

**BENEVATE, INC. d/b/a NEIGHBORLY SOFTWARE SAAS ORDER FORM**

Customer Information	
<b>Account Name:</b> The County of DuPage, IL	<b>Initial Service Term:</b> Two (2) Year from Effective Date
<b>Address:</b> Community Services Department 421 N County Farm Road Wheaton, IL 60187	
<b>Billing Contact Name &amp; Title:</b> Mary Keating, Director DuPage County Community Services Department	<b>Phone:</b> 630-407-6457 <b>Email:</b> Mary. <a href="mailto:Keating@Dupageco.org">Keating@Dupageco.org</a>
<b>Alternate Contact Name &amp; Title:</b> Joan Fox, Administrator Housing Supports and Self-Sufficiency	<b>Phone:</b> (630) 407-6426 <b>Email:</b> <a href="mailto:Joan.Fox@dupageco.org">Joan.Fox@dupageco.org</a>

**PURCHASE SUMMARY**

PRICING: UNLIMITED USERS		User Price	GRANT (\$)	FEE	Annual Total
Unlimited Users for (2) Year ERAP Allocation – County of DuPage, IL		% of Grant	\$11,000,000.00*	0.9%	\$99,000.00
Services Included: <ul style="list-style-type: none"><li>Hosted Software to Administer Program(s)</li><li>Dedicated Client Success Manager</li><li>Technical Support (Monday – Friday: 8:00 a.m. to 8:00 p.m. EST)</li><li>Hosting/Security in Microsoft Tier IV Data Center</li><li>Data Storage, Backup, and Recovery</li></ul>					
<i>*Pricing is based on the County of DuPage, IL’s U.S. Department of the Treasury, Emergency Rental Assistance Allocation of \$11,000,000.00. Any supplementary allocations will be subject to additional fees.</i>					
One-Time Fees		Unit Price	Quantity	One-Time Total	
Implementation of Program(s)		\$5,000.00	1	\$5,000.00	
Services include System Configuration, Program Design, and Administrator Training for the following programs: <ul style="list-style-type: none"><li>Emergency Rental Assistance Program</li></ul>					
	Subtotals				
Annual Subtotal (Licenses):				\$99,000.00	
One-Time Subtotal (Implementation):				\$5,000.00	
TOTAL:				\$104,000.00	

## SOFTWARE AS A SERVICE (SAAS) AGREEMENT

This SaaS Agreement (“Agreement”) is entered into on this \_\_\_\_ day of \_\_\_\_\_ 2023 (the “Effective Date”) between Benevate, Inc., d/b/a Neighborly Software, a Delaware Corporation, with its principal place of business located at 3423 Piedmont Rd. NE, Atlanta, GA 30305 (“Company”), and the Customer listed above (referred to as the “Customer”) (collectively referred to as the “Parties”). This Agreement includes and incorporates the above Order Form, the Terms and Conditions below, and Exhibits A - B attached hereto.

### TERMS AND CONDITIONS

#### 1. DEFINITIONS.

- a. “Authorized User” means those individuals designated and authorized by the Customer to use one of the purchased licenses to access the Software and Services, using his or her login credentials (email address and password), which may only be used by that single, named user.
- b. “Confidential Information” means all information, in oral, written, machine readable, sample or any other form, that either Party discloses (“Discloser”) to the other (“Recipient”) relating to the business of Discloser, whether furnished before or after the Effective Date of this Agreement, including, without limitation, information related to pricing, products, services, Customer Data, and any implementing regulations or guidelines, proprietary business practices, policies, finances, procedures, sales, costs, liabilities, markets, strategies, concepts, methods or employees, that is not generally ascertainable from public or published information or sources, and all analyses, compilations, data, studies, notes, memoranda or other documents prepared by Discloser based on such Confidential Information.
- c. “Customer Data” means any non-public, personal information provided by the Customer to the Company to enable the provision of Services.
- d. “Documentation” means the applicable training materials, user guides, publicly available marketing and/or proposal materials, and other similar information, or other documents disseminated under or governed by confidentiality obligations which pertain to the Software or Services provided by Company, which may be updated by Company at any time without notice to include information about new features and incorporate feedback to help Company’s customers understand how to use the Software and Services.
- e. “License Fees” means the annual cost for the administrative license(s) enabling users to have access to the Software.
- f. “Professional Services” means non-standard customization and services available at an additional fee, including, but not limited to, data migration services, in-person trainings, Power BI services, geographical data services, non-standard professional developer services, etc.
- g. “Services” means standard implementation services, configuration of stated program(s) to allow for enrollment, qualification, administration and reporting, access to the Software, technical support services, hosting and security services, data storage, backup, recovery, and other services provided by the Company as described in the Order Form or this Agreement.
- h. “Software” means the proprietary web-based products, including, but not limited to, the source code, object code or underlying structure, ideas, know-how or algorithms, documentation, or data related to the Services provided by Company, or its licensors identified on an Order Form and subsequently made available to Customer by Company in accordance with an Order Form or this Agreement.

