information with at least the same degree of care as Recipient uses to protect its own Confidential Information of a like nature, but no less than a reasonable degree of care. Recipient shall be entitled to disclose Confidential Information solely to the extent necessary to comply with a court order or as otherwise required by law or by a regulatory agency or government body, provided that Recipient shall first give notice to Discloser and make a reasonable effort to obtain a protective order to protect the confidentiality of the information. If such protective order is not obtained, Recipient agrees to disclose only that portion of the Confidential Information which it is legally required to disclose. Recipient shall immediately notify Discloser of any actual or suspected unauthorized disclosure of Confidential Information. Recipient shall not modify, reverse-engineer, decompile, create other works from, or disassemble any software programs contained in the Confidential Information without Discloser’s prior written consent.

36. The obligations described in this Section imposes no obligation upon Recipient with respect to any Confidential Information which (i) is or becomes a matter of public knowledge through no fault of Recipient; (ii) is rightfully received by Recipient from a third party without a duty of confidentiality to a third party by, or with the authorization of, Discloser; (iii) is disclosed without a duty of confidentiality; or (iv) is independently developed by Recipient. The burden of proving any of the above exemptions is on Recipient.

37. Upon the written request of Discloser, Recipient shall immediately destroy or return to Discloser, as requested by Discloser, all Confidential Information of Discloser in its possession, together with all records in any manner pertaining to any of Discloser's Confidential Information. Recipient shall also, upon the written request of Discloser, furnish Discloser with a certificate of an officer verifying that all of the foregoing have been destroyed or returned to Discloser.

38. A party will not be in violation of this Section with regard to a disclosure that such party makes in response to a valid order by a court or other governmental body and for which such party provides the

other party prior written notice of such disclosure in order to permit the other party to seek confidential treatment of such information. Either party may further disclose this Agreement, as well as its existence and its terms and conditions, in any filings with the Securities and Exchange Commission or otherwise as may be required by applicable law, regulation or rules and requirements of any stock or securities exchange or other governmental authority. This Section shall survive for a period of three years from the date of expiration or termination of this Agreement.

PATIENT PRIVACY

39. All patient information is governed by the TRIARQ HIPAA Business Associate Agreement which can be found at <https://triarghealth.com/triarq-one-team-care-agreements/>

NON-DISPARAGEMENT

40. Unless otherwise permitted by the [21st Century Cures Act](#), during and after the term of this Agreement, neither party shall make any comments to any individual or entity, including, without limitation, colleagues, healthcare providers, customers, employees, financial or credit institutions, which could reasonably be construed as negative concerning the other party. This Section shall not be deemed to include pleadings or testimony under oath given in connection with any attempt to enforce the provisions of this Agreement.

DISPUTE RESOLUTION

41. If a dispute, other than a dispute arising out of or related to the collection, receipt and personal guaranty of the GMMP referenced in paragraph No. 20 above, arises out of or relates to this Agreement, or the breach thereof, the parties shall first each appoint persons with authority to meet in order to make a good faith effort to resolve the dispute. If 60 days has elapsed since the dispute arose and such dispute cannot be settled through negotiation, the parties agree thereafter to try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association at the AAA regional office in Southfield, Michigan.

42. If the dispute, other than a dispute arising out of or related to the collection, receipt and personal guaranty of the GMMP referenced in paragraph No. 20 above, cannot be resolved through mediation, thereafter such dispute shall, on the written notice by any party, be submitted to final and binding arbitration under the Rules of Commercial Arbitration of the American Arbitration Association (“AAA”) in effect at the time, at the AAA regional office in Southfield, Michigan. The arbitration panel shall have full authority to grant all forms of relief including all prejudgment AND POSTJUDGMENT remedies but not any equitable relief to which the parties may be entitled and any such equitable relief may be pursued by either party in a court with competent jurisdiction under this Agreement. As used in this Agreement, “any controversy” and “claims” includes, but is not limited to, claims for breach of contract, breach of the covenant of good faith and fair dealing, torts of any kind (including, but not limited to,

fraud, intentional and/or negligent infliction of emotional distress, defamation, invasion of privacy, interference with business relations, assault, battery, personal injury or death, negligence of any kind, intentional conduct of any kind, and any other tort not specifically listed), and all statutory claims. The scope of the obligation to arbitrate includes claims against officers, directors, agents and employees, claims arising under any federal or state law or regulation, and claims by employees, agents, shareholders, resellers, lenders, heirs, personal representatives, spouses, other family members, successors and assigns.

