Mark43 Support Services

This description of the Support Services is incorporated into the agreement(s) under which Mark43 has agreed to provide Software and Services to Subscriber.

1. <u>Customer Support Services.</u>

- **Error Reporting**
  When reporting a failure of the SaaS Services to perform substantially in conformance with this Agreement (an "**Error**"), Subscriber shall use the phone number, email address, or Mark43 Support Portal URL identified in this Agreement (or otherwise provided to Subscriber by Mark43 from time to time, including by email) during the hours of support set forth herein.
  Subscriber personnel submitting support requests must be reasonably trained in the use and functionality of the SaaS Services and familiar with this Agreement and, before submitting a support request to Mark43 hereunder, must use reasonable efforts to ensure a perceived Error is not due to a problem with Subscriber's (or its other third-party providers') equipment, systems, software or connectivity or due to improper, non-conforming or unauthorized use of the Saas Services by or on behalf of Subscriber.
  Subscriber will include with each support request, further detailed in subsection (d) below: (i) Subscriber's initial assessment of the Response Priority (including identification of the Error and the approximate percentage of Authorized Users impacted); (ii) sufficient information to enable Mark43 to identify and replicate the Error; and (iii) contact information for Subscriber personnel familiar with the Error who will be available to Mark43 to assist with resolution of the Error on an ongoing basis until the Error is resolved.

- **Response Priority Determination**
  Mark43 will validate Subscriber's Response Priority designation, or notify Subscriber of its Response Priority designation if it is different than Subscriber's. If requested, Mark43 will provide Subscriber with the basis of its determination. In the event of a conflict regarding the appropriate Response Priority designation, each party shall promptly escalate such conflict for resolution by the parties' management, during which time the parties shall continue to handle the support issue in accordance with the Mark43 Response Priority designation. In the rare case that a conflict requires a management discussion, both parties shall be available within one hour of the escalation.

- **First Response, Resolution, and Updates**
  Upon notification by Subscriber of an Error in accordance with this Schedule and subject to Mark43's identification and replication of the Error, Mark43 will respond to each case in accordance with the First Response Times and Communication Commitments described in the charts below. First Response Time is the period from the time the Error was logged with the Mark43 Support Team until Mark43 responds to Subscriber (and escalates within Mark43, if appropriate). A first response is defined as a non-automatic means where an agent will reach out to gather additional details and may not include a solution or workaround. Because of the widely varying nature of issues, it is not possible to provide specific resolution commitments. Actual resolution time will depend on the nature of the case and the resolution itself. Resolution methods are defined below. A resolution may consist of a fix, workaround, delivery of information, or other commercially reasonable solutions to the issue.

- **Subscriber's Obligations**
  Mark43's provision of the support services described in this Schedule is subject to Subscriber cooperating fully and on a timely basis with reasonable requests of Mark43 for accurate information and access to Subscriber personnel with sufficient availability and knowledge to enable Mark43 to provide the support services, including accurate information and assistance reasonably required to detect, replicate, and correct Errors. In the event Mark43's response, resolution, or update times are negatively impacted by delayed responses by Subscriber personnel or Subscriber's failure to otherwise comply with its obligations under this Schedule, timeframes will be extended.

First Response Commitment

Red	**Orange**	**Yellow**
1 hour 24/7	2 hours 8am – 8pm EST, 7 days	8 hours 8am – 8pm EST M-F

Communication Commitment

	Red	**Orange**	**Yellow**
Status page updates	A status update will be posted as soon as Mark43 is notified and updated every 60 minutes thereafter until resolved.	n/a	n/a
Email/phone updates	After initial Mark43 response, within 1 hour of any additional Subscriber questions about the same issue until resolved.	After initial Mark43 response, within 1 business day of any additional Subscriber questions until issue is resolved. Subscriber will receive notification via email once the issue has been fixed.	After initial Mark43 response, within 2 business days of any additional Subscriber questions until issue is resolved. Subscriber will receive notification via email once the issue has been fixed.

Priority Definitions

- *Red* – An Error due to Mark43's systems that results in the inoperability or substantial impairment of a core function for the majority of Subscriber's Authorized Users, provided there is no feasible workaround. Examples include: Authorized Users cannot access the Application; CAD units cannot be dispatched; reports cannot be created
- *Orange* – or substantial impairment of a critical workflow for the majority of Subscriber's Authorized Users, . Examples include: significant lagging/slowness; ; ; inability to submit reports.
- *Yellow* – An Error due to Mark43's systems for which a reasonable workaround is available.
- *None* – There are a number of low-impact issues, how-to questions, and feature requests that do not fall into one of the categories above and are not subject to the outlined First Response or Communication Commitments.

