

Updated as of 9/7/2022

# AugmentIT+ Plan Service Agreement

Your electronic signature, per the Electronic Signature Act shall be considered an original signature and shall have the same force and effect as an original signature. With your signature, you are also accepting and agreeing to the agreement and attached proposal. A copy of the agreement and the attached proposal with your signature will be sent to your email address to complete your order. If you have any questions or do not receive a copy, please feel free to contact us.

## AGREEMENT

This AugmentIT Agreement ("Agreement") is made and entered into as of the Plan Proposal Effective Date "Effective Date", between DivergeIT, Inc. ("DivergeIT") and Customer ("Customer"). Under this agreement, DivergeIT will provide the Customer with services as defined in this agreement and the Attachments.

## TERM

This Agreement will remain in effect for the Term Selection, found in the term options of the Proposal unless terminated or canceled as provided in this Agreement. Thereafter, the Agreement shall automatically renew for an additional term and on every anniversary of the additional term unless either party gives written notice of its intent not to renew at least thirty (30) days prior to the renewal date or the agreement is a Trial agreement.

"Trial Terms" (based on Term Selection in Proposal) automatically renew for an additional term every ninety (90) days unless either party gives written notice of its intent not to renew at least ninety (90) days before the non-renewal. Upon expiration of the 90 day notice period, the Trial agreement will be transitioned to an annual agreement on the anniversary of the start date.

**WARNING:** Customer understands and acknowledges that if they do not renew and Customer has not made timely arrangements to transition off on the last day of this Agreement that there is a strong likelihood that Customer will suffer an interruption of service and use of their computer and/or server; as such, Customer waives any rights of remedy or cause of action against DivergeIT arising therefrom. DivergeIT will not provide such service or support on the day after the Agreement expires.

## TERMINATION AND CANCELLATION

This Agreement and any work assignment in progress may be terminated by Customer at any time, upon thirty (30) days prior written notice to DivergeIT; provided however, in the event of any such termination, Customer shall pay to DivergeIT: (a) the fees for all Services outside the scope of the Agreement actually rendered up to and through the effective date of termination (the "Termination Date"), and (b) the remainder of its contract for the Monthly Services. All of these sums shall become immediately due and payable on the Termination Date.

## AUTHORIZED INDIVIDUALS

DivergeIT will select the most qualified engineer to perform the services under this Agreement. Customer shall have the right to reasonably reject or request a change of the DivergeIT engineer selected to perform the services under this Agreement.

## **PARKING**

If parking is not validated, it will be billed directly to Customer without mark-up.

## **EXPENSES**

Customer shall be responsible for all out-of-pocket expenses without mark-up incurred by DivergeIT for the benefit of Customer (i.e. parking, tolls, airline flights, equipment for use by the Customer or other out of pocket expenses pre-approved by Customer).

## **PAYMENT OF CHARGES**

Customer shall be initially invoiced for the First Month of the Monthly Contract Services and a Security Deposit. The Security Deposit shall be the equivalent to one month of the Monthly Contract Services and may be increased or decreased as needed to match the monthly rate for Monthly Contract Services. If, ninety (90) days after completion of the term of this Agreement, there are no outstanding invoices owed by Customer to Company, the Security Deposit shall be returned to Customer. If there remains a balance due to DivergeIT ninety (90) days after the termination of this Agreement, Company may apply the Security Deposit toward payment of the balance due. Monthly Contract Services will be invoiced in advance on the first of each month with payment due upon receipt. Services outside the scope of the Agreement will be billed at the end of the month and are due upon receipt. If Customer requires and approves additional services or programs from DivergeIT's Technology Solutions such additional services shall be added to Customer's Monthly Contract Services. Examples of the schedule of fees for services that are outside the scope of this Agreement are listed within this Agreement. Customer shall be exempt from the initial Security Deposit if it enrolls in auto-pay, which will automatically process payment for the Monthly Contract Services. Any additional services outside the scope of Customer's Monthly Contract Services shall be due on the date of the invoice. Any outstanding balance beyond thirty (30) days shall be automatically paid using the Customer's payment method on file with the Company.

**PAYMENT OPTIONS:** Auto-Payment Option Auto-Payment by ACH is easily setup on our Payment Portal by your Financial of Contact. Our finance team is happy to help with this process, and all other finance issues, as needed. Autopayment for all invoices issued under the terms of our agreement will be initiated within five (5) business days of invoice due date. Company initiated single check ACH payment for specific invoices does not constitute Auto-Payment.