Arbitration will be the sole and exclusive means to resolve any such controversy or claim, except for such other judicial procedure as may be specifically provided for in this Agreement. A demand for arbitration must be filed by a party within one year after the party discovers the conduct, act, event or occurrence first giving rise to the claim, but no later than twenty-four months after the conduct, act, event or occurrence first giving rise to the claim occurs, or the right to any remedy will be deemed forever waived and lost.

43. The arbitration panel shall be bound by the terms of this Agreement and shall make its award pursuant to and consistent with governing law and shall not apply principles of *ex aequo et bono*. The arbitrators shall have no authority to award punitive, exemplary or similar damages against either party. The decision of the majority of the arbitrators of the panel shall be final and conclusive. The arbitration panel shall issue a standard award. A judgment upon the arbitration award may be entered in a court of competent jurisdiction.

44. Notwithstanding the foregoing, the parties acknowledge that a breach of provisions of the Sections relating to Ownership and Retention, Confidentiality, Non-Disparagement will cause irreparable injury to the non-breaching party which may not be compensable by any remedy at law because of the difficulty of proving and collecting damages, and as a result thereof, in the event of such a breach the non-breaching party shall be entitled, in addition to all other remedies, to injunctive relief in a circuit court or other court of record in the jurisdiction adopted by this Agreement enjoining the breaching party's breach thereof, together with all costs and actual reasonable attorney fees incurred in enforcing rights and such remedies.

45. For actions initiated for injunctive relief per paragraph 44 and dispute arising out of or related to the collection and receipt of the payments due TRIARQ and/or its Payment Assignee, will be exclusively adjudicated in the appropriate courts located in the County of Oakland, in the State of Michigan and of the United States District Court of the Eastern District of Michigan, and any appellate court from any thereof. Each party hereto hereby irrevocably and unconditionally submits, for itself and its property, to the jurisdiction of said courts for any such action.

TERM AND TERMINATION

46. The initial term of this Agreement is specified in the Statement of Work that governs the Services provided. Unless the Customer provides notice of termination prior to 60 days of the end of the term, the Agreement will renew and be extended for an additional 12 months. Customer shall remain obligated for all fees throughout the term of this Agreement. This Agreement may be terminated by TRIARQ at any time by TRIARQ, and if (i) Customer has breached any provision of this Agreement and such breach has remained uncured for at least thirty (30) days following notice thereof, (ii) Customer fails to make timely payment, or (iii) for insolvency of Customer.

GENERAL TERMS

47. Assignment. TRIARQ may assign all of its rights and/or delegate all of its obligations under this Agreement to any entity to which it conveys all or substantially all of its assets. This Agreement and/or any applicable SOW will inure to the benefit of and be binding upon the party's successors and permitted assigns.

48. Notices. Notices and other communications given or made pursuant hereto shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient; if not, then on the next business day, (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent to the respective parties at the addresses set forth on the most recent Purchase Schedule (or at such other addresses as shall be specified by notice given in accordance with this Section).

49. Governing Law and Consent to Jurisdiction. This Agreement will be governed, construed and enforced in accordance with the laws of the United States of America and the State of Michigan, without regard to its principles of the conflict of laws that would require application of the law of another jurisdiction.

50. Limitations. Neither Party may bring a claim or action, regardless of form, arising out of or related to this Agreement, more than one (1) year after the cause of action accrues, except that TRIARQ may bring a claim up to two (2) years after the cause of action accrues if the CUSTOMER is in default under this Agreement with respect to payments of money or if TRIARQ cannot reasonably discover the basic facts supporting the claim within one year. A party must file a counterclaim, if any, within three (3) months after a claim has been filed. It is hereby agreed to and understood by the parties to this Agreement that the Limitations provision does not apply to causes of action related to the collection of the GMMP by a Payment Assignee of TRIARQ, Inc. and that the applicable statute of limitations pertaining to actions for Breach of Contract will apply.