Issue Escalation & Resolution Methods: Subscriber-reported issues are escalated within Mark43 by a well-defined internal process. Mark43 works to resolve issues based on the issue severity/impact, by employing one or more of the following methods:

- Providing Subscriber with a reasonable workaround
- Adjusting system/hosting configurations or setup
- Direct database modifications
- Releasing a fix out-of-cycle (patching)
- Releasing a fix as part of the regular release cycle
- Other commercially reasonable solution

Subscriber will be notified of status changes either through Mark43's status page and/or via email updates in a support ticket.

2. <u>Service Level Agreement</u>. Mark43 shall provide the Applications in accordance with the following service levels ("**SLA**").

- **Monthly Uptime Commitment.**
  Following Go Live to the applicable In-Scope Application, Mark43 will use commercially reasonable efforts to make the In-Scope Application available with the Monthly Uptime Percentage corresponding to that Application (the "**Uptime Commitment**"), as follows:
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  - *RMS Application*: Mark43 will use commercially reasonable efforts to achieve a Monthly Uptime Percentage for the Mark43 RMS Application of no less than 99.9% in any calendar month.
  - *CAD Application*: Mark43 will use commercially reasonable efforts to achieve a Monthly Uptime Percentage for the Mark43 CAD Application of no less than 99.95% in any calendar month.

For each In-Scope Application, the "Monthly Uptime Percentage" is calculated as set forth below by subtracting from one hundred percent (100%) the percentage of minutes during the month in which the In-Scope Application experienced Downtime.

Monthly Uptime Percentage = (100) – ((minutes of Downtime * 100) / (total minutes in month))

- **Service Credit Calculation**.

Subject to the SLA Exclusions, if Mark43 does not achieve the Uptime Commitment in any given month due to Downtime, Subscriber may be eligible for credits as described herein (the "**Service Credits**"), as follows:

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    - *RMS Application*: If Mark43 does not achieve the Uptime Commitment for the RMS Application, Subscriber will (to the extent legally permitted) be eligible pursuant to the terms of this SLA to receive a credit equal to ten (10) times the amount paid for the RMS Application in respect of the period in which the actual RMS Downtime for the month exceeded the RMS Downtime allowable within the Uptime Commitment, up to a maximum credit of 25% of one month's subscription fee paid in consideration for the RMS Application, as illustrated here:
      RMS Service Credit = (10) * ((1/12) * annual subscription fee) * ((% of Downtime) – (0.10%))
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    - *CAD Application*: If Mark43 does not achieve the Uptime Commitment for the CAD Application, Subscriber will (to the extent legally permitted) be eligible pursuant to the terms of this SLA to receive a credit equal to ten (10) times the amount paid for the CAD Application in respect of the period in which the actual CAD Downtime for the month exceeded the CAD Downtime allowable within the Uptime Commitment, up to a maximum credit of 25% of one month's subscription fee paid in consideration for the CAD Application, as illustrated here:
      CAD Service Credit = (10) * ((1/12) * annual subscription fee) * ((% of Downtime) – (0.05%))
- **Requesting Service Credits**.
  In order to receive a Service Credit, Subscriber must notify Mark43 in writing at 8 West 40th Street, 2nd Floor, New York, NY 10018, Attn: Accounting, with a copy to accounting@mark43.com, or such other address provided by Mark43 from time to time, within fifteen (15) days following the end of the month in which the Downtime occurred. Claims must include the words "SLA Credit Request" in the subject line; the dates and times of each Downtime incident that Subscriber is claiming occurred; and any documentation to corroborate Subscriber's claim of Downtime, ensuring removal or redaction of any confidential or sensitive information in these logs. All claims are subject to review and verification by Mark43 prior to any Service

Credits being granted. Mark43 will acknowledge requests for Service Credits within fifteen (15) business days of receipt and will inform Subscriber whether such claim request is approved or denied.