**MANUAL PAYMENT WITH DEPOSIT OPTION:** If Auto-Payment by ACH is not elected, a deposit equal to your average monthly recurring charges must be maintained by us as an account credit, throughout the term of our agreement. You may use our Payment Portal to make your deposit and payments by company credit card associated with your company address. Your deposit and payment can also be made by company initiated ACH check, delivered check, wire, or similar bank transfer. Our finance team is happy to help with your deposit and payment process, and all other finance issues, as needed.

## **MONTHLY FEE**

The monthly fee is as stated under the selected Term Selection and as indicated in Payment Options. The monthly fee pursuant to this Agreement is premised upon many contributing factors including but not limited to total employees supported, total devices supported and total hours of support. As these variables increase in size there will be a commensurate increase in time, materials, and labor and therefore an increase in the fee will become necessary. Unless Customer chooses the multiyear term option with DivergeIT, which includes a rate lock, the Agreement will be reviewed annually and is subject to a 5% annual increase in monthly support services costs depending on the aforementioned contributing factors. Unless otherwise identified or directed by Customer, DivergeIT shall submit all invoices to Customer at the address noted in the introductory paragraph of this Agreement.

## **REPRESENTATIONS AND WARRANTIES**

Each party hereto represents and warrants to the other party that: (a) it has the power and authority to execute, deliver and perform this Agreement in accordance with its terms; (b) the authorization, execution, delivery and performance of this Agreement in accordance with its terms and the consummation of the transactions contemplated herein, have been duly authorized by all requisite corporate action on the part of the said party, and do not and will not violate any provision of law or constitute a default under any agreement or other instrument by which such party is bound; and (c) this Agreement, when executed by the undersigned on behalf of the respective parties, shall constitute a valid and legally binding obligation of the parties, enforceable in accordance with its terms. DivergeIT will perform under Customer's direction in accordance with Customer's general and reasonable standards and practices. DivergeIT provides a warranty of good workmanship with regards to all services provided under this Agreement. This warranty shall be the only warranty made by DivergeIT and is in lieu of all other warranties expressed or implied.

## **INSURANCE**

During the Term, DivergeIT shall maintain the following types of insurance with insurance carriers with A.M. Best rating of at least A-VII: (a) Workers' compensation benefits or coverage for its employees in amounts no less than the statutory benefits required by law for the state in which those employees will be working; (b) Employer's liability insurance with minimum limits of \$1,000,000 per accident; (c) Commercial General Liability insurance including personal injury, contractual liability, bodily injury and property damage and endorsed to include products and completed operations, with a \$2,000,000 combined single limit per occurrence; (d) Commercial automobile liability insurance with a \$1,000,000 combined single limit on vehicles owned, non-owned, leased, or rented by DivergeIT; (e) Employee errors & omissions with a minimum limit of \$1,000,000 and \$2,000,000 aggregate. DivergeIT will provide Customer evidence of its insurance and add Customer as an additional insured upon written request. If Customer wants additional insurance coverage, the increased premium cost will be borne by Customer.

## **LIMITATION OF LIABILITY**

If any work performed by DivergeIT results in damage to Customer's systems or equipment, DivergeIT's liability will be limited to repair or replacement (at DivergeIT's option) of the damaged systems or equipment. DivergeIT shall not be liable for any indirect, special, or consequential damages arising from the damage to Customer's systems or equipment, as noted above or a breach of this Agreement. DivergeIT strongly recommends that Customer backup all data before making any changes to equipment

or systems, which might affect such data. Server backups are the sole responsibility of Customer and Customer understands that DivergeIT shall only be liable for any damage to Customer's server backups or/and destruction or loss of data if DivergeIT's gross negligence or willful misconduct directly caused such damage, destruction, or loss. Each party will indemnify, defend, and hold the other party safe and harmless from all damages, expenses (including reasonable attorney's fees) and other costs or liabilities resulting from such party's negligence, willful misconduct or breach of this Agreement.

## **BINDING NATURE OF AGREEMENT**

This Agreement shall be binding and inure to the benefit of both parties. This Agreement may not be modified except in writing and signed by both parties.

## **CONFIDENTIALITY**

DivergeIT agrees to consider all matters relating to Customer's business as confidential. Additionally, Customer agrees to hold all matters relating to DivergeIT's business as confidential. Although the parties agree to hold each other's information as confidential, some information may not be subject to the protections of this Section in the event the other party can demonstrate: (a) is publicly known through no wrongful act or breach of obligation of confidentiality; (b) was rightfully received by the other party from a third party without a breach of any obligation of confidentiality by such third party; or (c) was known to the other party on a non-confidential basis prior to the Effective Date. Notwithstanding anything to the contrary herein, if any Confidentiality Agreement exists between the parties, which was executed prior to the Effective Date, said Confidentiality Agreement shall be incorporated into and made a part of this Agreement.

