

CUSTOMER MAINTENANCE AGREEMENT

\_\_\_\_\_, referred to as SOFTWARE SERVICE COMPANY,  
and \_\_\_\_\_, referred to as CUSTOMER agree:

CUSTOMER represents and warrants that it is an authorized licensee/owner of the following described computer software system:

\_\_\_\_\_

SOFTWARE SERVICE COMPANY shall provide under the terms and conditions stated herein maintenance service for CUSTOMER.

Maintenance service is defined as providing needed assistance as reasonably necessary to make the program perform pursuant to its listed specifications; provided, that since the product is produced by a third party that SOFTWARE SERVICE COMPANY shall not be required to correct deficiencies which are results of programming, or failure to program, of the producer of the program. Maintenance shall include reconfiguration of the software if reasonably required to accomplish tasks within the capability of the program.

In the event that the producer of the program issues a new version, and CUSTOMER elects to upgrade to such new version, maintenance hereunder shall include re-configuration of the system and conversion of data or other items to the new standard. However, if the upgrade requires complete re-installation the parties shall in good faith negotiate and agree upon a one time charge for such re-installation.

The total contract price shall be \$ \_\_\_\_\_ ( \_\_\_\_\_ & \_\_\_\_\_/100 dollars) which shall be due, in full, on \_\_\_\_\_.

In addition to the maintenance obligation undertaken above, COMPUTER SERVICE COMPANY shall provide at no additional charge to CUSTOMER no more than \_\_\_ hours of initial training in use of the program, and refresher training for employees that have already received initial training. This training shall take place at \_\_\_\_\_. COMPUTER SERVICE COMPANY shall not be required to provide additional training; however, CUSTOMER may order additional training at a cost of \$ \_\_\_\_\_ ( \_\_\_\_\_ & \_\_\_\_\_/100 dollars) per instructor/hour.

This agreement may be terminated under two conditions:

- 1) a breach of the contract,

2) termination without a breach of the contract

If a breach of the contract is committed by the CUSTOMER, the COMPUTER SERVICE COMPANY shall give a written notice specifying the alleged breach and permit the CUSTOMER to cure the breach within 10 days. However if the COMPUTER SERVICE COMPANY has previously complained of a substantially similar breach, the COMPUTER SERVICE COMPANY may either:

- a) allow a period of three days to cure the breach; or,
- b) issue a notice of immediate termination.

If a breach of contract is committed by the COMPUTER SERVICE COMPANY, the CUSTOMER shall give written notice specifying the alleged breach and permit the COMPUTER SERVICE COMPANY to cure the breach within 3 business days. However, if the CUSTOMER has previously complained of a substantially similar breach, the CUSTOMER may alternately issue a notice of immediate termination or allow a period of two business days to cure the breach. All notices of alleged breaches shall be sent by the most expeditious means, such as fax or over night delivery.

In the event that a claimed breach by COMPUTER SERVICE COMPANY is the failure of the CUSTOMER to pay as agreed, 2 business days notice of intention to terminate may be given, although COMPUTER SERVICE COMPANY shall not be required to do so.

No failure or delay in exercising in right or failure to issue a notice of any breach shall not constitute a waiver of any rights herein.

Breach by the CUSTOMER shall include, but not be limited to:

- a) the CUSTOMER making or permitting any alteration of the software or hardware without the prior agreement of the COMPUTER SERVICE COMPANY; the COMPUTER SERVICE COMPANY shall not be required to agree to any changes by third parties;
- b) refusal of the CUSTOMER to reasonably cooperate with the COMPUTER SERVICE COMPANY;
- c) persistent failure of provision of a proper electrical supply, persistent failure to properly maintain hardware and a proper environment for computers.

The contract may be terminated by either party without reference to a breach and without cause on \_\_\_ days notice.

This is the entire agreement between the parties, and this agreement may only be changed by a writing executed by both parties.

Dated: \_\_\_\_\_

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