#### 2. SOFTWARE AND SERVICES.

- a. During the Term of this Agreement, Company will provide Customer access to, and use of, the Software, Services, and Documentation by enabling a portal for Customer to access through a web browser (the “Portal”).
- b. This Agreement does not contemplate any customized products, services, work-for-hire, or code developed exclusively for Customer. In the event that the Parties agree that Company shall provide such non-standard Professional Services, the description of the services and applicable ownership rights with respect to such Professional Services will be set forth in a separately executed Professional Services Agreement. This Agreement does not contemplate any IP rights beyond the terms provided herein.
- c. Company will make available to Customer all updates and any documentation for such updates to the Services. Company will use commercially reasonable efforts to ensure that (i) new features or enhancements to existing features are synchronized with the previous version, and (ii) updates will not degrade the performance, functionality, or operation of the Services. General maintenance of the system is completed on a regular basis to ensure optimal performance of the Services.

- d. **Service Levels.** Company will use commercially reasonable efforts to maintain the availability of the Services at a level of 99.5%. For further specifications regarding the Service Levels, refer to Service Level Terms attached as Exhibit “A” to this Agreement.
- e. **Technical Support.** With the exclusion of Federal Holidays, Technical Support is available from 8:00 a.m. to 8:00 p.m. EST, Monday - Friday. (“Support Hours”). Customer shall initiate a helpdesk ticket during Support Hours by sending an email to support@neighborlysoftware.com. Company will use commercially reasonable efforts to respond to all Helpdesk tickets within one (1) business day.
- f. **Data Storage.** All Customer Data will be stored, processed, and maintained solely in data centers located in the United States.
- g. **Backup and Recovery of Customer Data.** Company is responsible for maintaining a backup of the Customer Data and for an orderly and timely recovery. Company shall maintain a contemporaneous backup of Customer Data that can be recovered within a reasonable period of time.

### **3. CUSTOMER RESTRICTIONS AND RESPONSIBILITIES.**

- a. Customer will not, directly or indirectly: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, documentation, or data related to the Services (“Software”); (ii) modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted by Company or authorized within the Services); nor (iii) use the Services or any Software for timesharing or service bureau purposes.
- b. Customer represents, covenants, and warrants that Customer will use the Services in compliance with all applicable laws and regulations. To the extent permitted by law, Customer hereby agrees to hold harmless Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys’ fees) in connection with any claim or action that arises from an alleged violation of the foregoing.
- c. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like.
- d. At no time is it permissible for an Authorized User to share their login credentials. The number of Authorized Users licensed hereunder is specified in the Order Form or as formally requested and approved, in writing, during the Term. Customer is solely responsible for maintaining the status of its Authorized Users and the confidentiality of all login credentials and other Portal access information under its control. Customer will notify Company immediately if Portal information is lost, stolen, or disclosed to an unauthorized person or any other breach of security in relation to its passwords, usernames, or other Portal access information that may have occurred or is likely to occur.

### **4. CONFIDENTIALITY; PROPRIETARY RIGHTS**

- a. **Duty Not to Disclose Confidential Information.** In connection with the Agreement, Recipient, and its employees and agents, may have access to the Confidential Information of the Discloser. Recipient shall, and shall ensure that its employees and agents shall, keep the Confidential Information of the Discloser in strict confidence and use it only for the purpose of performing its duties under this Agreement. Recipient will not directly or indirectly disclose, publish, disseminate, make available or otherwise communicate in any way, to any third person not having a need to know in order to perform its duties under this Agreement, any Confidential Information of the Discloser, without the Discloser’s prior written consent. Recipient will have appropriate safeguards in place within its organization to restrict access to Confidential Information to only those individuals as needed in connection with the performance of this Agreement. Recipient will take care of Confidential Information using at least the same standard of care it would use with its own confidential information, but in no event shall Recipient use less than reasonable care in protecting such Confidential Information.
- b. **Mandatory Disclosures.** In the event that Recipient is required by a binding order of a governmental agency or court of competent jurisdiction to disclose any Confidential Information of the Discloser, it shall, if legally permitted, provide the Discloser with prompt written notice (via e-mail that is acknowledged as received) to allow the Discloser an opportunity to appear and object prior to Recipient’s compliance with requested disclosure. The written notice shall provide Discloser with sufficient information describing the content of the information to be disclosed. If such objection is unsuccessful, then Recipient shall produce only such Confidential Information as is required by the court order or governmental action.