51. Relationship of the Parties. TRIARQ and Customer are independent contractors and separate legal entities. The relationship between TRIARQ and Customer is reflected in this Agreement, and neither TRIARQ nor Customer, nor any employee, agent, or representative of either, shall be considered an employee, servant, agent, or representative of the other. None of the provisions of this Agreement is intended to create or to be construed as creating any agency, partnership, joint venture, or employer-employee relationship between or among TRIARQ, Customer, or any employee, agent, or representative of either. Except as provided in this Agreement, neither party shall have any right, power, or authority to act or to create any obligation, express or implied, on behalf of the other.

52. Non-Solicit. All personnel representing TRIARQ are employees or contracted agents of TRIARQ, as such, are obligated to TRIARQ under confidentiality, non-compete, and non-solicitation agreements. Customer may not recommend or suggest to any other person or entity that such person or entity so solicit, employ, hire, or engage any such employee or subcontractor. Accordingly, TRIARQ personnel are not retainable by the Customer as employees, consultants, contractors, or subcontractors and the Customer hereby agrees not to solicit, hire or retain their services for so long as they are employees or contracted agents of TRIARQ and for two (2) years thereafter.

53. Non-Solicit Injunctive Relief. The Customer recognizes and acknowledges that the Confidential Information and Non-Solicitation obligations have competitive value and that irreparable damage might result to the Company if Confidential Information is improperly disclosed by the receiving party to any non-authorized third party, or if the Non-Solicitation provision is violated. The parties agree that legal proceedings at law or in equity, including injunctive relief, may be appropriate in the event of a breach of paragraph 53.

54. Force Majeure. Neither party shall be responsible for delays or failure of performance resulting from acts beyond the reasonable control of such party. Such acts shall include, but are not be limited to, acts of God, strikes, walkouts, riots, acts of war, epidemics, failure of suppliers to perform, governmental regulations, power failures, earthquakes, or other disasters.

55. Survival of Certain Provisions. The sections of this Agreement relating to Definitions, Compensation and Expenses, Term and Termination, Ownership and Retention, Confidentiality, Indemnification, Limitations, Non-Disparagement, Dispute Resolutions and General, shall survive the expiration or termination of this Agreement.

56. Headings. Captions and headings of the various sections and paragraphs in this Agreement are intended for reference and are not intended for any other purpose whatsoever or to fully explain, modify, or place any construction on any of the provisions of this Agreement.

57. Amendments. TRIARQ may amend the terms of this Agreement at any time upon thirty (30) days written notice to Customer. CUSTOMER SHALL BE DEEMED TO HAVE ACCEPTED ANY SUCH

AMENDMENTS FOR ANY TERMS and/or SOWs AFTER THE THIRTY DAY NOTICE PERIOD OF SUCH AMENDMENT UNLESS CUSTOMER TERMINATES THIS AGREEMENT IN ACCORDANCE WITH THE TERMINATION SECTION HEREOF. If the Customer terminates the agreement, using the 60-day notice provision, the changes would not take effect during that termination notice time period.

58. Authorization. Each individual signing this Agreement in a representative capacity of a party represents and warrants his or her authority to bind the party.

59. Severability. In the event that any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable because it is invalid or in conflict with any law of any relevant jurisdiction, the validity of the remaining provisions will not be affected, and the rights and obligations of the parties will be construed and enforced as if the Agreement did not contain the particular provisions held to be unenforceable, unless such construction would materially alter the meaning of this Agreement.

60. Waiver. No waiver of any obligation, condition, representation or warranty shall be effective unless in writing signed by the party against whom the waiver is sought to be enforced. The parties waive the application of the doctrines of promissory and equitable estoppel. The mere delay in enforcement of a right shall not be a waiver of a default. A course of performance or course of dealing shall not constitute a waiver. No waiver by a party of any breach, default or violation of any provision of this Agreement shall constitute a waiver of any subsequent breach, default or violation of the same or other provision of this Agreement.

61. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original agreement and all of which shall be deemed a single instrument.

