

ANNUAL MAINTENANCE AGREEMENT

This ANNUAL MAINTENANCE AGREEMENT (the "Agreement") is made as of the purchase date (the "Effective Date"), by and between InterWorking Labs, Inc., a California corporation that may be contacted at PO Box 66190, Scotts Valley, CA 95067 ("IWL") and the designated end user customer on the purchase order ("Customer").

Customer and IWL hereby agree as follows:

1. IWL PRODUCTS

Pursuant to the License Agreement executed as of the purchase date (the "License Agreement"), Customer has licensed from IWL the right to use the Licensed Software as defined in the License Agreement.

2. DEFINITIONS

2.1 **Error** means a reproducible failure of the Licensed Software to perform in substantial conformity with the Licensed Software specifications set forth in the corresponding User's Guide.

2.2 **Initial Support Term** means the one-year period following the Effective Date of this Agreement.

2.3 **Major Enhancement** means any major functional revision to the Licensed Software (designated by a renumbered release number such as 1.1 to 2.0) released by IWL during the Initial Support Term or any Renewal Support Term.

2.4 **Minor Enhancement** means any minor release, update, modification or "bug fix" (designated by a renumbered release number such as 1.1 to 1.2) which does not provide materially new functionality, as determined by IWL in its sole discretion, and made generally available to IWL's customers.

2.5 **Renewal Support Term** means a successive one-year renewal term following the Initial Support Term agreed upon by the parties pursuant to Section 7.1.

2.6 **Support Times** means the hours of each day and the days of each week set forth in Schedule 1 hereto.

2.7 **Hardware Platform** means the chassis and all components supplied by InterWorking Labs in conjunction with the Licensed Software.

3. SOFTWARE AND HARDWARE SUPPORT

3.1 Software and Hardware Support Services

During the Initial Support Term and any Renewal Support Term, IWL shall render the support services set forth in this section to Customer subject to: (i) Customer's payment of the support fees described in Section 5, and (ii) Customer's compliance with its obligations set forth in Section 4 and elsewhere in this Agreement.

3.2 Services

The support services to be provided by IWL pursuant to this Agreement are as follows:

(a) Help Desk

IWL will provide Customer with reasonable help desk assistance during the Support Times regarding the installation and implementation of the Licensed Software, and the identification, diagnosis and correction of Errors. IWL will attempt to resolve any support questions posed by Customer. If IWL determines that it would be appropriate to do so, IWL may defer resolution of a support question until a later time. At its discretion, IWL may

provide Customer with help desk support during times other than the Support Time and/or beyond the maximum number of monthly usage limits at IWL's then standard rates. Customer shall be responsible for paying charges for such additional help desk support.

(b) Website Technical information

IWL will provide Customer with access to technical information via IWL's website at iwl.com.

(c) Minor Enhancements

IWL will provide Customer with copies of all Minor Enhancements at no additional cost to Customer.

(d) Major Enhancements

Major Enhancements for the Licensed Software are not included under this Agreement. IWL may, but is not obligated to, offer Major Enhancements to Customer at a reduced fee.

3.3 Procedures for Error Correction Services

(a) Notification

To obtain Error correction services, Customer must notify IWL immediately of any suspected Error and must provide IWL with reasonable detail of the nature of and circumstances surrounding the Error.

(b) Remote Diagnostics

IWL may perform remote diagnostics to determine the existence and nature of an Error.

(c) Error Correction

IWL will make reasonable commercial efforts to correct and resolve Errors that Customer reports to IWL and which IWL is able to reproduce. Customer will promptly provide IWL with all information requested by IWL to reproduce such Errors. For each such Error, IWL will use reasonable commercial efforts to provide Customer with a work-around, a software patch or, if IWL is unable to provide Customer with either of the foregoing, a specific action plan for addressing the Error, including a good faith estimate of the time required to correct and resolve such Error.

(d) Hardware Repair

IWL will swap out hardware components that have failed by shipping a new component to the Customer. Customer may be required to ship failed components back to IWL.

3.4 Response Times

IWL will use reasonable commercial efforts to communicate with Customer, by telephone or e-mail, within the following targeted response times, regarding Errors that Customer reports to IWL during the Support Times; for purposes of this Agreement, a "response" means IWL's acknowledgment of an Error, and does not necessarily mean that a resolution will be achieved.

ERROR PRIORITIES AND RESPONSE TIMES:

Priority	Failure Description	Response Time
1	Fatal: Licensed Software not operational.	1 working day
2	Severe Impact (functionality disabled): Errors that result in a lack of Licensed Software functionality or that cause intermittent system failure.	1 working day
3	Degraded Operations: Errors that cause non-critical Licensed Software features consistently to malfunction.	3 working days

- 4 **Minimal Impact:** Next Licensed Software
Errors that cause attributes and/or options of utility programs not to operate in release
accordance with specifications.