- c. Customer shall own all right, title, and interest in and to the Customer Data, as well as any data that is based on or derived from the Customer Data and provided to Customer as part of the Services.
- d. Company shall own and retain all right, title and interest in and to (a) the Services and Software, all improvements, enhancements, or modifications thereto, (b) any software, applications, inventions, or other technology developed in connection with implementation of services or support, and (c) all intellectual property rights related to any of the foregoing.
- e. Notwithstanding anything to the contrary, Company shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data and data derived therefrom), and Company will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Services and (ii) disclose such data solely in aggregate or other de-identified form to determine aggregate number of individuals and/or amount of funds that have been processed in connection with its business.

## 5. PAYMENT OF FEES

- a. Payment Terms. Customer shall pay Company the fees listed in the Purchase Summary of the Order Form pursuant to the Local Government Prompt Payment Act (50 ILCS 505/ *et. al.*). An invoice for the fees will be sent to the Customer immediately following the Effective Date and is due within sixty(60) days from the date of the invoice (the “Due Date”).
- b. Late Payments. If the Customer fails to pay any invoice in full within forty-five (45) days from the Due Date, the Company shall have the right to suspend the Services until payment is received. Suspension of Services in accordance with this subsection shall not be deemed a breach of this Agreement.
- c. Additional Allocations or Reallocations. During the Initial Service Term, the Customer is subject to additional charges for any additional ERAP allocations or reallocations (referred to collectively as “Additional Allocations”) received. The Customer shall notify the Company of any Additional Allocations within thirty (30) days of receipt. All Additional Allocations will be charged at .9% of the total amount.
- d. Implementation & Delay Fees. Implementation costs are based on a 6–8-week implementation period (for up to four (4) programs). Company reserves the right to assess a weekly fee of \$500.00 for implementations that exceed eight (8) weeks, beginning on the date of the Kickoff Meeting, and caused solely by Customer’s delay, such as repeated failures to timely test and provide approval on items, repeated cancellations or no-shows for scheduled calls and trainings.
- e. Renewal. Company reserves the right to change the fees listed in the Order Form and/or Paragraph 6 at the end of the Initial Service Term or then-current renewal term. The cost per license as stated in Paragraph 6 may increase by no more than 10% upon each renewal (the “Renewal Price Cap”). The aforementioned Renewal Price Cap may be forfeited if the Services are not renewed prior to the termination date of the Initial Service Term or then current renewal term; in which case, the fees for any subsequent renewal may be calculated according to Company’s then-current pricing. The Company shall provide the Customer with an invoice (via e-mail) sixty (60) days prior to end of the Initial Service Term or then-current renewal term.
- f. Maintenance Portal. Once the Customer has expended all ERAP funding, the Customer may transition to a Maintenance Portal for the next renewal term, allowing continued, limited access to the existing ERAP Portal. See Exhibit C for all information pertaining to the Maintenance Portal.
- g. Taxes. The fees do not include any taxes, including, without limitation, sales, use or excise tax. If Customer is a tax-exempt entity, you agree to provide Company with a tax-exempt certificate.).
- h. The parties acknowledge that appropriation of funds is a governmental function which the Customer cannot contractually commit itself in advance to perform and this Agreement does not constitute such commitment. The Customer’s obligation to pay under this Agreement is contingent upon Customer’s annual appropriation of funds for such purpose, and the non-appropriation of funding for such purpose in any fiscal year shall immediately relieve both parties of their respective obligations hereunder, as of the last day for which funds have been appropriated. The Customer shall immediately notify the Company in writing (via e-mail), upon determining that sufficient funds will not be budgeted and appropriated in any fiscal year under this Agreement.

## 6. TERM AND TERMINATION

- a. Term and Renewal. Subject to earlier termination as provided below, the term of the Agreement shall commence on the Effective Date and shall cover the Initial Service Term as specified in the Order Form and shall automatically renew for additional periods of the same duration as the Initial Service Term (collectively, the "Term"), unless either party requests termination at least thirty (30) days prior to the end of the then-current term.
- b. Automatic Renewal Options. A renewal offer will be sent to the Customer sixty (60) days prior to the end of Initial Service Term or then-current term for continued access to the ERAP Portal. The Customer has the option to keep the ERAP Portal "Active" or to transition to a Maintenance Portal.

- (i) For an Active Portal, the renewal offer will be based on .9% of any ERAP allocations to be expended in the upcoming renewal period or the number of licenses utilized in the ERAP Portal at the time of renewal at \$2,400.00 per license (whichever is higher). If utilizing the per license model, the following minimums apply:

# Tenant applications	Minimum License Count	Minimum Annual Costs
<10,000	5	\$12,000.00
10,000 – 50,000	10	\$24,000.00
50,001+	Total Tenant App/5,000*	\$26,400.00+

\*Rounding up to the nearest whole number (Example: If you have 51,000 applications:  $51,000/5,000 = 10.2$ ; the minimum license count would be 11 - you are not required to use 11 licenses, this just determines the minimum cost).