62. Advice of Counsel. Each party has had the advice of legal, accounting and other professional advisers or the opportunity to obtain such advice. No party has relied on legal counsel for another party and no legal counsel or other adviser for a party shall have any duty or obligation to another party. Each party has read and understands this Agreement and is executing this Agreement as the party's free act and without duress with the intent to be legally bound.

63. Integration. This Agreement, including any attached and fully executed addenda, is the final and complete agreement of the parties with regard to the transaction described. All prior written and oral negotiations, representations, agreements, and warranties related to or pertaining to this Agreement and the transactions contemplated by this Agreement are superseded by and merged into this Agreement.

64. Execution and Delivery. This Agreement is considered fully executed upon the signature of the Purchase Schedule or other document referencing acceptance of this Agreement.

INSTALLATION ADDENDUM

INSTALLATION STATEMENT OF WORK

This Statement of Work is agreed on in the Purchase Schedule (hereinafter “Effective Date”) and is governed by the Master Services Agreement (hereinafter “Agreement”) entered into between TRIARQ, Inc. (hereinafter “TRIARQ”) and person or entity designated on the Purchase Schedule (hereinafter “Customer”), and sets forth the specific terms and conditions relating to the provision of Services referred to in this Statement of Work.

NOW THEREFORE IT IS HEREBY AGREED as follows:

Q DNA IMPLEMENTATION PROCESS OUTLINE

The TRIARQ implementation process, also known as Q DNA, is a unique and proven process purpose-built for doctor success.

The TRIARQ implementation process is outlined below.

1.1 Discovery Meeting

During this meeting, TRIARQ Certified Consultant/Trainers, a TRIARQ Partner and representatives from the practice meet remotely to discuss the unique needs of the practice, to set dates, milestones, and expectations and to verify that previous information collected from the practice is still accurate. This is important to ensure that the practice’s Q Live date (i.e. the day or days that the practice goes live with their TRIARQ software) runs smoothly.

1.2 Pre-Q Live Consultation and Training

During this training session which is face-to-face for an EMR implementations and remote for PM implementations, Consultant/Trainers provide important information to providers (medical doctors), staff (medical practice staff) and Super-Users (those users at the practice who will be training other users), that includes the following:

- Overview of the TRIARQ system and discussion about where functions are located.
- Detailed training on system setup and configuration:
 - Scanning
 - Consultant/Trainer helps Super Users train another staff member to be sure the Super User can teach users to scan.
- Process mapping and process walk through:
 - Templates
 - Consultant/Trainers train staff on how to create templates and which templates to create.

- Consultant/Trainers consult on what is needed in each template and demonstrate best practices previously learned.
- Provider
 - Consultant/Trainers give providers a high-level overview of the TRIARQ Software system and also train on functionality.
 - If EMR is utilized TRIARQ will help the practice set up their voice recognition technology and also will train on the use it.
- Staff
 - Consultant/Trainers provide detailed training on specific functions within TRIARQ software related to the staff person's role at the Practice and the defined processes that they follow.

1.3 Q Live Consultation and Training

During Q Live, which takes place onsite at the practice, practice staff go “live” with their new EMR technology. Consultant/Trainers are available to assist the practice in the following ways:

- Assist providers and staff with questions as they use the system.
- Process Consultation – assist the practice with any possible process changes.

EMR Q Lives, which take place onsite and face-to-face with Consultant/Trainers, PM Q Lives are handled remotely via Webinar where attendees can view product functionality over their computers.

1.4 Post Q Live Consultation and Training

After Q Live, for practices with more than four providers, Consultant/Trainers are available to answer specific questions face-to-face, onsite. For PM implementations only, Consultant/Trainer is available to answer the following remotely.

- Electronic remittance advice
 - Questions about insurance posting (bulk and individual, rejection and correction handling, secondary claims).
- Process and training questions.
- Questions about posting, reporting and patient statements.

Also for practices with more than four providers, the following in-person services are included after Q Live. These services also can be purchased by smaller practices.

- Post Q Live EMR consultation and system optimization:
 - Consultant/Trainer observation and evaluation of staff using EMR and/or PM.
 - Consult on possible process changes and feedback on product-related questions.
 - Review of advanced EMR and/or PM features and assistance with implementing these changes.