## **GOVERNING LAW**

The laws of the State of California shall govern this Agreement without reference to the choice of law principles thereof.

## **ENTIRE AGREEMENT**

This Agreement constitutes the complete understanding and agreement between the parties with respect to its entire subject matter and supersedes all prior understandings and agreements (oral or in writing) with respect to such subject matter. Neither party hereto is relying upon any other representation and warranty with respect to the transactions contemplated hereof except as expressly set forth in this Agreement.

## **WAIVERS**

Neither the failure nor the delay by any party in exercising any right, power, or privilege under this Agreement will operate as a waiver of such right, power, or privilege, and no single or partial exercise of any such right, power, or privilege will preclude any other or further exercise of such right, power, privilege, or the exercise of any other right, power or privilege. To the maximum extent permitted by applicable law, no claim or right arising out of this Agreement can be discharged by one party by a waiver that may be given by a party nor will be applicable except in the specific instance for which it is given, nor shall notice to, or demand on, any one party be deemed to be a waiver of any obligation of such party or the right of the party giving such notice or demand to take further action without notice or demand as provided in this Agreement.

## **DISPUTES**

Any controversy, dispute, or claim of whatever nature arising out of, or in connection with, or in relation to the interpretation, performance or breach of contract with this Agreement, including any claim based on contract, tort, or statute, including fraud in the inducement, shall be settled at the request of any party to this Agreement, by final and binding arbitration conducted in Los Angeles County, California, by and in accordance with the then applicable rules of Judicial Arbitration and Mediation Services, Inc., (“JAMS”), except for any injunctive relief, which a party may seek with the Courts of the State of California in the County of Los Angeles. Each party will select an arbiter and the two selected arbiter’s will select a third arbiter. Judgment upon any award rendered by the arbitrator(s) may be entered by any state or federal court having jurisdiction thereof. The costs of the arbitration, including any JAMS administration fee, the arbitrator’s fee, and costs for the use of facilities during the hearings, shall be borne equally by the parties to the arbitration. The provisions of Section 1282.6, 1283, and 1283.05 of the California Code of Civil Procedure apply to the arbitration. The arbitrator shall not have any power to alter, amend, modify or change any of the terms of this Agreement nor to grant any remedy which is either prohibited by the terms of this Agreement, or not available in a court of law. The prevailing party, in any such dispute, as determined by the arbitrator(s), shall be awarded their reasonable attorney fees and costs (including the prevailing party’s share of the JAMS fees. Each party submits to the jurisdiction of JAMS and the State and Federal Courts of the State of California, County of Los Angeles for all matters, including but not limited to Arbitration, injunctive relief or enforcement of an Arbitration Award, which arise out of this Agreement.

## **PAYMENT TERMS**

First month’s payments are due at the beginning of this Agreement. Charges accrue monthly during the Term. Disputed Invoices must be reported within 15 days of receipt. Customer agrees to pay undisputed amounts on time and the parties agree to negotiate in good faith, and in a reasonably swift manner, any disputed amounts. Outstanding Invoices older than 30 days shall accrue interest at 18% annualized. Stoppage in service to the Customer may occur for undisputed invoices over 30 days old. Customer will be responsible for reasonable third-party costs, such as collection and attorney’s fees, incurred by DivergeIT to collect any undisputed invoices outstanding for more than 180 days.

## **FORCE MAJEURE**

If either party is unable to perform any of its obligations under this Agreement because of natural disaster, actions or decrees of governmental bodies, communications line failure not the fault of the affected party, or other event beyond the reasonable control of the affected party (a “Force Majeure Event”), the party who has been so affected will immediately give notice to the other party and will do everything possible to resume performance. Upon receipt of such notice, all obligations under this Agreement will be immediately suspended for the duration of the Force Majeure Event.

## **NON-SOLICITATION**

Customer understands that DivergeIT is not a related recruiting agency and that DivergeIT invests substantial amount of time, effort, and training in each of its employees. Therefore, DivergeIT strongly encourages Customer to initiate conversation with DivergeIT first if Customer becomes interested in an employee. DivergeIT will do the same with Customer. When the parties, in good faith, discuss and agree in writing to hire an employee of the other as an employee, consultant, or independent contractor (the “Worker”) during the Term, including any renewals thereof, and twelve months thereafter (the “Non-

Solicitation Period”), the non-solicitation fee below shall not apply and other terms and conditions as mutually agreed by the parties shall apply.