The renewal term will be for one (1) year and will automatically renew for consecutive one (1) year periods unless the Customer notifies Company of its intent to transition to a Maintenance Portal or requests termination at least thirty (30) days prior to the end of the then-current term.

- (ii) If the Customer has expended all ERAP funding at the time of renewal, then the Customer will have the option to transition to a Maintenance Portal as referenced in Exhibit C. **The Customer is responsible for notifying Company of its intent to transition to a Maintenance Portal.** If the Customer does not notify the Company, this Agreement will renew in accordance with subsection (b)(i) of this Section. Once the ERAP Portal is transitioned to a Maintenance Portal, this Agreement will automatically renew for consecutive one (1) year periods at the price provided in Exhibit C, unless the Customer requests termination at least thirty (30) days prior to the end of the then-current term.

**PLEASE NOTE: ONCE A PORTAL HAS BEEN DISABLED, THE UNDERLYING DATABASE WILL BE PERMANENTLY DESTROYED. THE DATABASE CANNOT BE RESTORED FROM THE RAW DATA FILES. DATA WILL BE PROVIDED IN ACCORDANCE WITH SUBSECTION D OF THIS SECTION. NEIGHBORLY SOFTWARE'S USER INTERFACE (UI) ORGANIZES THE DATA INTO STRUCTURES THAT MAKE DATA EASY TO RETRIEVE AND UNDERSTAND. IF YOU ANTICIPATE ONGOING AUDIT, COMPLIANCE, OR REPORTING NEEDS, SIMPLY HAVING THE RAW DATA MAY NOT BE SUFFICIENT TO ADDRESS THESE NEEDS.**

- c. Termination for Cause. This Agreement may be terminated by either Party for cause by providing written notice (via e-mail) to the other Party upon the occurrence of any of the following events (each, an "Event of Default"):

  - (i) If the other Party ceases to do business, or otherwise terminates its business operations, except as a result of an assignment permitted under this Agreement;
  - (ii) If the other Party materially breaches any material provision of this Agreement and fails to substantially cure the breach within ten (10) business days of receipt of written notice describing the breach; or
  - (iii) If the other Party becomes insolvent or seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition, or comparable proceeding, or if any such proceeding is instituted against the other Party and not dismissed within sixty (60) days; provided however that in such event, termination will not require notice to the other Party.

- d. Effect of Termination. Upon the termination of this Agreement, Company shall disable the Company's website portal and provide the Customer with a final extract of the Customer Data via the Secure File Transfer Protocol (SFTP), within a reasonable time, not to exceed thirty (30) days from the date of the termination. The extraction and transfer of the Customer Data will be provided without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Service Provider).

Within thirty (30) days from the date of the final extraction and transfer of the Customer Data via the SFTP, the Company shall provide Customer with a Termination of Services and Final Data Destruction Agreement (the “Termination Agreement”), which will provide the details regarding termination of services and final data destruction, a sample copy of which is attached hereto as Exhibit “B”. The Customer acknowledges and agrees that if the Termination Agreement is not executed and returned by the Customer within fifteen (15) days, the Company will follow the default process which provides for final destruction of Customer Data forty-five (45) days after the final extraction and transfer via the SFTP. The Customer acknowledges and agrees that the Company has no obligations whatsoever with regard to the Customer Data following the final destruction. The Company will provide the Customer with a Certification of Data Destruction when the Customer Data has been permanently deleted in accordance with this subsection. This Section shall survive the termination of this Agreement.