1.5 Ongoing

Throughout the implementation process, TRIARQ partners provide project management consultation to ensure that practices are up and running with each aspect of their solution, including:

- Gateway EDI management
- Data migration management
- Interface management
- Alpha II sign up
- Lessons learned coordination

FEES AND EXPENSES

Customer will compensate TRIARQ as agreed upon in the Purchase Schedule. These fees will cover discovery time, install coordination, regular updates with the practice during full Q Live process, project management, travel time, and other activities done onsite or remote with the practice. Customer will reimburse TRIARQ for actual out-of-pocket expenses incurred or expenses related to TRIARQ's performance of the Services that have been approved in advance.

BILLING & PAYMENT TERMS

TRIARQ shall invoice Customer per the agreed upon Purchase Schedule Terms.

POINTS OF CONTACT

The following personnel have been assigned to act as the points of coordination and communication between Customer and TRIARQ through the implementation review phase of this Statement of Work:

For TRIARQ:

Installation Team, Project Manager TRIARQ, Inc.
1050 Wilshire Drive, Suite 300
Troy, MI 48084
Telephone: 248-352-1700 Email: info@TRIARQhealth.com

SUPPORT AGREEMENT ADDENDUM TO MASTER SERVICES AGREEMENT

The terms of the TRIARQ Master Services Agreement govern the terms of this Support Agreement. This Support Agreement is an option that can be purchased separately. This Agreement is for Support offered directly by TRIARQ. Customer agrees that Support is being offered only on the condition that the Customer accepts all of the terms of the Master Service Agreement. TRIARQ only provides Support to those organizations that have a current TRIARQ Software License Agreement and their maintenance fees are paid in full.

DEFINITIONS

1. “Addendum” means these terms and conditions of TRIARQ’s Support Services.
2. “Correction” means replacement distribution media or corrective code or documentation, which rectifies an Error as described herein. TRIARQ may, at its discretion, modify the end-user documentation to: (i) remove inaccuracies in the Documentation, or (ii) describes changes, modifications or improvements made to the Maintained Software. “Correction” includes, but is not limited to, workarounds, support releases, update media, immediate correction media, component replacements and patches.
3. “Customer” is licensee or licensee designated contact.
4. “Documentation” means any documents relating to TRIARQ Services and Software.
5. “Error” means a defect in the Software that causes it not to perform substantially in accordance with its specifications or the Documentation.
6. “Maintained Software” means the registered copy of the TRIARQ Software licensed to the Customer and designated by the Customer on the Support Purchase Agreement. Maintained Software is also that is accompanied by a current paid in full TRIARQ Software Maintenance Agreement.
7. “Priority 1 Error” means an Error in the Maintained Software that causes substantial downtime of the system, or which causes data corruption, or which otherwise renders the Software unusable. Errors given this priority have no viable workaround or avoidance procedure.
8. “Priority 2 Error” means a significant Error in the Maintained Software that results in inconvenience to users of the Maintained Software, but for which a workaround or avoidance procedure is available.
9. “Priority 3 Error” means an Error in the Maintained Software that can easily be avoided or detoured. For example errors in the documentation receive this priority.

10. "Product Enhancement Request or PER" is a request for a new, enhanced, changed, modified, or removed functionality. TRIARQ will evaluate and prioritize the request and may include the functionality in a future version.
11. "Support" means TRIARQ's commercially available professional support offerings that includes Self Help, telephone, web, and remote support for Customer's TRIARQ Licensed Software.
12. "Support Environment" means the recommended hardware, third party software, networking and peripherals that are provided by TRIARQ or the TRIARQ Partner for optimal performance of the software.
13. "Support Term" means any period during which Customer is entitled to receive Support hereunder, including any renewals or extensions thereof.
14. "Support Contact" means the person authorized by Customer on the Support Registration Form to communicate with TRIARQ to request and receive the Support. The Support Contact may be Customer's employee or an agent or consultant who provides Support directly to Customer. The Support Contact should be knowledgeable about how the Maintained Software is being used and about the computer/operating system on which Maintained Software is executed.