Notwithstanding the foregoing, if, however, during the Non-Solicitation Period, Customer, including its employees, representatives, or any other person or entity on their behalf, including any kind of recruiting agencies or persons (hereinafter in this section only, “Personnel”), directly or indirectly, recruits or attempts to recruit or induces the employee of DivergeIT to terminate or cease employment with DivergeIT for any reason and/or hires its employee as a Worker, a fee equal to 110% of the annual salary of the employee at the time of termination of employment owed by DivergeIT, shall be due and payable to DivergeIT within 30 days of the date the employee begins work for Customer or its affiliates. This fee shall also apply when discussions in the foregoing paragraph does not result in a written agreement by the parties and one party hires the employee of the other party.

## **TRANSITION SERVICES**

Subject to Customer’s payment of any and all undisputed fees due through the date of expiration or termination, upon termination or expiration of this Agreement and for up to 30 days from the effective date of such termination or expiration (the “Transition Period”), Customer may request DivergeIT to provide services reasonably necessary to enable Customer to obtain from another vendor, or to provide for itself, services to substitute for or replace DivergeIT’s Services. During such Transition Period, DivergeIT will use commercially reasonable efforts to make available services reasonably necessary for an orderly and seamless transition to Customer or a third-party solution. Any transition services or other related services from DivergeIT will be provided by DivergeIT at DivergeIT’s then current service rates. DivergeIT reserves the right to require all or part of such fees and charges to be paid in advance prior to providing any transition services to Customer. Customer will remain responsible for third party license fees that remain in effect at the time of early termination until the license period expires or Customer is able to have the license terminated earlier by the Licensor.

## **NOTICES**

All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given upon receipt if: i) sent via email with receipt confirmed, or (ii) delivered personally, addressed as follows or to such other address or addresses of which the respective party shall have notified the other.

## **SOFTWARE AS A SERVICE**

DivergeIT is willing to grant access to the Software as a Service (Saas) referred to as Real Time Information & Technology Information System (RITIS) product to the Customer on the condition that all of the terms of this agreement are accepted.

**RITIS Access and Use:** Subject to payment of all applicable fees set forth in the Order and the terms and conditions of this Agreement, DivergeIT grants Customer, during the Term, a non-exclusive, non-transferable right to access and use (and permit Authorized Users to access and use) RITIS and applicable Documentation solely for Customer’s and its Affiliates’ internal business purposes in accordance with the Documentation and in the quantity specified in the applicable Order.

**RITIS Authorized Users:** Customer will designate employees, agents, consultants, contractors, or vendors authorized by Customer to use RITIS solely for the internal use of Customer and its Affiliates, subject to the terms and conditions of this Agreement.

**RITIS Customer Data:** Customer will provide all data and/or content uploaded to RITIS by Customer (including where applicable Authorized Users) by means of a computer agent provided by DivergeIT, and in all data derived from it. For the avoidance of doubt, Customer Data does not include Usage Data.

**RITIS Access and Use Restrictions:** Customer shall not (directly or indirectly): (a) copy or reproduce the RITIS or the Documentation except as permitted under this Agreement; (b) exceed the subscribed quantities, users or other entitlement measures of RITIS as set forth in the applicable Order; (c) remove or destroy any copyright, trademark or other proprietary marking or legends placed on or contained in RITIS, Documentation or DivergeIT Intellectual Property; (d) assign, sell, resell, sublicense, rent, lease, time-share, distribute or otherwise transfer the rights granted to Customer under this Agreement to any third party except as expressly set forth herein; (e) modify, reverse engineer or disassemble RITIS; (f) except to the limited extent applicable laws specifically prohibit such restriction, decompile, attempt to derive the source code or underlying ideas or algorithms of any part of RITIS, attempt to recreate RITIS or use RITIS for any competitive or benchmark purposes; (g) create, translate or otherwise prepare derivative works based upon RITIS, Documentation or DivergeIT Intellectual Property; (h) interfere with or disrupt the integrity or performance of RITIS; (i) attempt to gain unauthorized access to RITIS or its related systems or networks, or perform unauthorized penetrating testing on RITIS; (j) use RITIS in a manner that infringes on the Intellectual Property rights, publicity rights, or privacy rights of any third party, or to store or transfer defamatory, trade libelous or otherwise unlawful data; or (k) store in or process with RITIS any personal health data, credit card data, personal financial data or other such sensitive regulated data not required by the Documentation, or any Customer Data that is subject to the International Traffic in Arms Regulations maintained by the United States Department of State. Fees for RITIS are based on use of RITIS in a manner consistent with the Documentation. If Customer uses RITIS in a manner that is outside or in violation of the Documentation, then Customer will cooperate with DivergeIT to address any applicable burden on RITIS or pay an additional mutually agreed upon fee.

