

SOFTWARE MAINTENANCE AGREEMENT

Location: _____ Contract Number: _____

PARTIES:

Service Provider (Company Name): _____

Address: _____

Contact Person: _____

Phone/Email: _____

Client:

Company Name: _____

Address: _____

Contact Person: _____

Phone/Email: _____

1. DEFINITIONS:

“Agreement” means this Software Maintenance Agreement and all documents incorporated herein by reference.

“Software” means the computer programs, including source code and object code, described in Exhibit A.

“Maintenance Services” means the software support and maintenance services described in this Agreement. “Client Data” means all electronic data or information submitted by Client for processing by the Software.

2. SERVICES:

Service Provider agrees to provide Maintenance Services for the Software, including error corrections, updates, upgrades, and technical support as described herein. Services shall be provided in accordance with the Service Levels specified in Exhibit B. Service Provider shall use commercially reasonable efforts to respond to and resolve reported issues promptly.

3. TERM AND TERMINATION:

The term of this Agreement shall commence upon execution and continue until terminated by either party with thirty (30) days written notice. Either party may terminate this Agreement for cause if the other party materially breaches any term and fails to cure within fifteen (15) days after written notice. Upon termination, all fees due and payable shall become immediately due.

4. FEES AND PAYMENT:

Client shall pay Service Provider the fees set forth in Exhibit C for Maintenance Services. Invoices shall be payable within thirty (30) days of receipt. Late payments shall incur interest at the lesser of 1.5% per month or the maximum allowed by law. All fees are exclusive of taxes, which shall be the responsibility of Client.

5. CLIENT RESPONSIBILITIES:

Client shall provide Service Provider with all necessary access to systems, information, and personnel to perform Maintenance Services. Client shall maintain regular backups of Client Data and Software. Client shall comply with all applicable laws and regulations in connection with the use of the Software.

6. CONFIDENTIALITY:

Each party agrees to keep confidential all proprietary or confidential information disclosed by the other party. Confidential Information shall be used solely for the purposes of performing under this Agreement. This obligation shall survive termination of this Agreement for a period of five (5) years.

7. INTELLECTUAL PROPERTY:

Service Provider retains all right, title, and interest in and to the Software and all intellectual property rights therein. Client is granted a non-exclusive, non-transferable license to use the Software during the term of this Agreement. Nothing in this Agreement shall be construed to transfer ownership of any intellectual property.

8. WARRANTIES AND DISCLAIMERS:

Service Provider warrants that Maintenance Services will be performed in a professional and workmanlike manner. EXCEPT AS EXPRESSLY PROVIDED, THE SERVICES AND SOFTWARE ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. SERVICE PROVIDER DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9. LIMITATION OF LIABILITY:

IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES. SERVICE PROVIDER'S AGGREGATE LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE FEES PAID BY CLIENT IN THE SIX (6) MONTHS PRECEDING THE CLAIM.

10. INDEMNIFICATION:

Client shall indemnify, defend, and hold harmless Service Provider from any claims, damages, liabilities, or expenses arising from Client's misuse of the Software or breach of this Agreement.

11. FORCE MAJEURE:

Neither party shall be liable for delays or failures in performance due to causes beyond reasonable control, including natural disasters, acts of government, or labor strikes.

12. GOVERNING LAW AND DISPUTE RESOLUTION:

This Agreement shall be governed by and construed in accordance with the laws of the State of _____, without regard to conflict of law principles. Any disputes arising out of this Agreement shall be resolved exclusively in the state or federal courts located in _____ County, _____. THE PARTIES HEREBY WAIVE ANY RIGHT TO A TRIAL BY JURY.

13. ENTIRE AGREEMENT:

This Agreement constitutes the entire agreement between the parties relating to the subject matter herein and supersedes all prior agreements and understandings. Any modification must be in writing and signed by both parties.

14. SEVERABILITY:

If any provision of this Agreement is found invalid or unenforceable, the remainder shall remain in full force and effect.

15. NOTICES:

All notices must be in writing and shall be deemed given when delivered in person, sent by nationally recognized overnight courier, certified mail, or electronic means with confirmation, to the addresses specified above.

SERVICE PROVIDER AUTHORIZED SIGNATURE

CLIENT AUTHORIZED SIGNATURE

Signature: _____

Signature: _____

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