

MAINTENANCE AGREEMENT TERMS AND CONDITIONS

1. Definitions

"Support Organization" means ST or at ST's option in respect of any service to be performed hereunder means a person, firm or corporation authorized by ST at any time or from time to time to supply Software Maintenance in respect of Software and nominated in writing by ST at any time or from time to time to provide Software Maintenance to the Customer hereunder; "Start Date" means the date referred to in Section 3; "Customer" means the customer referred to on the Maintenance Agreement page; "Initial Period" means the twelve (12) calendar months next ensuing after the Start Date; "Software" means the software detailed on the Maintenance Agreement page; "Software Updates" means bug fixes, documentation improvements and minor feature additions; "Software Support" means advice on operating the Software, advice on problems with the Software (given over the telephone or in writing and includes the provision of Software notes by ST); "Software Maintenance" means the services specified on the Maintenance Agreement page. "Related Persons" means and includes any related body corporate of ST (as defined in section 50 of the Corporations Law) or any director, secretary, officer or employee, agent or Agreement or of any of ST or its related bodies corporate.

2. Services

Subject to the terms and conditions contained in this Agreement the Support Organization will provide Software Maintenance as may be necessary to maintain the Software in good operating condition.

3. Term

The Software Maintenance to be supplied under this Agreement will start upon the date of signing of this Agreement by ST and shall remain in force for the Initial Period and thereafter will be automatically renewed for further periods of one (1) year unless otherwise terminated by either party giving to the other not less than one (1) months' notice in writing of such termination prior to any yearly anniversary of the Start Date.

4. Software Updates

- I. ST will distribute new releases of Software Updates directly to the Customer via secure mailbox as and when they become available.
- II. ST will from time to time distribute documentation for the purpose of Software Updates.

5. Software Support

In the event, Software Support is purchased by the Customer:

- I. The Support Organization will provide technical customer support through the Help Desk, 8-5 EST, 5 days a week exclusive of Source Technologies' holidays via telephone and/or electronic mail support for problems associated with the routine use and operation of the software. Progress report every 48 hours in issues that cannot be immediately resolved.
- II. Free software upgrades
- III. The Support Organization will, at its discretion, provide "dial up" support via Cisco Webex software or the Customer's online meeting software (if desired), and give The Support Organization rights to access the computer where the Software is installed.
- IV. Upon request of the Customer, ST shall provide on-site support within a mutually agreed time frame between the parties, not to exceed five (5) business days after the receipt of a signed Statement of Work or Purchase Order authorizing the Customer to be billed for time, material and travel and where telephone support and dial-up support fails to correct any material error, malfunction or nonconformity. All On-Site Support and travel will be billed to the Customer on a time and material basis.

6. Software Inspection

For existing installed software not under warranty to be eligible for maintenance under this Agreement, the software must be fully operational at the time such software is placed under maintenance. If, in ST's reasonable, good faith judgment, the software appears not to be operational, per specifications, ST may perform an inspection of the software with approval from Customer as a condition of acceptance. ST may perform the inspection as a billable service and customer will be invoiced at ST's applicable time & material rate.

7. Services Not Covered

The following services are not covered by this Agreement provided however they may be provided by a mutual agreement at the request of the Customer at charges based on ST's then current price list and as agreed by both parties.

- I. Maintenance of facilities external to the Software.
- II. Repair or damage resulting from malfunction of external electrical power, air conditioning, water damage, fire damage, burglary, theft, vandalism, civil commotion or war.
- III. Rectification of problems caused by use of software not covered by this Agreement.
- IV. Refurbishment of Software.
- V. Supervision of repairs on associated equipment.

8. Customer Responsibilities

- I. The Customer must have a valid license to use the Software from ST or an authorized reseller
- II. The Customer shall notify the Support Organization of any Software problem together with complete information concerning the failure, as soon as possible after the problem has occurred.
- III. The Customer will provide the Support Organization if requested with the following:
 1. Name of nominated personnel who are competent to use the Software.
 2. Access to the Software and computer(s) on which it resides.
 3. Adequate working space and facilities;
 4. Access to and use of all information necessary to service the Software.
 5. The Customer shall be responsible for security of its confidential, proprietary and classified information as well as for the maintenance of adequate backup procedures for files, as ST will not be responsible for loss of or altered files, data or programs.
 6. The Customer agrees to provide an installation environment which meets the specified requirements of the computer on which the software is running particularly in relation to electricity supply, air conditioning, service clearances, cable runs and, in the event that the Support Organization agrees at the request of the Customer to send personnel to the Customer's premises, safety of the Customer's and the Support Organization's personnel; and
 7. The Customer agrees to limit use of the Software Maintenance Services that are the subject of this Agreement to occasions when the Software fails to work as set forth in the user manuals or occasions where the user manuals are unclear.

9. INVOICING, PAYMENT AND PRICE CHANGES.

Maintenance charges shall begin on the Start Date from Section 3 above and shall be billed in advance. Receipt of invoice payment will serve as acceptance of this Agreement. In the event Customer is in default of its payment obligations under the Agreement, in addition to ST's other remedies, ST may suspend its performance of services under this Agreement until Customer is no longer in default of such payment obligations and pays an additional fifteen (15) percent late payment fee to reprocess the Agreement. If Customer defaults on payment of Agreement, ST reserves the right to cancel the Agreement. If Customer withdraws Equipment or cancels this Agreement before the end of the term, the customer will forfeit any prepaid funds and ST is under no obligation to refund any remaining prepaid amounts to the customer.

