

NACCRRAware.net Web Hosting Information Form

Please type or print clearly. All fields are required.

This form MUST be complete before your agency can be placed on the national server list. Once received, you will receive a confirmation from the Help Desk.

Agency ID:

Date:

Name:

Title:

Phone number:

Email address:

Agency Name:

Agency City:

Agency State:

SCHEDULE "D" to
NACCRRARware SOFTWARE LICENSE AGREEMENT (Web Hosting Agreement)

This NACCRRARware Web Hosting Agreement ("WHA,") is an exhibit to the Software License Agreement number XXXXXX dated XX/XX/XXXX between Licensor and Licensee which sets forth the terms and conditions under which Licensor will lease space on Licensor's Server for the Licensed Programs licensed to Licensee pursuant to the Software License Agreement. All terms not otherwise defined herein shall have the meaning given them in the Software License Agreement.

1.0 DEFINITIONS

1.1 "Standardized Data Fields" means client and provider data fields that have been approved by the NACCRRRA Board and are suggested for use by all child care resource and referral agencies nationwide. These field lists are developed by the NACCRRRA Board Data Committee. Currently, there are 22 NACCRRRA Standardized Supply (Provider) Data Fields and 27 NACCRRRA Standardized Demand (Customer) Data Fields. NACCRRARware has a built-in utility to export this data simply.

1.2 "Peak Time" means the normal operating days and hours for CCR&Rs, specifically defined as Monday through Friday and the hours of 7:00 a.m. Eastern Standard Time and 8:00p.m.Pacific Standard Time.

2.0 TERM

2.1 Licensor shall Lease Licensee space pursuant to use of Licensed Programs from July 1 to June 30. After the expiration of the allocated time or the lease year (i.e., all product related time expires on June 30th of each year), should Licensee desire Licensor to continue Leasing space, the parties shall enter another WHA.

3.0 Responsibilities OF LICENSOR

Licensor agrees that during the term of the "WHA" with respect to the Licensed Programs to be supported hereunder, Licensor shall use its commercial best efforts to provide adequate space on Licensor designated server ("Lease"). Lease shall include:

3.1 Providing Licensee access to Licensor Server 24 hours a day, seven days a week, 365 days per year.

3.2 Scheduling maintenance to minimize disruption during Peak Time.

3.3 Providing reasonably adequate bandwidth (3 times average daily load) for network access to server.

3.4 Providing daily backups of all Licensee data.

3.5 Providing the designated System Administrator with assistance in the event of difficulty in the Use of Server which emanate from code errors, documentation errors or problems of interpretation in accordance with the terms and conditions of the "WHA" purchased by Licensee.

3.6 Providing Licensee with a maximum of 15 MB of space for data collection and storage. Additional fees will be charged for any annual quarter (3 month period) that the maximum space used exceeds 15 MB (see Section 6.2).

3.7 Providing a scheduled appointment, outside of Peak Time, to complete the conversion of current data into the Licensed Programs.

3.8 Responding to and/or solving any problems in the Server concerning the Use of the Licensed Programs which materially affect a critical function or feature of the Licensed Programs.

3.9 Making available to Licensee the services of a qualified technical support personnel, as designated by Licensor, to assist Licensee in the Use of Server, to the extent such services are covered under the terms and conditions of a Training and Technical Support Agreement.

4.0 Responsibilities OF LICENSEE

4.1 Appointing one (1) System Administrator and one (1) back-up Administrator who will act as Licensee's liaison for all technical communications with Licensor and who will act as the point of contact for the distribution of information and materials provided to Licensee by Licensor pursuant to the Software License Agreement and WHA.

4.2 Notifying Licensor of code errors, documentation errors, domain name server errors, access issues and related problems in accordance with the then-current problem reporting procedures.

4.3 Scheduling time, outside of Peak Time, for converting current data into Licensed Programs. Scheduling is done through NACCRRAware Help Desk.

4.4 Purchasing yearly Upgrades for the Licensed Programs (see Schedule "C" to the NACCRRAware Software License Agreement). Not purchasing an Upgrade by the scheduled renewal date will result in the immediate termination of this agreement.

4.5 Sending Standardized Data Fields to NACCRRRA at annual quarterly points, according to the NACCRRAware data collection process. For the purposes of this agreement, data and information will be solely used to determine any fees to be charged for additional space utilized (see Section 6.2). Licensee and Licensor may enter another Agreement pertaining to usage of Standardized Data Fields for national analysis, research, or advocacy.

