

**NETWORK MAINTENANCE AGREEMENT**  
**AGREEMENT # MS2003-4101**

This agreement is made and entered into as of January 8, 2003, by and between Synergetics Diversified Computer Services, Inc. of P. O. Box 80264, Starkville, Mississippi 39759, hereinafter referred to as "Synergetics", and Leland School District, hereinafter referred to as "Client", having its primary location at 408 East Third Street, Leland, MS, 38756.

**WHEREAS**, Synergetics has reviewed the Client's Network Maintenance needs with Johnnie Gibson, Technology Coordinator, and is desirous of providing the Client with the needed Network Maintenance Services;

**WHEREAS**, the Client has reviewed Synergetics' capabilities and is desirous of Synergetics providing the Network Maintenance Services;

**NOW, THEREFORE**, in consideration of the promises and of the mutual covenants, conditions and agreements herein contained, the parties hereto, each intending to be legally bound, agree that the above recitals are incorporated into this Agreement and also agree as follows:

**1.0 Description of Services.** Beginning on the date of execution of this Agreement, Synergetics will provide the services (collectively, the "Services"), as described in Exhibit A of this document. If applicable, a listing of equipment to be serviced/maintained has also been provided in Exhibit B of this document.

**2.0 Synergetics Pricing Schedule.** For services rendered, Synergetics will submit an annual invoice to the Client according to the terms defined in Exhibit A of this document.

**3.0 Expense Reimbursement.** Unless expressly stated otherwise, Synergetics shall bear all "out of pocket" expenses related to travel and lodging. Expenses incurred for hardware, software, etc. as required by the task being performed, shall be borne by the Client. Client shall be provided estimation of these expenses, and Client will provide permission for these expenses and agreement to pay for these expenses, prior to the expense actually being incurred.

**4.0 Ownership.** The Client shall be the sole owner of any and all installed software and hardware, network configurations, network wiring and cabling, and other equipment physically installed in conjunction with this project. Synergetics shall make no claim to the aforementioned property; however, the following provisions apply with respect to copyrightable works, ideas, discoveries, inventions, applications for patents, patents, studies, reports, and research (collectively, Intellectual Property):

4.1 Synergetics' Intellectual Property. Synergetics holds an interest in the Intellectual Property activities that result from this Agreement.

4.2 Development of Intellectual Property. Any improvements to Intellectual Property items, further inventions or improvements, and any new items of Intellectual Property discovered or developed by Synergetics (or Synergetics' employees, if any) during the term of this Agreement shall be the property of Synergetics.

**5.0 Liability.** Synergetics will under no circumstances be liable to the Client or any other third party for indirect, special, incidental or consequential damages, losses or expenses, including but not limited to loss of profits, loss of business opportunities, loss of goodwill, loss of records or data, or loss of equipment use, even if Synergetics is advised of such damages, losses or expenses.

**6.0 Indemnification.** Client agrees to indemnify and hold Synergetics harmless from any claims, losses, expenses, fees including attorney fees, costs, and judgments that may be asserted against Synergetics and / or its employees that result from acts or omissions of Synergetics' and / or its employees, if any, and Synergetics' agents for any issues neither directly nor indirectly caused by Synergetics.

**7.0 Term and Termination**

7.1 Term. This Agreement, being entered into as of the aforementioned date, shall have service start date of July 1, 2003 and shall remain in term until June 30, 2004, at which time it may be renewed by mutual consent of the contracting parties.

7.2 Termination. Either party may terminate this Agreement at will by giving 30 days written notification to the appropriate agent listed hereunder:

If to Synergetics:

Synergetics Diversified Computer Services, Inc.  
P. O. Box 80264  
Starkville, MS 39759  
Attn: David Palmer  
CEO

If to the Client:

Leland School District  
408 E. 4th Street  
Leland, MS 38756  
Attn: Johnnie Gibson  
Technology Coordinator

and by fulfilling their respective obligations upon termination as outlined in 7.3.

7.3 Obligations Upon Termination. Upon the effective date of termination of this Agreement by either party for any reason the following provisions apply:

- (i) All sums owed by the Client to Synergetics will be immediately due and payable;
- (ii) The Client will return to Synergetics any and all property belonging to Synergetics; and
- (iii) Synergetics will return to the Client any and all property belonging to the Client.