10. Annual Maintenance Fee

For the Initial Period shall be the amount set out on the Maintenance Agreement page that equates to 20% of the software license list price. Fees for subsequent renewal periods of one (1) year shall be ST's then current standard annual fee for maintenance of the Software. Annual fees may be invoiced up to ninety (90) days prior to the expiration of the previous period. Fee's due date is subject to NET30 Terms and shall be due within thirty (30) days of the Invoice Date.

11. Changes to Software Maintenance Agreement

During the term of the Agreement no changes shall be made to the terms and conditions contained herein other than by variation agreed to by both parties and comprised in a written variation hereof.

12. Extraordinary Expenses

The Support Organization reserves the right to charge for unusual or excessive telephone, shipping, handling media or user manual expenses in connection with the Software Support to be provided hereunder. In all cases, the Support Organization will notify the Customer of these costs in advance.

13. Assignment

The Customer may not assign this Agreement to a third party without the prior written agreement of ST. It is at ST's sole discretion to accept assignment to third party.

14. Force Majeure

ST shall not be responsible or liable for failure to perform or observe, or for delay in performing or observing any obligation under this Agreement where such failure or delay arises from any cause beyond the control of ST or the Support Organization (as appropriate), including, but not limited to, strikes, lockouts, industrial action, act of god, insurrection, or civil commotion, or any other cause which ST or the Support Organization (as appropriate) could not reasonably be expected to have foreseen and avoided.

15. Limitation of Liability

Laws from time to time in force in the jurisdiction where any Service to be performed hereunder is performed may imply warranties or liabilities which cannot be excluded, or which can only be excluded to a limited extent. In which case, ST hereby limits its liability to the extent permitted by law. If ST cannot exclude or limit any warranty implied by law, this Agreement shall be read and construed subject to such statutory provisions.

SUBJECT TO THIS CLAUSE UNDER NO CIRCUMSTANCES WILL ST OR ITS RELATED PERSONS BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, OR INCIDENTAL DAMAGES, WHETHER FORESEEABLE OR UNFORESEEABLE, BASED ON CLAIMS OF CUSTOMER OR ITS CUSTOMERS (INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR LOSS OF DATA, GOODWILL, PROFITS, USE OF MONEY OR USE OF THE SOFTWARE, INTERRUPTION IN USE OR AVAILABILITY OF DATA, STOPPAGE OF OTHER WORK OR IMPAIRMENT OF OTHER ASSETS), ARISING OUT OF BREACH OF EXPRESS OR IMPLIED WARRANTY, BREACH OF AGREEMENT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE, EXCEPT ONLY IN THE CASE OF PERSONAL INJURY WHERE AND TO THE EXTENT THAT APPLICABLE LAW PROHIBITS EXCLUSION OF SUCH LIABILITY. IN NO EVENT WILL THE AGGREGATE LIABILITY WHICH ST AND ITS RELATED PERSONS MAY INCUR IN ANY ACTION OR PROCEEDING ARISING OUT OF PERFORMANCE OR NONPERFORMANCE OF THIS AGREEMENT EXCEED THE TOTAL AMOUNT ACTUALLY PAID TO ST BY CUSTOMER FOR THE SPECIFIC PRODUCT OR SERVICE THAT DIRECTLY CAUSED THE DAMAGE. IN THE EVENT THAT IT IS ESTABLISHED TO ST'S SATISFACTION THAT ANY SOFTWARE MAINTENANCE OR OTHER SERVICE CARRIED OUT BY ST UNDER THIS AGREEMENT WAS DEFECTIVE, ST SHALL REMEDY SUCH DEFECTIVE MAINTENANCE BY PROVISION OF THE SAME SERVICE AGAIN WITHOUT COST TO THE CUSTOMER.

16. Applicable Laws

This Agreement shall be governed and construed in accordance with the laws of the State of Delaware and each party thereto submits to the jurisdiction of the Courts of that State and any Courts, which may hear appeals therefrom.

17. Entire Agreement

This Agreement and the Maintenance Agreement page and any variations subsequently made to the terms of this Agreement as provided herein, constitute the entire agreement between the parties in respect of the subject matter hereof and supersedes all proposals or prior agreements, whether oral or written, and all other communications between the parties relating to the subject matter of this Agreement.

18. Legal Fees

If any litigation or arbitration is commenced to enforce any of the provisions of this Agreement, to recover damages for breach of any of the provisions of this Agreement, or to obtain declaratory, injunctive or specific relief in connection with any of the provisions of this Agreement, the prevailing party in such action shall be entitled to recover actual legal fees and costs on a solicitor/client basis, and expert witness fees and associated expenses incurred, and all other court costs and costs of the arbitration process irrespective of any laws or court rules to the contrary.

19. Severability

If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, it shall be severed here from and the remaining provisions of this Agreement will remain in full force and effect and will not be affected, impaired or invalidated.