ACCESS TO TRIARQ SUPPORT STAFF

15. Customer agrees that the users of the Maintained Software will first attempt to answer any questions or resolve any issues with respect to the operation of the software by using the following self-help resources: documentation, manuals, guides, computer based training located on the TRIARQ's web site.
16. If the Customer is unable to solve the problem on their own or using the self-help resources, TRIARQ's support staff is available via email and telephone to give assistance and advice on TRIARQ products or to receive Error reports, during normal working hours at the email address listed above. TRIARQ may allocate support to Customer based on availability of staff and experience at its discretion. The TRIARQ web site "www.TRIARQ.com" may also provide Customer with a wide variety of information. In some cases, the web site may be used as a delivery mechanism for some Corrections. TRIARQ's support staff will, with Customer assistance if necessary, investigate a suspected Error by attempting to reproduce it after receiving Customer's Error report.
17. TRIARQ's support staff or TRIARQ partners will be available to assist with submission of Product Enhancement Requests (PER), provide Error report assistance, assist with support issues on gloSuite/Qsuite, gloEMR/QEMR, gloPM/QEMR, Dragon Naturally Speaking, migrated data, and TRIARQ constructed interfaces between TRIARQ software and other applications, hardware, or laboratories.
18. TRIARQ's support staff will be available between the hours of 8:00 AM Eastern Time and 8:00 PM Eastern Time Monday through Friday excluding holidays. TRIARQ will only provide support to the



Customer Contact(s). Additional support hours may be purchased separately.

NEW RELEASES OF THE SOFTWARE

19. Support of Prior Releases. TRIARQ will provide Support as described herein for the most current new version Release (e.g. 6.xx) and the previous major Release (e.g. 5.xx) immediately preceding that release.

20. Installation and Configuration of New Releases. Support does not include the installation or configuration of any Releases. Any services to be provided in connection with the installation or configuration of Releases will be provided for a mutually agreed upon fee as a work product pursuant to a separate professional services agreement. New version Releases may have significant changes from current versions and it is strongly recommended that TRIARQ install the new version Releases to ensure TRIARQ's ability to continue to provide Support and Error Corrections. TRIARQ will not correct Errors arising out of or related to installation or configuration of the Software or any new version Releases by any party other than TRIARQ.

21. Migration of Customizations and/or Modifications. If Customer has customized and/or modified Software, Support does not include migrating Customer's customizations and/or modifications to any Release, unless otherwise provided under a separate professional services agreement pursuant to which TRIARQ provided such customizations and/or modifications. Any Services to be provided in connection with the migration of customizations and/or modifications to Releases will be provided for a mutually agreed upon fee as a work product pursuant to a separate professional Services agreement.

FIXES TO REPORTED ERRORS

22. In response to a confirmed Error in the Maintained Software, TRIARQ shall use reasonable efforts to provide on an as-needed basis at its discretion a Correction in the form of a workaround, support release, update media, immediate correction media, or electronic transfer equivalent, component replacement, patch, major upgrade release, or other suitable form, but TRIARQ cannot guarantee to do so. When provided under this Addendum, such Correction will be provided without additional charge. TRIARQ reserves the right to discontinue Support without notice on a past workaround, support release, update media or immediate correction media, or electronic transfer equivalent, component replacement, patch or other form of Correction after a subsequent major upgrade release, support release, or update media or electronic transfer equivalent containing a Correction of the Error is available.

CUSTOMER'S SUPPORT RESPONSIBILITIES

23. Supported Environment and Operations. Customer is responsible for undertaking the proper supervision, control and management of Customer's use of the Software including, but not limited to: (i) providing, maintaining and assuring proper configuration of the Supported Environment; (ii) following industry standard procedures for the security of data, accuracy of input and output, and back-up plans,

including restart and recovery in the event of hardware or software error or malfunction; and (iii) maintaining a procedure external to the Software for reconstruction of lost or altered files, data and programs.

