

C-23-0201-05-16

AMENDMENT STANDARD TERM SaaS AGREEMENT

BETWEEN

SOE SOFTWARE CORPORATION d/b/a SCYTL and HIDALGO COUNTY, TX

PREAMBLE

This Extension Amendment (the "Amendment") is entered into as of this September 01, 2023 (the Effective Date), by SOE SOFTWARE CORPORATION (d/b/a SCYTL) with principal offices at 5401 W. Kennedy Blvd. Suite 100 Tampa, FL 33609 ("SOE") and Hidalgo County, TX with principal offices at 100 E. Cano St, 2nd Floor, Edinburg, TX 78539 ("Customer").

Collectively, SOE and Customer shall be referred to as the "Parties" and each separately as a "Party".

In consideration of the mutual promises and covenants hereinafter set forth, SOE and the CUSTOMER acknowledge and agree that the Software as a Service Agreement for Online Pollworker Training entered into as of August 31, 2020, by and between the Parties (the Agreement) is hereby extend for another three (3) years and consequently amended as follows, but that such Agreement shall otherwise continue in full force and effect.

The Parties agree as follows:

1. To EXTEND the Election Services for three (3) year from September 01, 2023 to September 01, 2026 (the Extended Term).

2. To update the Maintenance and Service terms as indicated below:

During the Term of this Agreement, SCYTL shall provide the Customer with maintenance services and third level support in accordance with the Service Level Agreement attached hereto as Appendix 1, being an integral part of this Agreement, which shall consist of (i) the updating and upgrading of the SOFTWARE and (ii) the modification and/or adaptation of the SOFTWARE in order to correct and solve any defects, errors, or malfunctions in the SOFTWARE.

The support services provided by Scytl include:

- Account Management support, such as application setup review and questions; content updates; and technical support.
- Support services are limited to 20 hours for training content updates and 10 hours for Online Pollworker Training support. When you have reached 80% of the allotted support service hours, you will be notified, and you may choose to add additional hours via a work order. If the issue is determined to be a product error, hours will not be deducted.
- If additional support service hours are not purchased and they are required due to a non-product error, the customer will be charged at a rate of \$150/hr.

- Refunds or carry over are not considered if the allotted support service hours are not consumed at the end of the Agreement (and on a yearly basis).
- As a courtesy, Scytl provides election event monitoring of the platform by Account Management and IT Engineers.

3. To Update the Service Level Agreement (SLA) as indicated in the attached Appendix 1
4. To pay the fee/s as indicated below for any renewal (Fee). The Fee shall be non-cancellable, non-refundable and in addition to the fees already paid/to be paid according to the Agreement. The Fee for any successive Renewal Term shall be equal to the Fee at the end of the Extended Term or any Renewal Term, as applicable, increased in a minimum five (5) %.
5. The Customer will be invoiced the Fee annually in advance each year, in accordance with the following schedule:
6. Except as modified below, all other terms and conditions of the Agreement and all amendments and addenda thereto, shall remain in full force and effect. All capitalized words not defined herein shall have the same meaning as set forth in the Agreement.

Service	Fee	Invoicing Date
Scytl Online Pollworker Training Annual Assurance 09/01/2023-09/01/2024	\$14,000	September 01, 2023
Scytl Online Pollworker Training Annual Assurance 09/01/2024-09/01/2025	\$14,000	September 01, 2024
Scytl Online Pollworker Training Annual Assurance 09/01/2025-09/01/2026	\$14,000	September 01, 2025

IN WITNESS WHEREOF, the PARTIES have duly executed this Agreement on the Effective Date intending to be bound thereby,

SOE SOFTWARE CORPORATION

HIDALGO COUNTY, TX

By: Jonathan Brill, General Manager
Scytl USA

By: Richard F. Cortez, County Judge

EXECUTED as of the day and year first written above.

APPROVED BY COMMISSIONERS' COURT ON May 16, 2023

Agenda Item No. _____

Executive Office: _____

APPROVED AS TO FORM
Office of the Criminal District Attorney,
Ricardo Rodriguez, Jr.