**8.0 Confidentiality.** Each party acknowledges that it may from time to time receive Confidential Information from the other party. Each party agrees not to disclose such Confidential Information of the other party, except as expressly permitted herein. Each party shall prevent any unauthorized person from having access to the other party's Confidential Information, shall return any such Confidential Information to the other party at any time upon request and shall return or destroy all copies of such Confidential Information immediately after termination of this Agreement. A violation of this paragraph shall be a material violation of this Agreement.

**9.0 Unauthorized Disclosure of Information.** If it appears that either party has disclosed (or threatened to disclose) information in violation of this Agreement, the harmed party shall be

entitled to an injunction to restrain the violating party from disclosing, in whole or in part, such information, or from providing any services to any party to whom such information has been disclosed or may be disclosed. The harmed party shall not be prohibited by this provision from pursuing other remedies, including a claim for losses and damages.

**10.0 Confidentiality After Termination.** The confidentiality provision of this Agreement shall remain in full force and effect after the termination of this Agreement.

**11.0 Hiring of Synergetics' Employees.** Prior to the target date of the completion of this Agreement and for a period of two years after the termination of this Agreement, Client will not hire or offer to hire, either directly or indirectly, any employee of Synergetics without Synergetics' written consent. Likewise, Synergetics will not hire or offer to hire, either directly or indirectly, any employee of Client without Client's written consent.

**12.0 Billing and Collections.** Client agrees to abide by Synergetics' Billing and Collections Policy as shown below:

- 12.1 Synergetics will promptly render invoices to Client.
- 12.2 Client agrees to render payment for invoices promptly.
- 12.3 Any outstanding balance that remains unpaid beyond thirty (30) calendar days of Invoice rendering is considered past due.
- 12.4 The client is expected to pay interest expense on the outstanding balance. A 1.5% per month interest expense accrues from the date of the invoice(s). This interest expense will not be charged if the invoice is paid within thirty (30) days. Outstanding balances older than thirty (30) days will have the interest expense added to the amount outstanding.
- 12.5 If a balance remains unpaid for a period of ninety (90) calendar days, Synergetics may assign this overdue balance to a third party for the purpose of collecting the overdue balance.

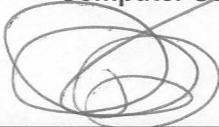
**13.0 Miscellaneous.**

- 13.1 Notices. Notices required during the term of this Agreement if given by regular mail or electronic means generating a hard copy printout shall be deemed to have been given or made when delivered personally or placed, properly addressed and postage prepaid, in the mail of any jurisdiction or communicated by telefax or similar electronic means. All notices will be given by one party to the other at the addresses indicated in 13.2, unless change thereof previously has been given in writing to the party giving notice.
- 13.2 Amendment. This Agreement may be modified only by a written amendment executed by duly authorized officers or representatives of both parties.
- 13.3 Severability. If any one or more provisions of this Agreement is declared invalid or unenforceable, the same shall not affect the validity or enforceability of any other provision of this Agreement if the essence of the parties' agreement is retained, and such invalid or unenforceable provision shall be limited or curtailed only to the extent necessary to make such provision valid and enforceable.
- 13.4 Wavier. Any failure of either party to enforce any of the provisions of this Agreement will not be construed as a waiver of such provisions or the right of the party thereafter to enforce each and every such provision.

- 13.5 No Third Party Beneficiaries. The parties specifically intend and agree that no one other than the parties to this Agreement shall be deemed to be a third party beneficiary of any of the rights or obligations set forth in this Agreement.
- 13.6 Exhibits and Schedules. All exhibits and schedules to this Agreement, if any, are hereby incorporated by reference into, or made a part of, this Agreement.
- 13.7 Entire Agreement. All prior proposals, understandings, and other agreements, whether oral or written, between the parties that relate to this subject matter are hereby superseded and merged into this Agreement. This agreement constitutes the full and entire understanding and agreement between the parties with regard to the subject matter hereof. The express terms hereof control and supersede (i) all oral or written understandings of the subject matter hereof and (ii) any course of performance and/or usage of trade inconsistent with any of the terms hereof.
- 13.8 Applicable Law. The Agreement shall be governed by the laws of the State of Mississippi.
- 13.9 Funding Contingency. If this Agreement is to be funded using E-rate discounts, the entire Agreement is contingent upon the Client receiving the requested E-rate funding provided by the Universal Service Fund, of which the fund administrator is the Schools and Libraries Division of the Universal Service Administrative Company. Both contractual parties will honor the decision of the Schools and Libraries Division and the appropriate action will be taken at the time of funding approval or denial.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be signed by their duly authorized officers or representatives as of the date first written above.