24. Assistance in Providing Support. Customer will provide reasonable assistance to TRIARQ in determining and resolving Errors Customer reports. Error determination activities may include performing network traces, capturing error messages, collecting configuration information and other similar activities to allow TRIARQ to reproduce the Error. Resolution activities may include access to Customer's personnel and/or remote access to the Supported Environment. Customer agrees to allow TRIARQ to use remote access tools, with the participation and under the supervision of a Support Contact, to access the Software in the Supported Environment and modify its configuration as part of TRIARQ Error determination and resolution activities. TRIARQ may not be able to provide Customer with an Error Correction without such remote access. Customer is responsible for performing activities to implement Error Corrections TRIARQ provides and for responding in a timely manner to requests for information by a TRIARQ Support Representative. Error Corrections may include changing, installing or reinstalling new or existing versions of web browser software or new components, or modifying processes. Any information Customer provides TRIARQ in connection with the Support process that Customer designates as confidential will be used only to resolve reported Errors and will not be disclosed to anyone other than TRIARQ personnel involved in resolving the Error. As part of TRIARQ's Error resolution process, information Customer provides to TRIARQ may be made available to TRIARQ employees in foreign countries, unless Customer notifies TRIARQ otherwise in writing when providing TRIARQ with such information.

25. Reporting. Customer agrees to report suspected Errors through their Support Contact to the TRIARQ support staff. Reports will include sufficient description and detail for TRIARQ to reproduce the suspected Error. Customer will use its best efforts to properly categorize the Error according to the "Priority" definitions in this Addendum. Failure to provide this minimum description and detail may cause delays in responding to the Error.

26. Designation of Support Contacts. For basic support, Customer will designate up to two individuals as the Support Contacts for receiving Support hereunder and notify TRIARQ of the Support Contacts. For Extended Support, Customer will designate up to four individuals as the Support Contacts for receiving Support hereunder and notify TRIARQ of the Support Contacts. Customer may change the Support Contacts by notifying TRIARQ, but may not have more than the number of Support Contacts set forth above at any one time. Each Support Contact may not be changed more than once in a thirty (30) day period.

27. Training. Customer is responsible for proper training of the Support Contacts and all other appropriate personnel in the operation and use of the Software and the Supported Environment.

SUPPORT NOT COVERED BY THIS ADDENDUM

28. TRIARQ is not responsible or liable for causes external to the Software ("Excluded Services"), including but not limited to: (i) Customer's failure to incorporate Releases; (ii) Customer's use of the Software with any software or hardware other than the Supported Environment; (iv) problems resulting from use of the Software in a manner not permitted pursuant to Customer's license; (v) modifications, alterations, or additions to the Software by parties other than TRIARQ (including without limitation, modifications, alterations, or additions to the Software made by Customer); or (vi) damage from any source other than TRIARQ including but not limited to water, humidity, fire, power surges, computer viruses, and accidents. Any maintenance or Services required to fix the Excluded Services will be billed to Customer on a time-and-materials basis in accordance with TRIARQ then current rates. Such Services shall be set forth on a mutually agreed upon Services SOW. Support does not include maintenance in connection with or correcting Errors arising out of or related to a server or any other third party component that is used in conjunction with the Software. TRIARQ may, but is not required to, provide Error Corrections for such Errors at TRIARQ then current time and materials rates. Support does not include Software installation, configuration or Services provided on-site at Customer's location. If TRIARQ is required or requested to travel to Customer's facilities, any Services will be provided at then current time and materials rates and Customer will reimburse TRIARQ for all reasonable travel expenses, including meals and lodging. TRIARQ is not responsible for restoring lost data or damage to Customer's database that result from Customer's actions. If Customer desires to purchase upgrade Services or other professional Services from TRIARQ outside the scope of the Support in this Agreement, then TRIARQ will provide such professional Services to Customer for a charge as set forth in Statement of Work and/or a Purchase Schedule. The following is a list of Services not covered by this agreement and may be purchased separately:

- Third Party altered or modified Software.
- Any combination of Software and other software not covered by this Addendum.
- A Release of Software for which Support Services has been discontinued.
- Errors caused by Customer's negligence or fault.
- Errors resulting from hardware malfunction.
- Errors that do not significantly impair or affect the operation of the Software.
- Software used on a computer or operating system other than that specified by Customer and accepted by TRIARQ on the Support Registration Form.

29. Specific Support Services not included: It is the responsibility of Customer to engage and pay for any items not supported by TRIARQ and for the following Services.

- Off hours, weekends, and holiday support

- Installations and upgrades outside of business hours
- Support for replicating portable or roaming workstations
- Support for the physical environment such as PCs, servers, or other hardware
- Support for the Operating System or other software not sold by TRIARQ unless specifically included above
- Support for the network, network software & infrastructure, Internet, fax equipment and software (if not purchased through TRIARQ), and clearing house (if not purchased through TRIARQ)
- Support for any third party devices or software (scanners, PACS, etc.)

ADDITIONAL SERVICES AND CHARGES

30. TRIARQ may offer additional Services such as training and support Services under a separate addendum to the Master Services Agreement.

31. TRIARQ reserves the right to charge for Services outside of the range of normal support Services. Such Services considered outside of the range of normal support Services are: (1) debugging application coding errors in a Customer's application, (2) debugging problems in non-TRIARQ supported products, or in combinations of TRIARQ supported and non-supported products where the problem occurs in the non-TRIARQ product, and (3) other cases where it is judged highly likely that the suspected problem is not the responsibility of TRIARQ or caused by the Software.

32. When a situation occurs where a reported problem is likely to fall outside of the range of Support, Customer will be advised of the potential of incurring charges to have TRIARQ work on the problem. A written estimate of the cost of the additional Services ("Estimate") will be prepared and delivered to Customer for approval and agreement. Should TRIARQ find that the problem is, indeed, caused by the Maintained Software, no charges will be incurred. However, if it is proven that the problem is not the responsibility of TRIARQ, Customer will be charged for the time spent at the rates specified in the Estimate. Should Customer not agree that the requested service falls out of the bounds of supported Services, Customer's TRIARQ Territory Manager will be Customer's representative at TRIARQ to mediate the issue for Customer.

33. TRIARQ, upon prior notice, reserves the right to charge for unusual or excessive support person time in connection with the Support Services provided under this Addendum. Reasonable shipping, handling, media and user documentation charges in connection with the provision of the upgrades and service shall be payable by Customer.

FEES AND PAYMENT

34. Unless expressly included in the Subscription Fee, the annual Support Fee must be paid in advance. Annual fees for any Support Term are based on TRIARQ's then current prices. Customer will be invoiced for the Support fees for the initial Support Term upon execution of this Agreement and for any renewal Support Term upon expiration of the then current Support Term. Fees for additional Services not included in Support or expenses incurred will be invoiced monthly at the end of the month in which such Services are provided or expenses incurred.

TERM & TERMINATION

35. Initial Support Term and Renewal. The initial Support Term shall commence on the Effective Date on the Purchase Schedule and Agreement and continue for the term specified in the Purchase Schedule and Agreement. Upon expiration of the initial Support Term, a new Support Term, for a consecutive twelve (12) month period ("Renewal Term"), shall automatically begin; provided that (i) TRIARQ still offers Support for the Software under the terms of this Agreement at the time of renewal; (ii) Customer has not given TRIARQ written notice that Customer declines to renew Support at least thirty (30) days prior to the end of the initial Support Term; and (iii) Customer pays the then current list price for the Support fee for the Renewal Term. TRIARQ will provide Customer with written notice of the upcoming expiration date, which shall include notice of any price increase for the upcoming Support Term, if applicable. The failure to renew Support shall not affect Customer's licenses to the Software. Notwithstanding the above, TRIARQ may terminate Support with reasonable prior written notice if TRIARQ no longer supports the Software. TRIARQ will refund any pre-paid but unused Support Fees in the event TRIARQ so terminates the Support.

36. Termination of Support and Support. Either party may terminate the Support of the Software upon sixty (60) days written notice to the other party of a material breach by the other party of its obligations set forth in this Agreement, if the breach is not cured within that thirty (30) day period. If TRIARQ terminates Support as a result of Customer's uncured breach, TRIARQ will retain all Support fees paid. A material breach includes but is not limited to a failure to pay. If Customer terminates Support as a result of TRIARQ's uncured breach, TRIARQ's sole and exclusive obligation will be to promptly refund that portion of the Support fee actually paid by Customer that is proportional to the percentage of the Support Term remaining at the time termination is effective. The termination of Support shall not affect Customer's licenses to the Software.