**RITIS Login Access to the SaaS Products:** Customer is solely responsible for ensuring: (i) that only appropriate Authorized Users have access to RITIS, (ii) that such Authorized Users have been trained in proper use of RITIS, and (iii) proper usage of passwords, tokens and access procedures with respect to logging into RITIS. DivergeIT reserves the right to refuse registration of, or to cancel, login IDs that it reasonably believes to violate the terms and conditions set forth in this Agreement, in which case DivergeIT will promptly inform Customer in writing of such refusal or cancellation. In addition to the rights set forth in this Agreement, DivergeIT may suspend Customer's access and use of RITIS if there is an unusual and material spike or increase in Customer's use of RITIS and DivergeIT reasonably suspects or knows that such traffic or use is fraudulent or materially and negatively impacting the operating capability of RITIS. DivergeIT will provide notice prior to such suspension if permitted by applicable law or unless DivergeIT reasonably believes that providing such notice poses a risk to the security of RITIS. DivergeIT will promptly reinstate Customer's access and use once the issue has been resolved.

**RITIS Third Party Materials:** RITIS includes Third-Party Materials, use of which is subject to their respective Licenses as indicated in the Documentation. DivergeIT warrants that the inclusion of such Third-Party Materials in RITIS will not prevent Customer from exercising the license rights provided to Customer herein in respect of RITIS or limit Customer's ability to use RITIS in accordance with the Documentation. Nothing herein shall derogate from mandatory rights Customer may have under any Licenses, if any.

**RITIS Support:** As part of its provision of RITIS, DivergeIT shall make available technical support to Customer in accordance with DivergeIT's then applicable RITIS support terms. Upon notification from DivergeIT, Customer shall promptly update any Agents on Customer's systems that interact with RITIS. Customer acknowledges and agrees that its failure to timely install such an update may result in

disruptions to or failures of RITIS, security risks or suspension of Customer's access to RITIS, without any liability on the part of DivergeIT to Customer.

**RITIS Intellectual Property:** Except for the rights granted in this Agreement, all rights, title, and interest in and to RITIS, Documentation, and DivergeIT Intellectual Property are hereby reserved by DivergeIT, its Affiliates or licensors. Except as provided for herein, all rights, title, and interest in and to Customer Intellectual Property are hereby reserved by Customer, its Affiliates or licensors. Nothing in this Agreement shall transfer ownership of any Intellectual Property rights from one Party to the other.

**RITIS Usage Data and Suggestions:** DivergeIT shall be permitted to collect and use the Usage Data for its reasonable business purposes and for Customer's benefit. In the event DivergeIT wishes to disclose the Usage Data or any part thereof to third parties (either during the Subscription Term or thereafter), such data shall be anonymized and/or presented in the aggregate so that it will not identify Customer or its Authorized Users. The foregoing shall not limit in any way DivergeIT's confidentiality obligations pursuant to the Non-Discloser Section of this agreement. To the extent that Customer provides DivergeIT with Suggestions, such Suggestions shall be free from any confidentiality restrictions that might otherwise be imposed upon DivergeIT pursuant to this Agreement and may be implemented by DivergeIT in its sole discretion. Customer acknowledges that any DivergeIT products or materials incorporating any such Suggestions shall be the sole and exclusive property of DivergeIT.

**RITIS Customer Data Content:** As between DivergeIT and Customer, Customer is solely responsible for: (i) the content, quality and accuracy of Customer Data as made available by Customer and by Authorized Users; (ii) providing notice to Authorized Users with regards to how Customer Data will be collected and used for the purpose of RITIS; (iii) ensuring Customer has a valid legal basis for processing Customer Data and for sharing Customer Data with DivergeIT (to the extent applicable); and (iv) ensuring that the Customer Data as made available by Customer complies with applicable laws and regulations including Applicable Data Protection Laws.

**RITIS Security of Customer Data:** DivergeIT shall: (i) ensure that it has in place appropriate administrative, physical and technical measures designed to protect the security and confidentiality of Customer Data against any accidental or illicit destruction, alteration or unauthorized access or disclosure to third parties; (ii) have measures in place designed to protect the security and confidentiality of Customer Data; and (iii) access and use the Customer Data solely to perform its obligations in accordance with the terms of this Agreement, and as otherwise expressly permitted in this Agreement. DivergeIT shall not materially diminish its security controls with respect to Customer Data during a particular SaaS Products term.