## **7. WARRANTY AND DISCLAIMER**

- a. **Company Warranty.** Company represents and warrants the following: (a) the Documentation sufficiently describes features, functionality, and operation of the Software as applicable; (b) the Software, as applicable, conforms to the Documentation and is free from defects in material and workmanship; (c) the Software does not contain any viruses or other malicious threats, programs, features, or devices (“Viruses”) that could harm Customer, and Company uses commercially reasonable efforts to prevent and eradicate such Viruses. Furthermore, consistent with prevailing industry standards, Company shall maintain the Software in a manner which minimizes errors and interruptions and shall perform the Services in a professional and workmanlike manner. Notwithstanding the foregoing, the Software may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, or because of other causes beyond Company’s reasonable control, but Company shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.
- b. **Loss of Data.** In the event of any act, error or omission, negligence, misconduct, or breach that compromises or is suspected to compromise the security, confidentiality, or integrity of Customer Data or the physical, technical, administrative, or organizational safeguards put in place by Company that relate to the protection of the security, confidentiality, or integrity of Customer Data, Company shall, as applicable: (i) notify Customer as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (ii) cooperate with Customer in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by Customer; and (iii) in the case of Personally Identifiable Information (PII), at Customer’s sole election, notify the individuals whose PII was compromised as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legal requirement, within five (5) calendar days of the occurrence; and/or (iv) perform or take any other actions required to comply with applicable State law as a result of the occurrence.
- c. **DISCLAIMER.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE AND SERVICES ARE PROVIDED “AS IS” AND COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. COMPANY DOES NOT WARRANT THAT THE SERVICES WILL BE ERROR-FREE OR UNINTERRUPTED OR MAKE ANY WARRANTIES AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SOFTWARE AND SERVICES. THE LIMITED WARRANTIES PROVIDED HEREIN ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED TO CUSTOMER IN CONNECTION WITH THE PROVISION OF THE SOFTWARE AND SERVICES.

## **8. INDEMNITY**

- a. Company will indemnify, defend, and hold harmless the Customer against all claims, suits and actions asserted by an unaffiliated third party against the Customer for liabilities, damages and costs, including reasonable attorneys’ fees, incurred in the defense of any claim brought against Customer alleging that any Software or Services infringes or misappropriates a third-party’s U.S. registered patent right, trademark, or copyright (an “Infringement Claim”), provided Company is promptly notified of any and all threats, claims, and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement. Customer shall not settle or compromise such Infringement Claim without the express written consent of the Company.
- b. Company’s indemnity obligation under this Section shall not extend to claims that arise from:

- (i) An unauthorized modification of the Software or Services by Customer where the Software or Services would not be infringing without such modifications;
- (ii) Customized portions of the Services designed in accordance with written specifications provided by Customer where the Software or Services would not be infringing but for Company's compliance with such written specifications;
- (iii) The failure of Customer to install an update to the Software or Services provided by Company that would have avoided the actual or alleged infringement;
- (iv) The combined use by Customer of the Software or Services with other components, products, or services not provided by Company where the Software or Services would not be infringing but for such combination; and/or
- (v) Workflows, analytic applications, algorithms, or other applications or programming built by Customer or created by or on behalf of Customer without Company's approval.

## 9. LIMITATION OF LIABILITY

- a. NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR LIABILITY RESULTING FROM (1) A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS SET FORTH IN PARAGRAPH 4; (2) A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN PARAGRAPHS 3(D) AND 8; OR (3) A PARTY'S WILLFUL MISCONDUCT OR FRAUD, IN NO EVENT SHALL EITHER PARTY BE RESPONSIBLE OR LIABLE FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED, TO LEGAL FEES AND EXPENSES), WHETHER FORESEEABLE OR UNFORESEEABLE, THAT MAY ARISE OUT OF OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY THEORY INCLUDING, BUT NOT LIMITED TO, BREACH OF CONTRACT, BREACH OF WARRANTY OR NEGLIGENCE. EXCEPT FOR LIABILITY RESULTING FROM (1) A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS SET FORTH IN PARAGRAPH 4; (2) A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN PARAGRAPHS 3(D) AND 8; OR (3) A PARTY'S WILLFUL MISCONDUCT OR FRAUD. IN NO EVENT WILL THE AGGREGATE LIABILITY OF EITHER PARTY EXCEED THE GREATEST AMOUNT OF THE FEES PAID OR OWED BY EITHER PARTY UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM OR THE AMOUNT OF INSURANCE COVERAGE PROVIDED FOR PARTICULAR CLAIM, WHICHEVER IS GREATER. THE LIMITATIONS IN THIS SECTION FORMED A BASIS FOR ENABLING EACH PARTY TO OFFER AND ACCEPT THE TERMS HEREIN.

## 10. INSURANCE

- a. During the course of performing its duties under this Agreement, Company agrees to maintain the following levels of insurance: (a) Commercial General Liability of at least \$2,000,000 in aggregate and \$1,000,000 each occurrence; (b) Professional Liability (E&O) of at least \$5,000,000; (c) Cyber Liability of at least \$5,000,000; (d) Commercial Auto Insurance for Hire and Non-owned vehicles of at least \$1,000,000; and (e) Workers Compensation complying with applicable statutory requirements. Company will provide Customer with copies of certificates of insurance prior to the commencement of this Agreement. .

## 11. DISPUTE RESOLUTION

- a. With the exception of actions for injunctive relief for actions arising under the Confidentiality provisions of Section 3 of this Agreement, the Parties intend that any and every dispute by and between them, including but not limited to any dispute arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, be resolved in accordance with the laws of the State of Illinois, without regard to its conflicts of laws rules, and further shall be brought and heard in the 18<sup>th</sup> Judicial Circuit Court located in DuPage County, Illinois...