If Mark43 confirms that the Uptime Commitment has not been met in the applicable calendar month, Subscriber will be issued a Service Credit within one billing cycle following the month in which Subscriber's request is confirmed by Mark43. Subscriber's failure to provide the request and other information as required above will disqualify Subscriber from receiving a Service Credit. Service Credits will not entitle Subscriber to any refund or other payment from Mark43 and are non-transferable. The parties acknowledge and agree that Service Credits are intended as genuine pre-estimates of loss that may be suffered as a result of any failure to achieve Uptime Commitments and will not be deemed to be penalties. To the extent legally permitted, the issuance of a Service Credit by Mark43 hereunder is Subscriber's sole and exclusive remedy for any failure by Mark43 to satisfy the Uptime Commitment.

- **Additional Definitions.**

  "**Downtime**" with respect to any single In-Scope Application means time in which the Application is not accessible or available to Subscriber for reasons other than those resulting directly or indirectly from an SLA Exclusion. For the avoidance of doubt, slow performance does not constitute lack of accessibility or availability and shall not count as Downtime, unless there is a total loss of ability for the substantial majority of Authorized Users to perform any one of the In-Scope Application Features so as to constitute a total loss of service of that Application, in each case in Mark43's reasonable discretion. The concurrent loss of service of two or more In-Scope Application Features within the same Application will count as a single Downtime event. At the end of each month, Mark43 adds "Downtime" periods together to calculate the overall monthly "Downtime."

  "**In-Scope Application**" means the web-accessible Applications identified in the Order Form, provided that Subscriber has purchased a subscription for the Applications and signed a valid agreement with Mark43. Under no circumstance shall any reference to an Application that Subscriber has not purchased a subscription and signed an agreement for be construed to entitle Subscriber to use such Application. For the avoidance of doubt, In-Scope Applications do not include mobile versions or Applications that are in beta testing.

  "**In-Scope Application Features**" means, in each case:

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- For RMS Application: (i) the ability to login to the Mark43 RMS; (ii) the ability to view and edit reports and names, property, and vehicles; (iii) the ability to view and edit cases; and (iv) the ability to search for entities within the RMS.
- For CAD Application: (i) the ability to login to the Mark43 CAD; (ii) the ability to view / edit / clear events; (iii) the ability to view and edit units; (iv) the ability to search for CAD tickets; and (v) the ability to receive real-time updates when actively connected to an internet-enabled network.

"**Monthly Uptime Percentage**" has the meaning set forth in Section 2(a) of this SLA. "**Scheduled Maintenance**" means scheduled work related to the Mark43 Application or the hosting environment, which may cause inaccessibility or unavailability of the Mark43 Application. Except as set forth below, Mark43 shall provide at least seven (7) days' advance notice of Scheduled Maintenance whenever practicable, and in no circumstances less than three (3) days' advance notice. In the event that Mark43 determines it is appropriate to perform emergency work related to the Mark43 Application or emergency work is performed related to the hosting environment, such work will be deemed Scheduled Maintenance, provided Mark43 uses reasonable efforts under the circumstances to provide Subscriber with notice at least twenty-four (24) hours prior to such emergency work. Notice of Scheduled Maintenance may be provided by email or via the status page and, in the case of emergency work, may also be provided by telephone. The total amount of Scheduled Maintenance for the CAD Application shall not exceed sixty (60) minutes during any thirty (30)-day period.

- **SLA Exclusions**. The Uptime Commitment does not apply to any inaccessibility or unavailability of an Application (the "**SLA Exclusions**"):
  - That is not an In-Scope Application;
  - That occurs prior to Go Live;
  - That results from Scheduled Maintenance;
  - That results from a suspension or remedial action, as described in this Agreement;
  - Caused by factors outside of Mark43's reasonable control, including any force majeure event, Internet access, or problems beyond the demarcation point of the Mark43 cloud environment;
  - That results from actions or inactions of Subscriber or any third party;

- That is attributable to Subscriber's own computer equipment or devices, or failure of any software, hardware or service not supplied by Mark43 pursuant to this Agreement, including issues related to network connectivity, internet connectivity or network performance issues at any Subscriber locations, server downtime related to connectivity issues resulting from third-party-managed VPN access to a hosted server or Subscriber's internal network problems, or Software (including interfaces) that is not supplied or maintained by Mark43;
- That results from any Integrated Application, Third-Party Data, or any Subscriber-provided application or program; or
- That results from the failure by Subscriber, its Affiliates, or any Authorized User to incorporate a Software or Services update or upgrade made available by Mark43.

3. Miscellaneous. These terms are subject to be updated from time to time by Mark43, provided such updates do not materially degrade Mark43's support offering.