**RITIS Limited SaaS Products Warranty:** During the applicable Subscription Term, DivergeIT warrants that: (a) RITIS will perform in substantial conformity with the Documentation; and (b) DivergeIT will use industry standard measures designed to detect viruses, worms, Trojan horses or other unintended malicious or destructive code in RITIS. The foregoing warranties are void if the failure of RITIS has resulted from negligence, error, or misuse of RITIS (including use not in accordance with the Documentation) by Customer, the Authorized User or by anyone other than DivergeIT. Customer shall be required to report any breach of warranty to DivergeIT within a period of thirty (30) days of the date on which the incident giving rise to the claim occurred. DivergeIT's sole and exclusive liability, and Customer's sole and exclusive remedy, for breach of these warranties will be for DivergeIT, at its expense, to use reasonable commercial efforts to correct such nonconformity within thirty (30) days of the date that notice of the breach was provided; and, if DivergeIT fails to correct the breach within such cure period, Customer may terminate the affected Order and, in such event, DivergeIT shall provide Customer with a pro-rata refund of any unused pre-paid fees paid for the period following termination as calculated



on a monthly basis for the affected RITIS product. Without derogating from DivergeIT's obligations under this Agreement, Customer warrants that it shall take and maintain appropriate steps within its control to protect the confidentiality, integrity, and security of its Confidential Information and Customer Data, including: (i) operating RITIS in accordance with the Documentation and applicable law and; and (ii) dedicating reasonably adequate personnel and resources to implement and maintain the security controls set forth in the Documentation. Customer will be responsible for the acts and omissions of its Authorized Users.

**RITIS Commercial Computer Software:** If Customer is an agency or contractor of the United States Government, Customer acknowledges and agrees that: (i) RITIS (including any software forming a part thereof) were developed entirely at private expense; (ii) RITIS (including any software forming a part thereof) in all respects constitute proprietary data belonging solely to DivergeIT; (iii) RITIS (including any software forming a part thereof) are not in the public domain; and (iv) the software forming a part of RITIS is "Commercial Computer Software" as defined in sub-paragraph (a)(1) of DFAR section 252.227-7014 or FAR Part 12.212. Customer shall provide no rights in RITIS (including any software forming a part thereof) to any U.S. Government agency or any other party except as expressly provided in this Agreement.

## SERVICE DEFINITIONS

1. **Managed Computer:** A Computer is a machine without a Server Operating System that has our remote management & monitoring software (Agent) installed on it or a device that can be remotely connected to through our screen sharing system. Computer counts for services are captured once per month and the computer has been turned on at least once that month.
2. **Managed Server:** A Server is a machine with a Server Operating System that has our remote management & monitoring software (Agent) installed on it or a device that can be remotely connected to through our screen sharing system. Server counts for services are captured once per month and the Server has been turned on at least once that month.
3. **Managed Network Device:** A Network Device is a switch, firewall, or router that is identified by our remote management & monitoring software that can be remotely connected to through our remote access system. Device counts for services are captured once per month per device that has been turned on at least once that month.
4. **Managed User:** A User identification (User) is a logical entity used to identify a user on a software, local system, cloud system, Active Directory or within the IT environment. It is used within any IT enabled system to identify and distinguish between the users who access or use it. A user may also be termed as username or user identifier and does not necessarily represent a single employee. User counts for services are captured once per month and is based on the greatest number of users by any single system.
5. **Managed Service & Shared Account:** A User identification (User) is a logical entity used to identify a user on a software, local system, cloud system, Active Directory or within the IT environment. It is used within any IT enabled system to identify and distinguish between the users who access or use it. A Shared Account is a user that must be accessed by multiple Managed Users to perform shared & related IT tasks. All users that access a shared account must be a Managed User. A Service Account is an account dedicated to a software or system that is not accessed by a single Managed User, employee or person. User counts for shared & services accounts are captured once per month.
6. **Onsite & Customer Site Support:** Prescheduled onsite work for computer, users, network devices and/or servers within the service hours of this agreement.