## 12. NOTICE

- a. Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient when delivered (a) personally or by overnight courier, (b) sent by email, or (c) forty-eight (48) hours after being deposited in the U.S. mail as certified or registered mail with postage prepaid, addressed to the party to be notified at such party's address or email address as set forth in this section. E-mail is the preferred method of notice. Any change of address, e-mail address, telephone number, or person to receive notice shall be made by notice given to the other Party.
- b. Addresses. Subject to change pursuant to this Section above, the addresses for notices are as follows:

**For the Company:**

Jason Rusnak  
Benevate, Inc. (dba Neighborly Software)  
3423 Piedmont Rd, NE  
Atlanta, GA 30305  
Phone:  
Email: [Jason.Rusnak@NeighborlySoftware.com](mailto:Jason.Rusnak@NeighborlySoftware.com)

Sarah Bohentin  
Benevate, Inc.  
Phone: 850-363-1717  
Email: [Sarah.Bohentin@NeighborlySoftware.com](mailto:Sarah.Bohentin@NeighborlySoftware.com)

**For the Customer:**

Mary A. Keating, Director  
DuPage County Community Services  
421 N. County Farm Rd.  
Wheaton, IL 60187  
Phone: 630-407-6457  
Email: [Mary.Keating@dupageco.org](mailto:Mary.Keating@dupageco.org)

Joan Fox, Administrator, Housing Supports and Self-Sufficiency  
DuPage County Community Services  
421 N. County Farm Rd.  
Wheaton, IL 60187  
Phone: 630-407-6426  
Email: [Joan.Fox@dupageco.org](mailto:Joan.Fox@dupageco.org)

**13. MISCELLANEOUS**

- a. Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.
- b. Waivers. No waiver of any provision of this Agreement or consent to any action shall constitute a waiver of any other provision of this Agreement or consent to any other action. No waiver or consent shall constitute a continuing waiver or consent or commit a Party to provide a future waiver. Any provision of this Agreement may be waived only with the written consent of the Parties. .
- c. Entire Agreement & Amendments. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein.
- d. Assignment. This Agreement is not assignable, transferable, or sub-licensable by either Party without the other Parties prior written consent, except as such assignment, transfer or sublicense is in connection with a merger, acquisition, or similar change of control event.
- e. Relationship. No agency, partnership, joint venture, or employment is created as a result of this Agreement and the Parties do not have any authority of any kind to bind the other Party in any respect whatsoever.
- f. Force Majeure. Neither Party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of amounts due) to the extent caused by strikes, shortages, riots, insurrection, fires, flood, storm, explosions, pandemics, acts of God, terror, war, governmental action, labor conditions, earthquakes, material shortages or any other cause which is beyond the reasonable control of such party. Upon an occurrence of an event of force majeure, Company cannot ensure uninterrupted or error free service or access to the Software or Services and there may be periods where access is delayed, limited or unavailable. Company shall use commercially reasonable efforts to provide the Software



or Services to Customer in accordance with its Business Continuity and Disaster Recovery Plan a copy of which will be provided upon written request.

- g. This Agreement shall be governed and construed in all respects in accordance with the laws of the State of Illinois.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURE PAGE FOLLOWS**

**SIGNATURE PAGE**

**BENEVATE, INC.**  
**Signature on File**

**THE COUNTY OF DUPAGE, IL**

By:  \_\_\_\_\_

By: \_\_\_\_\_

Name: J. Jason Rusnak \_\_\_\_\_

Name: \_\_\_\_\_

Title: President, Benevate, Inc. \_\_\_\_\_

Title: \_\_\_\_\_

## **EXHIBIT A**

### **Service Level Terms**

This Exhibit A outlines the Company's commitments to provide Support Services and problem resolution regarding the performance of the Software and/or Services.

#### **1. Definitions.**

- a. "Error" means a failure of the Software to perform in accordance with the Documentation, resulting in the inability to use, or material restriction in the use of, the Software.
- b. "Scheduled Downtime" means any period of time during which the Software or Services are unavailable due to the Company's planned maintenance and support of the Software or Services. Scheduled Downtime and are excluded from the 99.5% Service Availability calculation.
- c. "Support Services" means technical support assistance provided by Company personnel to Customer's designated administrators for problem resolution, bug reporting, and/or technical assistance.
- d. "Unscheduled Downtime" means any time the Software is not available due to an event or circumstance excluding Scheduled Downtime or Force Majeure and the amount of time required by Company to resolve or provide a work around for the failure of any documented feature required to complete a primary function of the Software in accordance with the Documentation.
- e. "Update" means any error correction, bug fix, patch, enhancement, improvement, update, upgrade, new version, release, revision or other modification to the Software or Services provided or made available by the Company pursuant to the Agreement, including, without limitation, any update designed, intended, or necessary to make the Software, Services, or Customer's use thereof compliant with applicable law.

