

## OPTIONSCITY SOFTWARE LIMITED WARRANTY

**Service.** Company warrants to Customer for a period of thirty (30) days after delivery of any Services (including Training), or any other deliverable requested by Customer and agreed to be provided by Company (“**Deliverable**”), that, as applicable: (a) the Services will be performed in a good and workmanlike manner; and (b) the Deliverables will perform in all material respects with the applicable specifications mutually agreed to in writing by Company and Customer. Company will use commercially reasonable efforts to correct any Services or Deliverables that do not comply with the foregoing warranty (e.g., by re-performance of any non-complying Services or the modifying any non-complying Deliverables); provided that Customer gives Company written notice of the noncompliance within thirty (30) days of receipt of such non-complying Services or Deliverables. If, after the expenditure of commercially reasonable efforts, Company is unable to correct the noncompliance of Deliverables, Company may refund an equitable portion (e.g., based upon the value of Customer’s actual use of, or any benefits received by Customer with respect to, the applicable Deliverables) of the fee paid by Customer for such Deliverables, whereupon the same will be deleted from the Deliverables.

**Exclusions.** The foregoing warranty does not apply to any noncompliance resulting from any: (a) Customer-Furnished Items; (b) use not in accordance with this Agreement; (c) modification, damage, misuse or other action of Customer or any third party; (d) combination with any goods, services or other items provided by Customer or any third party, or (e) failure of Customer to comply with this Agreement or any applicable agreement in regard to Services (each, a “**Work Order**”). Further, Company does not warrant that the Deliverables or any other items furnished by Company under this Agreement are free from bugs, errors, defects or deficiencies.

**Company Proprietary Items.** All Company Proprietary Items are furnished by Company “AS IS” and without warranty of any kind.

**Company does not warrant:**

- That the Product or Services will meet Customer’s requirements;
- That the Product or Services will be uninterrupted, timely, secure or error free;
- That the results that may be obtained from the use of the Product or Services will be accurate or reliable;
- That any errors in the Product or Services will be corrected; or
- Any advice or information, whether oral or written, obtained by Customer from Company or through the use of the Product or Services.

**Customer-Furnished Items.** Company makes no warranty whatsoever, express or implied, with respect to any Customer-furnished items.

**Third-Party Products.** The warranties, obligations and liabilities of Company and the remedies of Customer with respect to any third-party products furnished by Company to Customer as part of the Services or any other materials, tangible or intangible, provided by a third party in connection with this Agreement (collectively, “**Third-Party Products**”) will be limited to whatever recourse may be available against the third party provider of such Third-Party Products, and are subject to such additional restrictions and other limitations as may be set forth in the applicable Work Orders.

**Changes in Third-Party Products.** The Company warranty obligations in regard to a Deliverable will apply only where the version, release or model of any Third-Party Product used in conjunction with such Deliverable is the same as that specified in the applicable specification.

**DISCLAIMERS:**

**THE WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, WITH RESPECT TO ANY ERROR, DEFECT, DEFICIENCY OR NONCOMPLIANCE IN ANY PRODUCT, SERVICES, DELIVERABLES, COMPANY PROPRIETARY ITEMS OR OTHER ITEMS FURNISHED BY OR ON BEHALF OF COMPANY UNDER THIS AGREEMENT OR ANY WORK ORDERS (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT, AND ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE).**

**IN THE EVENT OF LOSS OF DATA BY CUSTOMER CAUSED BY COMPANY, THE COMPANY’S OBLIGATION IS LIMITED TO REINSTALLING DATA ON BACKUP COPIES PROVIDED BY CUSTOMER.**

**THE COMPANY SHALL NOT BE LIABLE FOR ANY LOSS RESULTING FROM A CAUSE OVER WHICH IT DOES NOT HAVE SOLE, DIRECT, AND EXCLUSIVE CONTROL, INCLUDING, BUT NOT LIMITED TO, FAILURE OF ELECTRONIC OR MECHANICAL EQUIPMENT OR COMMUNICATION LINES; TELEPHONE OR OTHER INTERCONNECTION PROBLEMS; BUGS, ERRORS, CONFIGURATION PROBLEMS OR INCOMPATIBILITY OF HARDWARE OR SOFTWARE; PROBLEMS WITH EQUIPMENT OR SERVICES RELATING TO CUSTOMER’S COMPUTERS OR OTHER COMPUTING OR NETWORKING INFRASTRUCTURE; CHANGES MADE BY, OR PROBLEMS ARISING FROM ANY ACTION OR INACTION BY ANY OF THE**

**EXCHANGES OR ANY THIRD PARTY DATA PROVIDER; PROBLEMS WITH INTERMEDIATE COMPUTER OR COMMUNICATION FACILITIES; PROBLEMS WITH DATA TRANSMISSION FACILITIES OR CUSTOMER'S TELEPHONE OR TELEPHONE SERVICES OR UNAUTHORIZED ACCESS, THEFT, OPERATOR ERRORS, SEVERE WEATHER, EARTHQUAKES, ACTS OF TERRORISM, OR LABOR DISPUTES.**

**CUSTOMER ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR AND CORRECTION OF ITS OWN COMPUTER SYSTEM AND/OR DATA.**