7. Incident: an unplanned interruption to an IT service or reduction in the quality of an IT service or a failure of a Configuration Item that has not yet impacted an IT service.
8. Incident Response: A Qualified Service Engineer has been assigned to Incident.
9. Incident Plan: A Qualified Service Engineer has started or scheduled work on the incident.
10. Incident Resolution: The Incident has been resolved.
11. Customer Satisfaction (CSAT) Request: At the completion of an individual's request for service they are provided the opportunity to rate the experience as Positive, Neutral or Negative.
12. Incident Impact High: The ability to work has stopped.
13. Incident Impact Medium: The ability to work can continue with workaround.
14. Incident Impact Low: The ability to work can continue.
15. Incident Severity High: All users with Customer are affected.
16. Incident Severity Medium: More than one user with Customer is affected.
17. Incident Severity Low: One user with Customer is affected.
18. Incident Priority 1 (Critical): Incidents that are High Impact, High & Medium Severity.
19. Incident Priority 2 (Important): Incidents that are either High Impact & Low Severity or Medium Impact, High & Medium Severity.
20. Incident Priority 3 (Normal): Incidents that are either Medium Impact & Low Severity or Low Impact, High, Medium & Low Severity.
21. Incident Priority 4 (Scheduled): Incidents that are scheduled for future resolution.
22. Incident Priority 5 (Outside Control): Incidents that are outside of DivergeIT's control.
23. CSAT Formula: The Average Percent Positive Reviews minus the Average Percent Negative Reviews equals the Net CSAT Score for any given period.
24. CSAT Response: The total number of times an individual response to the Customer service request divided by the total number of individual service requests.

## **SERVICE PROVIDED**

The following services are provided based on the Plan Section in the proposal.

DivergeIT shall provide Information & Technology (IT) Monitoring & Support for the Customer's IT systems, computers, servers, and networks as directed in the Order.

**Network, Server & Computer Support:** DivergeIT shall provide support for all Devices and systems specified per the RITIS report to be reviewed with Customer as needed. Customer agrees that all Devices shall be covered under warranty or an active vendor support contract; otherwise, Customer shall have all necessary replacement parts readily available on site. Customer warrants that all software is genuine, currently licensed, and vendor supported. Should any hardware, software, and/or system fail to meet the foregoing provisions, such hardware, software, and/or system shall be excluded from further service unless Customer remedies the issue. Customer agrees to pay any third-party vendor support charges required to resolve any issues. DivergeIT agrees to obtain Customer's authorization to engage third party vendors prior to incurring any additional charges. Operating system patch management for servers is performed quarterly and on computers is performed weekly.

**User Support:** DivergeIT shall provide support for all users and systems specified per the Managed User Report to be reviewed with Customer as needed. Customer agrees that all software shall be covered under warranty or an active vendor support contract. Customer warrants that all computers and software is genuine, currently licensed, and vendor supported. Should any computer, software, and/or system fail to meet the foregoing provisions, such user, software, and/or system shall be excluded from further

service unless Customer remedies the issue. Customer agrees to pay any third-party vendor support charges required to resolve any of these issues. DivergeIT agrees to obtain Customer's authorization to engage third party vendors prior to incurring any additional charges. Customer agrees that all new and terminated users' requests must be initiated by the Customer in individual service requests per user.

System Monitoring: DivergeIT will provide ongoing monitoring services for devices per the systems report to be reviewed with Customer as needed. Should a problem be discovered during monitoring, DivergeIT shall make every attempt to rectify the condition in a timely manner during service hours through whatever means available. Monitoring Services will be provided twenty-four (24) hours per day year-round. Resolution of monitoring alerts will be provided during service hours.

### **Service Not Included**

1. The following are a list of Services & Costs not covered under this Agreement. DivergeIT has the sole discretion in deciding whether these items will be performed: The cost of any Customer owned parts, equipment, or shipping charges of any kind.
2. The cost of any Customer owned Software, Licensing, or Software Renewal or Upgrade Fees of any kind.
3. The cost of any 3rd Party Vendor or Manufacturer Support or Incident Fees of any kind for Customer owned systems or equipment.
4. The cost and service to bring Customer's environment up to qualify for service.
5. The cost and service to replace of any network devices, computers and servers due to the Manufactures End of Life not resulting from systems failure.
6. The cost and service resulting from the Customer's alteration or modification of hardware, software and/or systems other than that authorized by DivergeIT.
7. The cost and service to upgrade Major Versions of Applications software or Operating Systems.
8. The Installation, configuration, and deployment of any new applications whether acquired from DivergeIT or any other source.