#### **2. Service Availability.**

- a. Company will use commercially reasonable efforts to maintain the availability of the Software to the Customer at 99.5%. All Updates will be completed outside of standard business hours (same as Support Hours). Notification of Updates will not be provided unless downtime is expected. If major Updates are required during standard business hours due to necessity, Company will provide notification to Customer as soon as reasonably possible. Updates during Scheduled Downtime and are excluded from the 99.5% Service Availability calculation.

#### **3. Technical Support.**

- a. Availability. With the exclusion of Federal Holidays, Technical Support is available from 8:00 a.m. to 8:00 p.m. EST, Monday - Friday. ("Support Hours").
- b. Procedure. Customer must initiate a helpdesk ticket during Support Hours by sending an email to support@neighborlysoftware.com. Company will use commercially reasonable efforts to respond to all Help tickets in the manner set forth in Paragraph 4.
- c. Conditions for Providing Support. Company's obligation to provide Software or Services in accordance with the stated Service Availability is conditioned on Customer providing Company with sufficient information and resources to correct the Error, as well as access to the personnel, hardware, and any additional systems involved in discovering the Error.

#### **4. Ticket Resolution.** Company will use all commercially reasonable efforts to resolve support tickets in the process described below. Response metrics are based on issues being reported during Support Hours.

- a. Standard Ticket: Issue does not significantly impact the operation of the software or there is a reasonable

workaround available.

- (i) Response Metric: Neighborly Software will use commercially reasonable efforts to respond and resolve all Standard tickets within eight (8) business hours of notification.
  - b. Priority Ticket: Software is usable, but some features (not critical to operations) are unavailable.
    - (i) Response Metric: Neighborly Software will use commercially reasonable efforts to respond to all Priority tickets within two (2) hours and resolve Priority tickets within six (6) business hours of notification.
  - c. Emergency Ticket: Issue has rendered software unavailable or unusable, resulting in a critical impact on business operations. The condition requires immediate resolution.
    - (i) Response Metric: Neighborly Software will use commercially reasonable efforts to respond to all Emergency tickets within one (1) hour and resolve Emergency tickets within two (2) business hours of notification.
5. **Remedies.** If Customer reasonably believes that Company has failed to achieve its Service Availability commitments in any given month, the Company shall, following Customer's written request, provide a report that contains true and correct information detailing Company's actual Service Availability performance. Customer must have reported an issue with the Service Availability within the calendar month and must request the report within ten (10) days of the end of the calendar month. The sole remedies for failure to meet the Service Availability level of commitment is a service refund based on the following:
- a. less than 99.5% but equal to or above 97%, Company shall provide Customer with a root cause analysis and a written plan for improving Company's Service Availability to attain the 99.5% Service Availability and Company shall promptly implement such plan;
  - b. between 96.9% and 93%, Company shall provide Customer with a service refund in an amount equal to 10% of the prorated amount of the License Fees for one month;
  - c. between 92.9% and 90%, Company shall provide Customer with a service refund in an amount equal to 25% of the prorated amount of the License Fees for one month;
  - d. Less than 90%, Company shall provide Customer with a service refund in an amount equal to 100% of the prorated amount of the License Fees for one month;
6. **Exclusions.** Company shall have no liability for, and shall make no representations or warranties respecting Service Availability or lack of availability of the Software due to: (1) outages caused by the failure of public network or communications components; (2) outages cause by a Force Majeure event; (3) outages or Errors caused by the Customer's use of any third-party hardware, software, and/or services; (4) Errors caused by the individual Authorized User's desktop or browser software; (5) Errors caused by the Customer's negligence, misconduct, hardware malfunction, or other causes beyond the reasonable control of the Company; and/or (6) Customer has not paid License Fees under the Agreement when due.

**EXHIBIT B**

**Sample Termination of Services and Data Destruction Agreement**

This Termination of Services and Final Data Destruction Agreement is made as of **[Effective Date]**, by and between Benevate, Inc. d/b/a Neighborly Software, a Delaware corporation (the “Company”), and **[Full Legal Name]** (the “Customer”), collectively referred to as the “Parties.”

Pursuant to the Software as a Service Agreement, attached hereto as Exhibit “A” (referred to as the “Agreement”), the Company has housed the Customer Data (defined as any non-public, personal information provided by the Customer to the Company to enable the provision of Services).