3.5 Limitations on IWL's Support Obligations

Notwithstanding anything to the contrary elsewhere in this Agreement, IWL will have no obligation to provide any support services to Customer if:

- (a) Such support relates to or involves any products, data, features, devices or equipment not provided by IWL;
- (b) Customer or a third party has altered or modified any portion of the Licensed Software or Hardware in any manner without the prior written consent of IWL;
- (c) Customer has not installed or used the Licensed Software in accordance with instructions provided by IWL;
- (d) Customer has failed to replace earlier versions of the Licensed Software with Enhancements provided to Customer;
- (e) A party other than IWL (or a party authorized by IWL) has serviced the Licensed Software and the Licensed Software no longer conforms to its specifications; or
- (f) Customer is not in full compliance with the other terms of this Agreement, the terms of the License Agreement, or any other agreement between IWL and Customer.

3.6 Hardware

IWL's support obligations under this Agreement shall not include electrical work, telephone line work, interconnection work, or the installation or repair of accessories, alterations, parts or devices not furnished by IWL.

3.7 Additional Services

In its discretion, IWL may provide Customer with additional support services for the Licensed Software not otherwise covered under this section or specifically excluded pursuant to Section 3.4 above, provided that Customer pays IWL for such service at IWL's then standard hourly and expense reimbursement rates. Except to the extent specifically otherwise provided in this Agreement, such support service is not included within the terms of this Agreement.

4. CUSTOMER'S OBLIGATIONS

4.1 Access

During the Initial Support Term or any Renewal Support Term, Customer will provide IWL with detailed problem reports and information on how to reproduce the reported problem, in so far as this is possible, to enable IWL to meet its support obligations as set forth in this Agreement.

4.2 Support Contact

Customer shall designate one employee and one alternate as its "**Support Contacts**" to be generally available during the Support Times to confer with IWL regarding Errors and other support-related issues. Customer's Support Contacts are identified in Schedule 1. Customer shall notify IWL immediately of any changes in the persons designated as Support Contacts. IWL will provide technical support only to Customer's Support Contacts.

5. FEES AND CHARGES

5.1 General Fees and Charges

Customer shall pay IWL the fees and charges set forth in Schedule 2. IWL may make reasonable adjustments to fees and charges at the beginning of any Renewal Support Term.

5.2 Miscellaneous Items

Customer shall bear all costs associated with procuring, installing, and maintaining all equipment, telephone lines and communications interfaces necessary for Customer to obtain IWL support services.

5.3 Payment Procedures

On an annual basis at the start of the Initial Support Term and any Renewal Support Term, IWL will invoice Customer for all fees and charges incurred by Customer pursuant to this Agreement. Customer shall pay all invoiced amounts in U.S. dollars within thirty (30) days of the date of invoice.

6. DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY

6.1 Warranty

The support services under this Agreement will be provided in a workman-like manner by individuals who are knowledgeable in the operation of the Licensed Software and Hardware. All software bug fixes, work-arounds, Error corrections and Enhancements are provided on an "AS IS" basis.

6.2 Disclaimer

Except as provided in Section 6.1, IWL expressly disclaims all other warranties related to the Licensed Software, Hardware, or services provided under this Agreement, whether express or implied, including (without limitation) any warranty of merchantability or fitness for a particular purpose, or noninfringement. IWL does not warrant that all errors will be corrected. IWL shall have no liability to Customer for any liability or damage sustained by Customer as a result of any claim or action brought or asserted against Customer by any third party.

6.3 Maximum Liability

In no event shall IWL's cumulative liability for any claim arising in connection with this Agreement exceed the amount of the total fees and charges paid to IWL by Customer during the twelve (12) months preceding any such claim.

6.4 Consequential Damages

Regardless of whether any remedy set forth in this Agreement fails of its essential purpose, IN NO EVENT SHALL IWL BE LIABLE TO Customer FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR INCIDENTAL DAMAGES OF ANY KIND AND HOWEVER CAUSED, EVEN IF IWL KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES and whether or not such damages are foreseeable.

6.5 Indemnification

Customer shall indemnify and hold harmless IWL, its respective employees, officers, directors, shareholders and agents (collectively, the "Indemnitee") and hold the Indemnitee harmless against any and all losses, costs (including court costs and reasonable attorneys' fees), damages, settlements, suits, actions, expenses, liabilities, and claims sustained by the Indemnitee arising out of or resulting from any material breach by Customer of the terms and conditions of this Agreement.