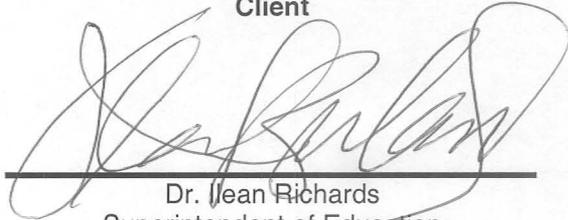
**Synergetics Diversified  
Computer Services, Inc.**



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David A. Palmer  
CEO

**Client**



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Dr. Jean Richards  
Superintendent of Education

## EXHIBIT A

Synergetics will provide the Client with the following Network Maintenance services for the term of one year as defined in the Agreement.

### **ANNUAL NETWORK MAINTENANCE AGREEMENT**

This Network Maintenance Agreement provides for an annual contract for telephone, remote, and on-site network maintenance and support. The Maintenance Agreement Type defines the level of support personnel required. The Minimum Monthly Commitment establishes the Client commitment for the minimum number of hours to be used per month during the contract period. The Class defines the percentage discount from standard hourly rates based on the Monthly Commitment.

<b>80/20 MAINTENANCE CONTRACT</b>						
<b>Class</b>	<b>% Off Standard Rate</b>	<b>Monthly Commitment</b>	<b>Hourly Rate</b>		<b>Monthly Amount</b>	<b>Annual Amount</b>
0	0%	0	\$ 65.00		N/A	N/A
1	5%	32	\$ 62.00	\$	1,984.00	\$ 23,808.00
2	10%	64	\$ 59.00	\$	3,776.00	\$ 45,312.00
3	15%	96	\$ 55.00	\$	5,280.00	\$ 63,360.00
4	20%	128	\$ 52.00	\$	6,656.00	\$ 79,872.00

<b>NETWORK ENGINEER MAINTENANCE CONTRACT</b>						
<b>Class</b>	<b>% Off Standard Rate</b>	<b>Monthly Commitment</b>	<b>Hourly Rate</b>		<b>Monthly Amount</b>	<b>Annual Amount</b>
0	0%	0	\$ 95.00		N/A	N/A
1	5%	4	\$ 90.00	\$	360.00	\$ 4,320.00
2	10%	8	\$ 86.00	\$	688.00	\$ 8,256.00
3	15%	12	\$ 81.00	\$	972.00	\$ 11,664.00
4	20%	16	\$ 76.00	\$	1,216.00	\$ 14,592.00

Selected Maintenance Agreement Type is **80/20 Maintenance Contract**.

Selected Minimum Monthly Commitment is **128** hours/month.

Agreement Hourly Rate is **\$ 52**.

Agreement Annual Cost is **\$ 79,872**.

Payment made on an annual basis at the start of each year for the term of the Agreement. Hours used up to the monthly amount will incur no additional charge. Hours may be used in excess of the monthly amount and will be billed at the Agreement Hourly Rate. Unused monthly hours may be carried over from month to month and applied to decrease any excess hours used in subsequent months. Unused hours at the end of the Agreement term will be forfeited.

Any services, hardware, software, and/or incidental items supplied by Synergetics in addition to those shown above will result in additional costs. A cost estimate for additional items will be provided and the customer will approve such items prior to incurring the expenditure.

Charges include all services provided by Synergetics including telephone support, remote technical support, on-site technical support, and travel. The Client is reminded that charges are incurred other than time expended on Client's site(s). Travel charges are incurred on a per person basis beginning with the departure of Synergetics' personnel from Synergetics' facilities and ending with the return of Synergetics' personnel to Synergetics' facilities, including travel between Client locations. The minimum unit of time charged is one-quarter hour.

## **EXHIBIT B**

### **LOCATIONS SERVICED BY THIS AGREEMENT**

This Agreement covers the following Client locations. Additional locations may be added, as required, by written, mutual agreement:

- All locations operated by the Leland School District

### **HARDWARE / NETWORK EQUIPMENT / INFRASTRUCTURE MAINTAINED BY THIS AGREEMENT**

The following hardware, network equipment, and network infrastructure is maintained by this Agreement:

- Any and all existing network hardware, equipment, and infrastructure.
- Any and all network hardware, equipment, and infrastructure added during the term of this agreement.