1. The parties agreed to terminate the Agreement as of **[Date]** (Termination Date) and acknowledge and agree to the terms provided herein.
  - a. **Portal Disabled.** The Company disabled the Customer’s portal website on the Termination Date, restricting Customer’s ability to insert or alter any data in preparation for the final data extraction.
  - b. **Final Extraction of Customer Data.** Company completed a final extraction of the Customer Data and provided said data to the Customer on **[Date]** (**Final Extraction Date**), via the Secure File Transfer Protocol (SFTP).
  - c. **Loss of Access.** The Customer shall continue to have access to the Customer Data via the Secure File Transfer Protocol (SFTP) until **[Date]**, thirty (30) days from the Final Extraction Date.
  - d. **Customer Responsibility.** The Customer is solely responsible for retrieving and storing the data provided via the SFTP within this thirty (30) day period. If the Customer fails to retrieve and store the data, there is no recourse as the data will have been permanently deleted in accordance with subsection (e).
  - e. **Destruction of Data.** The Customer Data will be permanently deleted by the Company on **[Date]**, forty-five (45) days from the Final Extraction Date.
2. **Customer Acknowledgement.** The Customer acknowledges and agrees that the Company has no obligations whatsoever with regard to the Customer Data following the final destruction of the data as referenced above.

The parties have executed this Termination of Services and Final Data Destruction Agreement as of the date first above written.

## **EXHIBIT C**

### **MAINTENANCE PORTAL FEATURES AND COST**

The Maintenance Portal includes the following:

- Hosting/Security in Microsoft FedRAMP Data Center
- Data Storage, Backup, and Recovery
- Technical Support (Monday – Friday: 8:00 a.m. to 8:00 p.m. EST)
- Access to all Tenant, Landlord, and Vendor (e.g. utility) cases and documents
- Access to the ERAP dashboard and Treasury reporting, including all required updates to Treasury reports
- Access to Report Builder for ad hoc reporting

The following changes will apply to the Maintenance Portal:

- Tenants and Landlords do not have ability to create new applications or edit existing cases (“Read Only” Access)
- Tenants do not have the ability to submit Additional Funding Requests
- New funding cannot be added or disbursed (Funding Tab will have “Read Only” Access)
- Approval functionality is disabled
- Support is provided by a general pool of Client Support Specialists; no assigned CSM
- Only the Users identified in Exhibit D, Maintenance Portal Users, will have continued access to the Maintenance Portal
- All other licenses will be deactivated (licenses can be added at any time)

The fees associated with the Maintenance Portal are as follows:

# Tenant applications	Annual Costs	# Admin Licenses Included*	# Read Only Licenses Included
<10,000	\$4,800	2	0
10,000 – 50,000	\$12,000	5	5
50,000+	\$12,000 + \$.08 per tenant application over 50,000	10	10

\* If necessary, additional Admin licenses may be purchased at \$2,400 per year

**PLEASE NOTE: ONCE A PORTAL HAS BEEN DISABLED, THE UNDERLYING DATABASE WILL BE PERMANENTLY DESTROYED. THE DATABASE CANNOT BE RESTORED FROM THE RAW DATA FILES. DATA WILL BE PROVIDED IN ACCORDANCE WITH SUBSECTION D OF SECTION 6. NEIGHBORLY SOFTWARE'S USER INTERFACE (UI) ORGANIZES THE DATA INTO STRUCTURES THAT MAKE DATA EASY TO RETRIEVE AND UNDERSTAND. IF YOU ANTICIPATE ONGOING AUDIT, COMPLIANCE, OR REPORTING NEEDS, SIMPLY HAVING THE RAW DATA MAY NOT BE SUFFICIENT TO ADDRESS THESE NEEDS.**

**EXHIBIT D****MAINTENANCE PORTAL USERS**

In the space provided, please identify those individuals who will continue to have Admin licenses and Read Only licenses when the portal transitions to a Maintenance Portal. Please note the number of licenses included based on the number of tenant applications in your portal (see chart below for reference). All other licenses will automatically be deactivated. You can make changes to this list prior to and during the term of the Maintenance Portal.

<b>Administrative Users</b>		
	<b>Name</b>	<b>Email Address</b>
<b>1</b>		
<b>2</b>		
<b>3</b>		
<b>4</b>		
<b>5</b>		
<b>6</b>		
<b>7</b>		
<b>8</b>		
<b>9</b>		
<b>10</b>		

<b>Read-Only Users</b>		
	<b>Name</b>	<b>Email Address</b>
<b>1</b>		
<b>2</b>		
<b>3</b>		
<b>4</b>		
<b>5</b>		
<b>6</b>		
<b>7</b>		
<b>8</b>		
<b>9</b>		
<b>10</b>		