7. TERM AND TERMINATION

7.1 Term

This Agreement will commence on the Effective Date and continue in effect during the Initial Support Term. This Agreement will automatically renew for successive, one (1) year Renewal Support Terms unless terminated by either IWL or Customer in accordance with this section, subject to Customer's payment of the applicable fee pursuant to Section 5 above.

7.2 Termination for Convenience

If at any point, either party decides not to renew this Agreement, it shall provide the other party written notice of its intention not to renew at least thirty (30) days prior to the end of the Initial Support Term or the then-current Renewal Support Term, as the case may be.

7.3 Additional Termination Rights

This Agreement may be terminated as follows:

(a) License Agreement

This Agreement shall immediately and automatically terminate upon the termination of the License Agreement.

(b) For Breach

Either IWL or Customer may terminate this Agreement immediately upon the occurrence of an uncured breach by the other party of a material provision of this Agreement. An uncured breach is a breach that the breaching party has not corrected to the non-breaching party's reasonable satisfaction within thirty (30) days after the non-breaching party has provided the breaching party with written notice specifying details of the breach.

(c) Financial Condition

Either party may terminate this Agreement on the occurrence of the filing of a petition or seeking of relief under applicable bankruptcy or insolvency laws by or against the other party.

7.4 Post-Termination Responsibilities

Following termination of this Agreement, IWL shall immediately invoice Customer for all accrued fees and charges and all reimbursable expenses, and Customer shall pay the invoiced amount immediately upon receipt of such invoice.

8. NOTICES

8.1 Notice

Unless otherwise specified in this Agreement, all notices shall be in writing and shall be mailed (via registered or certified mail, return receipt requested), delivered by a nationally recognized express courier service, or personally delivered to the other party at the address set forth below (or at such other address as either party may designate in writing to the other party). All notices will be effective upon receipt.

For Customer: To the electronic mail address on file.

For IWL: Legal Department
 InterWorking Labs
 P.O. Box 66190
 Scotts Valley, CA 95067

9. GENERAL

9.1 Amendment

No amendment of this Agreement shall be effective unless in a writing specifically referencing this Agreement and signed by the duly authorized representative of both parties.

9.2 Assignment

Except as set forth herein, this Agreement shall not be assigned by IWL or Customer without the prior written consent of the other party. Notwithstanding the foregoing, IWL shall be allowed to assign this Agreement to any successor entity by way of merger, acquisition, purchase of all or substantially all of its assets, or operation of law, provided that such successor agrees in writing to be bound by the terms of this Agreement.

9.3 Choice of Law

The validity, construction, and enforcement of this Agreement, and the determination of the rights and duties of the parties, shall be governed by the laws of the State of California exclusive of any choice of law provisions.

9.4 Headings

The headings in this Agreement are for convenience of reference only and shall not be used for the construction or interpretation of this Agreement.

9.5 Entire Agreement

This Agreement, together with the attached Schedules, constitutes the entire agreement between the parties with respect to the subject matter hereof. All prior or contemporaneous statements or agreements with respect to such subject matter are superseded by this Agreement.

9.6 Force Majeure

Except for making payments, should either party fail to perform or should its performance under this Agreement be delayed by any factor beyond the reasonable control of the delayed party, then the time for performance of the delayed party shall be extended by a period of time equal to the duration of such delay provided that the parties work diligently to minimize any such delay.

9.7 Severability

A holding by a court of competent jurisdiction that one or more of the provisions contained this Agreement is unenforceable in any respect shall have no effect on the validity of any of the remaining provisions of this Agreement.

9.8 Time Limitation

No action arising out of the performance of services by IWL under this Agreement may be brought by Customer more than one (1) year after such cause of action arose.

9.9 Waiver

Waiver by any party of the breach of any provisions of this Agreement by the other party shall not be construed as a continuing waiver of such provision or a waiver of any other breach of any other provision of this Agreement. To be enforceable, a waiver must be in writing and signed by the waiving party.

SCHEDULE 1

Support Times and Support Contact

A. Support Times

The Support Times as provided in Section 2.6 are as follows:

Monday through Friday, 10:00 a.m. through 8:00 p.m. (Pacific Time), excluding the following holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving; and Christmas week.

B. Support Contact

The Customer's Support Contact (as required by Section 4.3), and his/her location, phone number, and e-mail address are on file.

SCHEDULE 2

Fees and Charges for Maintenance Support Service

Annual Software Support Fee: Per the prevailing InterWorking Labs Price List

Standard Hourly IWL Support Fees (for services in addition to those provided as part of the above \$150 / hour support fees)

The annual support fees are payable in full by Customer: any additional fees and charges will be billed by IWL to Customer by invoice; Customer shall pay all such fees and charges within thirty (30) days of invoice.