ATTEST:

Michelle Lopez, Assistant District Attorney

Arturo Guajardo, Jr., County Clerk

APPENDIX 1

1 Software Maintenance and Support – Technical Service description

1.1 Definitions

The definitions used in the Agreement are incorporated herein by reference. In addition, the following terms shall have the following meaning:

- **“Software maintenance”** is defined as the process of modifying a software system or component after delivery to correct faults, errors and bugs; to improve performance or other attributes; or to adapt to a changed environment.
- **“Perfective maintenance”** includes modifications and upgrades done in order to keep the software usable over a long period of time. It includes new features and new user requirements for refining the software and improving its reliability and performance.
- **“Adaptive maintenance”** includes modifications and upgrades applied to keep the software product up-to-date and tuned to the changing environment.
- **“Preventive maintenance”** includes modifications and upgrades to prevent future issues of the software. It aims to attend problems, which are not significant at this moment, but may cause serious issues in the future.
- **“Corrective maintenance”** includes modifications and upgrades done in order to correct or fix faults, errors and bugs, which are either discovered by the Customer or concluded by user error reports.
- **“Response time”** means the time elapsing between the reporting of an Issue by a Customer and the response from a ScytI’s Technical Support Services engineer acknowledging receipt of the reported Issue.
- **“Diagnosis time”** means the time elapsing between the Response time and the diagnosis of the Issue made by ScytI’s Technical Support Services engineer.
- **“Issue”** means either:
 - A failure of the Software to conform to the specifications set out in the documentation relating to that version of the Software, resulting in the inability to use, or restriction in, the use of the Software; or
 - A problem in current features requiring new procedures, clarifications, additional information and/or requests for product enhancements.

- **“Resolution or Patch or Bug Fix”** means either a Software modification or addition that, when made or added to the Software, corrects an Issue, or a procedure or routine that, when observed in the regular installation or operation of the Software, eliminates the practical adverse effect of the issue on you.
- **“Upgrade”** means a revision or change of version of the Software released by Scytl to its end user customers generally during the Support Services Term, to add new and different functions or to increase the capacity of the Software.
- **“Maintenance Release”** is a release of or for the Software, that includes the most recent Patches and Upgrades.
- **“Current Software Version”** means the most recently released, commercially available version of the Software at the time a Customer Support Contact relates a particular support incident to Scytl hereunder.
- **“Supported Versions”** means SCYTL’s obligations with respect to the Maintenance Services, which shall apply only to those versions of the Software that are within one (1) year time frame of the Current Software Version.
- **“Hosted System”** means Software hosted by Scytl externally in its data center to which the Customer may access it over the Internet from anywhere at any time.
- **“Annual Pool of Hours”** means the number of support hours as captured in the contract. Support hours may include application “how to” questions, content modifications and technical support. Application issues as a result of Scytl product updates and hosting are not deducted from the pool of hours.

1.2 General Terms and Conditions

The Customer shall be entitled to the following Support and Maintenance services during the Term and upon payment of the Fee:

1.2.1 Scytl Technical Services.

Scytl Support and Maintenance Services include perfective, adaptive, preventive and corrective maintenance in relation to Supported Versions. The Support Services do not include any post-installation configuration or development support, such as integrations of the Software with the user or third-party developed software or data, configuration advice that is not related to the initial installation and setup, or non-bug related technical problem resolution.

1.2.2 Resolutions and Severity levels.

Scytl will make commercially reasonable efforts to provide a resolution or patch designed for resolving a reported issue in accordance with the Service Schedule hereto. If such issue has been resolved or corrected already in an existing Maintenance Release, the Customer must install and implement that Maintenance Release/Upgrade; otherwise, the resolution for critical and high severity issues may be provided in the form of a temporary patch (fix, procedure, or routine) to be

used until a Maintenance Release containing the resolution is available. The priority level shall be agreed between the parties following the priority levels described below:

Severity	Description	Details
<i>CRITICAL</i>	An immediate and sustained effort using all available resources until issue is resolved.	<ul style="list-style-type: none"> • Business critical function is down • Major impact to Customer's business • No workarounds exist
<i>HIGH</i>	Technicians respond immediately, assess the situation, and may interrupt other staff working low or medium priority jobs for assistance.	<ul style="list-style-type: none"> • Business critical function is impaired or degraded • There are time-sensitive issues that impact on-going production • Workaround exists, but it is only temporary
<i>MEDIUM</i>	Respond using standard procedures and operating within normal Management structures.	<ul style="list-style-type: none"> • Non-critical function down or impaired • Does not have significant current production impact • Performance is degraded
<i>LOW</i>	Respond using standard operating procedures and as time allows.	<ul style="list-style-type: none"> • Non-critical, function down or impaired • No business impacts • General Service Enhancements

1.2.3 Technical Support Contacts.

Scytl Maintenance and Support Services will be accessible by one (1) designated contact (Technical Support Contact) and one (1) back up contact. You may modify your designated Technical Support Contact at any time during the terms of the service by confirmed email to Scytl's Technical Support Contact, who will be the main interface to the Scytl Maintenance and Support Services.

1.2.4 Exclusions from Scytl's Technical Services.

Scytl is not obligated to provide Technical Services in the following situations:

- a) When Scytl determines that the Issue is caused by unauthorized changes or modifications to the Software provided by Scytl, resulting in malfunctioning of the Software. This is not applicable if the changes or modifications are made under the direct supervision of Scytl;
- b) The Software has been damaged through negligent use by the Customer.
- c) The issue is caused by the negligence, hardware, malfunction or other causes beyond the reasonable control of Scytl;
- d) The issue is caused by third party software not licensed by or through Scytl;
- e) The Customer has not installed and implemented a prior Upgrade or Maintenance Release;

- f) The Customer has not installed up-to-date browser and system software;
- g) The Customer has not paid the Technical Service fees when due;
- h) The version of the Software that the Customer is using is not a Supported Version;
- i) If the Customer has not complied with Scytl's license Agreement; or
- j) Failures related to an accident, disaster, or other Force Majeure event.

1.2.5 Agreement in Force.

Except as agreed herein, all other terms and conditions of the Agreement shall apply with full force and effect to this Service Level Agreement.

1.3 Escalation Process

For each issue:

1. The Customer's Technical Support Contact will notify Scytl of the issue through the agreed channels;
2. A Scytl Technical Support contact will acknowledge the reception of the issue;
3. A Scytl Technical Support contact will do an initial diagnosis and complete the incident details in the Incident Management Tool:
 - Services affected;
 - Level of disruption;
 - Cause of the incident, if known;
 - Estimated time to resolve the issue or time of next update;
 - Feasible workaround.
4. The Scytl Technical Support contact will call or email the Customer's Technical Support Contact providing the diagnosis and incident identifier and will agree on a *Criticality Level* based on a predefined set of criteria;
5. The Scytl Technical Support contact will provide regular updates on the incident status.

1.4 Service Level Agreements (SLAs)

To guarantee a smooth and efficient relationship between Scytl and their partners, Scytl assigns a Service Manager (Account Manager) who will be the main point of contact to coordinate regular maintenance and support activities.

The Service Manager will periodically report on the different activities performed, as well as the status of the contracted pools of support hours (if any).

<i>What is included</i>	<ul style="list-style-type: none"> • Single Point of Contact (SPOC)
<i>What is not included</i>	<ul style="list-style-type: none"> • Project Management activities for Electoral Events

1.4.1 Issue Response.

In the event the Hosted System fails to perform as required by this Agreement (an “Issue”), the following Issue Response Procedure shall apply: Customer will notify Scytl of any identified Issue as soon as possible. Customer will also provide the reasonable availability of a single point of contact to assist Scytl in resolving any Issue with the Software. Upon notification of an Issue, Customer and Scytl by mutual agreement in good faith shall classify the severity of the Issue based on the levels detailed in Section 1.2.2. Scytl shall follow up with Customer with a telephone call or email response within 30 minutes upon notification of an Issue, subject to the Issue levels below. During the follow-up telephone or email, Scytl shall provide Customer with an initial assessment of the Issue in conjunction with any identified steps for the parties to mitigate the Issue.

<i>Severity</i>	<i>Response Time</i>
<i>Critical Priority</i>	0-30 minutes (during business hours)
<i>High Priority</i>	Within 2 hours
<i>Medium Priority</i>	Within 24 hours
<i>Low Priority</i>	Within 5 working days

1.4.2 Service Details.

Scytl’s Software Support and Maintenance Service is divided into different sub-services:

- Service availability;
- Planned Maintenance Service and Technical Support;
- Hosting.