5.0 LIMITATIONS OF LEASE

Unless specific exceptions are approved in writing by Licensor, the following limitations for Lease shall apply:

5.1 Lease will be provided to Licensee solely for the Use of Licensed Programs in the designated configuration specified in Schedule "A" to NACCRRAware Software License Agreement (NACCRRAware Contents).

5.2 Pursuant to Section 4.3, Licensor may, at their sole discretion, limit or discontinue its Lease obligations if the Upgrades have not been installed as required, or if the Licensed Programs have been modified in any way without Licensor's prior written approval.

5.3 This Lease does not give the Licensor right to use, access or compile data and information (Record Set) entered into Licensed Programs by Licensee, except for Standardized Data Fields provided by Licensee to meet requirements of Section 6.2.

6.0 ANNUAL LEASE FEES

6.1 On or before July 1 of the year following execution of the Software License Agreement, or on or before the expiration of any "WHA" (all of which shall expire on June 30th of each year), Licensee may elect to obtain from Licensor an annual "WHA" for the Licensed Programs by paying to Licensor the applicable Annual Lease Fee determined pursuant to Section 6.2.

6.2 The Annual Lease Fee shall be according to the current publish pricing schedule for the upcoming program year.

Schedule and formulas below are no longer applicable. (4/2013)

1-5 Concurrent Licensed Users: \$550 per year

6-9 Concurrent Licensed Users: \$850 per year

10+ Concurrent Licensed Users: \$1150 per year

In addition, quarterly fees will be charged based on the amount of hard disk space above 15MB used in the previous quarter. Space will be determined by Standardized Data Field uploads. To determine the amount of space used, Licensor will use the following assumptions: 1000 providers=10MB and 500 clients=2MB. The formula used is:

$$space = N_{providers} * \frac{10}{1000} + N_{clients} * \frac{2}{500}$$

where $N_{providers}$ is the number of providers in the Licensee's Standard Data Field upload and $N_{clients}$ is the number of clients in the Licensee's Standard Data Field upload.

The fees for space above 15MB are as follows:

15 <space< 50	\$60.00/quarter
50 ≤ space < 80	\$90.00/quarter
80 ≤ space < 100	\$120.00/quarter
100 ≤ space < 150	\$150.00/quarter

Usage of hard disk space above 150MB is not covered by this Agreement and must be considered in a separate Agreement.

6.3 If execution of "WHA" occurred in the year preceding July 1, 2001, then the Annual Lease Fee payable shall be prorated according to the number of months remaining until July 1, 2001.

6.4 The Annual Lease Fee shall be due thirty (30) days from the execution date of the "WHA". Interest will be charged on past due amounts at the lesser of one and one-half percent (1 1/2%) per month, or at the maximum interest rate allowed by law.

6.5 If this "WHA" should expire or be terminated at any time, Licensee may reinstate Lease provided all registered clients and servers are upgraded to the then current release of the licensed programs. If Licensee fails to pay the Lease Fee on or before the expiration of the then current annual "WHA", Licensor may, in its sole discretion, accept payment of the Lease Fee and grant Licensee a new "WHA" for a new annual period, which shall be deemed to have begun as of the date the annual Lease Fee was originally due from Licensee; provided however, Licensee Upgrades to the then current releases of the licensed programs.

6.6 Licensee shall be responsible for applicable taxes, including sales, use, personal property, excise, or other taxes and duties and, specifically excluding any income or corporate franchise taxes, to be paid by Licensor.

7.0 DISCLAIMER OF WARRANTIES

7.1 IN CONNECTION WITH THIS "WHA" AND THE LEASE LICENSOR MAKES NOWARRANTY, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR OF MERCHANTABILITY OR NON-INFRINGEMENT, LICENSOR'S SOLE OBLIGATION SHALL BE LIMITED TO LICENSOR'S USE OF COMMERCIAL BEST EFFORTS TO LEASE SERVER SPACE.

8.0 LIMITATION OF LIABILITY

8.1 In connection with the Lease to be performed hereunder, Licensor shall under no circumstances, be responsible directly or indirectly, for any damage to the apparatus or adjacent property of Licensee, nor for any injuries to persons, unless such damage or injury is directly attributable to the negligence of Licensor.

8.2 Licensor shall not be liable for the acts and workmanship of the employees, contractors, subcontractors, or agents of Licensee, including but not limited to the failure to observe Licensor's instructions or documentation, or by failure or malfunctioning of any tools, equipment facilities, or devices not furnished or approved by Licensor.