### **SERVICE QUALIFICATIONS**

1. Computers and laptops are business class and less than 5 years old from date of purchase
2. All Hardware Manufactures have hardware replacement support availability.
3. Phone systems have active hardware & support agreements from vendor.
4. Internet Service Providers have 99.99% Service Level Agreement active support agreements.
5. Operating Systems are not End of Life and are the business grade versions of Microsoft Windows, Linux or Apple OSX.
6. Business process software (ERP, CRM, ETC) has active support agreements.
7. Business productivity software is not End of Life and are Microsoft Office, Google Apps and Adobe CS.
8. Incidents, Issues or Problems must be submitted into DivergeIT's Incident Management Tracking System.
9. Customer or Vendor are available to work with the support teams as needed.
10. Microsoft Cloud systems are in DivergeIT's Microsoft Cloud Solution Provider (CSP) account.
11. Any requests that do not qualify for service are solely at the discretion of DivergeIT.

### **SERVICE REQUESTS METHODS, HOURS & TARGETS**

Service Request Methods may change from time to time, when they do Customer will be notified in writing of the change. Failure to use current Service Request Methods as defined or by written notice at a later date may cause delayed service response and resolution times. Any subsequent delays in service response and resolution time due to failure to use current Service Request Methods shall not constitute a material breach of this Agreement. Each request will be assigned a Service Request number for tracking.

Support of the Customer’s Information Technology Systems will be provided to the Customer by DivergeIT in the included services hours and as needed hours indicated below, excluding the holidays. DivergeIT will respond to Customer’s Service Requests in accordance with the Service Targets and will use its best efforts to respond within a reasonable time after hours and on holidays. Additional Services, meaning Service Outside of Included Service Hours, requested by Customer shall incur additional charges.

The following Holiday schedule observed by DivergeIT and can be located at the [OPM.Gov website](http://www.opm.gov). Exceptions include only Columbus Day and Martin Luther King Day where DivergeIT continues to provide regular services. If a Holiday is recognized on a Thursday, the Friday following will be included.

<b>Service Level Agreement</b>				
Monitoring Hours	24 hours a day, 7 days a week & 365 Days a year			
Business Hours	Monday – Friday 8am-5pm PST			
Non-Standard Hours	Monday – Friday 6am – 7:59am, 5pm – 10:pm  Saturday & Sunday: 8am – 10pm			
	<b>Response</b>	<b>Plan</b>	<b>Resolution</b>	<b>Service Requests methods</b>
<i>Service Targets</i>	90%	80%	70%	Email: <a href="mailto:help@divergeit.com">help@divergeit.com</a>
Critical	15 Minutes	30 Minutes	60 Minutes	Portal: <a href="http://portal.divergeit.com">http://portal.divergeit.com</a>
Important	15 Minutes	30 Minutes	120 Minutes	
Normal	15 Minutes	30 Minutes	240 Minutes	
Scheduled	60 Minutes	4 Hours	N/A	Instant Message: Desktop Support Portal
Outside Control	N/A	N/A	N/A	Phone: (310) 765-7205

## Rates for Additional Services Not Included in Your Plan

The following rates apply for additional IT services not included in your plan. All hourly rate services are scheduled based on availability.

<b>Additional Services - Standard Hours Rate</b>	<b>Rate</b>
<b>TECHNICAL SUPPORT SERVICES</b>	
Device & User Support	\$150.00
Server, Network & Security Support	\$185.00
CIO, CSO, Board Advisory Service	\$215.00
<b>CONSULTING &amp; PROJECT SERVICES</b>	
Principal Consultant	\$255.00
Senior Consultant	\$235.00

Consultant	\$235.00
Project Manager	\$200.00
Project Engineer	\$165.00
Project Technician	\$135.00

- **Business Hours Rate** support services are provided from 8:00am to 5:00pm PT Monday through Friday, excluding national holidays, are listed above. There is a minimum 1-hour On-Site service visit requirement, and any time after the 1-hour mark will be billed in 30-minute increments. Remote telephone service calls and monitoring repair service are invoiced in 15-minute increments with a minimum billing requirement of 1/2 hour. One-way travel charges at this hourly rate apply.
- **Non-Standard Hours Rate** support services are provided from 5:00pm to 8:00am PT, Monday through Friday, are billed at 1.5 times the Standard Rate listed above. There is a minimum 1-hour On-Site service visit requirement, and any time after the 1-hour mark will be billed in 30-minute increments. Remote telephone service calls and monitoring repair service are invoiced in 30-minute increments, with a minimum billing requirement of 1 hour. One-way travel charges at this hourly rate apply.
- **Emergency Hours Rate** All unscheduled services provided from 8:00pm to 8:00am PT, Monday through Friday, or on weekends and national holidays, are billed at 1.5 times the Standard Rate listed above for the type of support provided. Your team can request emergency response services by adjusting the incident's assigned SLA priority to our highest priority (P1), and such services will be billed at Emergency Hourly Rate. One-way travel charges at this hourly rate apply.