Further details are provided below.

1.4.2.1 Service Availability.

<i>Service hours</i>	Monday to Friday from 8 AM to 5 PM EST (Eastern Time)
<i>After hours support</i>	<p>On-call staff can be reached via the support telephone and/or support email. Calls received outside of Service Support Hours will be forwarded to the on-call service manager's mobile telephone.</p> <p>Email support is available using the support email product.support@scyt1.com.</p> <p>Calls and emails received outside of the service time frame will receive a response in accordance with the priority of the reported issue.</p>
<i>Response time</i>	Dependent on issue priority (see section 1.4.1)
<i>Diagnosis time</i>	Dependent on issue priority (see section 1.4.1)
<i>Service volume</i>	Annual pool of hours (see contract).
<i>Rules of use</i>	<ul style="list-style-type: none">• In the event of consuming the whole bundle of hours, an additional pool of hours could be purchased;• Refunds or carry over are not considered if the pool of hours is not consumed at the end of the Agreement (and on a yearly basis).

1.4.2.2 Planned Maintenance Service and Technical Support.

1.4.2.2.1 Service Description – Planned Maintenance

Scyt1 is responsible for guarantying the quality of the Software provided under the Agreement, as well as facilitating the inclusion of new features as a result of a product evolution. Upon a **Maintenance Release**, Scyt1 guarantees the data integration for the **Supported Versions**.

<i>What is included</i>	<ul style="list-style-type: none">• Perfective maintenance;• Adaptive maintenance;• Preventive maintenance (including updates such as digital certificates);• Corrective maintenance.
<i>What is not included</i>	<ul style="list-style-type: none">• Extension of any existing functionality, which should be handled via the Change Management process;• The development of any new functionality, which should be handled via the Change Management process.

1.4.2.2.2 Service details – Planned Maintenance

<i>Service hours</i>	Monday to Friday from 9 AM to 5 PM EST Maintenance activities may be planned as after-hours service or during the weekends as agreed by the Customer.
<i>Response time</i>	Within 2 working days
<i>Diagnosis time</i>	<ul style="list-style-type: none"> • Critical and High severity issues - Within 8 service hours • Medium severity issues - Within 16 service hours

1.4.2.2.3 Service Description – Specialized Technical Support Service

Scytl provides specialized technical support for those software components embedded in the provided solution. The specialized technical support includes responses to technical questions and providing technical support during maintenance or testing activities¹. The support service will be handled through the defined Technical Support Contacts.

<i>What is included</i>	<ul style="list-style-type: none"> • Response to technical questions related to the products making up the solution; • Deployment or support to the deployment on the Licensee’s infrastructures after a Maintenance Release; • Ad-hoc digital signature of applications after a Maintenance Release; • Ad-hoc Trusted Build activities after a Maintenance Release.
<i>What is not included</i>	<ul style="list-style-type: none"> • Support on solution configuration for specific electoral processes.

1.4.2.2.4 Service details – Specialized Technical Support Service

<i>Service hours</i>	Monday to Friday from 9 AM to 5 PM EST
<i>Response time</i>	Within 2 working days
<i>Diagnosis time</i>	Within 3 working days
<i>Service volume</i>	Annual pool of hours (see proposal/contract).

¹ Technical support during specific electoral processes is an optional service that is not included under this service

1.4.2.3 *Hosting.*

ScytI is responsible for new releases, security, maintenance, and uptime and will provide the Customer with the following services:

- a. Hosting of the software on ScytI' servers in an Amazon Data Center rented by ScytI located in the US and providing the Customer access to the hosted SOFTWARE seven (7) days per week, twenty-four (24) hours per day, except for scheduled maintenance.
- b. Installation, test, and initial system set up in the servers in the Data Center.

ScytI will provide the Customer with the following support and service level:

- a. Availability of 99.9% uptime (excluding scheduled maintenance windows).
- b. Full infrastructure and network redundancy using distributed cloud locations.
- c. Reporting tools will be available upon request to show historic data.