8.3 EXCEPT IN THE CASE OF DAMAGE TO TANGIBLE PHYSICAL PROPERTY, NEITHER LICENSOR, NOR LICENSOR'S SUPPLIERS, SHALL BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS "WHA" OR ANY ATTACHMENT, ADDENDUM SCHEDULE OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY FOR LOSS OR INACCURACY OF ANY DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO LOSS OF REVENUES AND LOSS OF PROFITS; OR FOR ANY MATTER BEYOND ITS REASONABLE CONTROL. LICENSOR'S LIABILITY UNDER OR ARISING OUT OF THIS AGREEMENT, WHETHER FOR BREACH OF CONTRACT, TORT, OR OTHERWISE, SHALL BE LIMITED TO A REFUND OF THE UNUSED LEASE FEES DETERMINED ON A PRO-RATA BASIS PAID FOR THE LICENSED PROGRAMS INVOLVED IN THE CLAIM. LICENSOR'S LIABILITY FOR DAMAGE OR LOSS OF TANGIBLE PHYSICAL PROPERTY SHALL NOT EXCEED \$1 MILLION.

9.0 COPYRIGHTED WORKS

9.1 Licensee acknowledges that it is the nature of Licensor's services (under this "WHA") to produce ideas and concepts and other intellectual services that may result in computer programs, notes, reports,

presentations, documents, ideas, or inventions relating or useful to Licensee's business under this "WHA". Licensee further acknowledges that all title, ownership rights, and intellectual property rights produced under this "WHA" shall remain with Licensor. Any ideas, bug fixes or reports, technical information or product improvement suggestions concerning Lease or this "WHA" provided to Licensee (including Licensee's agents, employees or representatives) shall become the property of Licensor and may be used for its business purposes without any payment or accounting to Licensee under this "WHA". Licensee shall have a non-exclusive, non-- transferable license to use such work product for its own internal purposes only. Licensee may not transfer or disclose such work product to any other person or party.

9.2 Licensee agrees to assist Licensor, to the extent that it is commercially reasonable, to obtain and enforce Licensor's benefit copyrights or other property rights or damages. Licensee agrees that the obligations of this paragraph shall continue beyond the term of this "WHA". Such participation by Licensee must be explicitly requested by Licensor, and will be provided at the reasonable convenience of Licensee.

10.0 BREACH AND REMEDIES

10.1 Should Licensee: (a) default in the payment of any sum of money due, including the Lease Fees, beyond the fifteenth (15th) day after the same is due; (b) default in the performance of any other of its obligations under this "WHA" or the Software License Agreement and such default continues for a period of sixty (60) days after receipt of written notice from Licensor; or (c) permit any person other than a Licensor employee to alter or change any Licensed Programs without Licensor's prior written consent; then in any such event Licensor may, at its option proceed with the following: (i) suspend its "WHA" obligations immediately; (ii) terminate this "WHA" or (iii) adjust any unpaid and future charges for any and all "WHA" services rendered to Licensee. The rights afforded Licensor under this paragraph will not be deemed to be exclusive, but shall be in addition to any rights or remedies provided by law.

11.0 TERMINATION

11.1 Licensee may terminate this "WHA" at any time by providing Licensor with sixty (60) days written notice of Licensee's intent to terminate. Upon termination or other expiration of this "WHA", each party shall forthwith return to the other party all papers, materials and other properties of the other held by each for purposes of execution of this "WHA", except that Licensee may retain any materials or documentation for which Licensee has paid Licensor a fee subject to the terms of this "WHA".

11.2 Licensee's obligation to pay Licensor amounts due hereunder and Sections 7.0, 8.0, 9.0, and 13.0 shall survive any expiration or termination of this "WHA".

12.0 ASSIGNMENT

12.1 Neither this "WHA" nor any rights or obligations hereunder, shall be transferred or assigned by Licensee without the prior written consent of Licensor, which consent shall not be unreasonably withheld.

12.2 Licensor reserves the right to assign the performance of this "WHA" to a qualified third party.

13.0 GENERAL

13.1 As stipulated in the NACCRRAware Software License Agreement, the General Provisions (Section 13.0), as well as the section pertaining to Title (Section 11.0), are incorporated herein as an integral part of this Agreement.

NACCRRA:

BY:

Printed Name:

Title:

Date:

Phone: (703) 341- 4100

Licensee:

BY:

Printed Name:

Title:

Date:

Phone: