

Information Alignment Pty Ltd - Software Maintenance Services Terms and Conditions

Customer has purchased from INAPL a license in the INAPL software modules (as specified in the applicable Software Order Form) under the terms and conditions of the Software License Agreement (the **License Agreement**). This document sets forth the terms and conditions under which INAPL agrees to provide technical support and maintenance services for the INAPL Software licensed to the Customer under the Software License Agreement.

1 DEFINITIONS

Except as otherwise defined in this exhibit, capitalized terms herein shall have the meanings set forth in the Master License Agreement.

- 1.1 **Designated System** means the computer hardware and operating system software on which the Software is intended to run, as designated in the License Agreement.
- 1.2 **Documentation** means the user's guide, product manual and/or operating instructions (whether in printed or electronic format) supplied to the Customer by INAPL for aiding use of the Software. Documentation is deemed to include any INAPL-provided revisions thereof.
- 1.3 **Fix(es)** means an error correction or other update created to fix a previous Software version that does not substantially conform to its performance specifications in the Documentation.
- 1.4 **Maintenance Services** means the Software technical support and maintenance services described in Article 3 of this Exhibit.
- 1.5 **Minor Update(s)** occur(s) when enhancements are made to current features in the Software.
- 1.6 **Major Upgrade(s)** occur(s) when significant new features are added to Software, or when a new product containing new features replaces the further development of a current product line.
- 1.7 **Maintenance Services Term** means the term of the License Agreement, including any Initial Periods and Renewal Periods (if applicable).
- 1.8 **Software** means the software modules specified in the Software Order Form, together with any associated Documentation (in any medium), Fixes, Minor Updates or Major Upgrades furnished to Customer.

2 SOFTWARE MAINTENANCE SERVICES

During the Maintenance Services Term INAPL will provide Customer with the following described software Maintenance Services to correct Software errors and enable the Software to perform substantially in accordance with its Documentation:

2.1 Standard Support.

INAPL will provide telephone and email Software support in accordance with the table set in Schedule 1 for the standard level of support services and, subject to Section 3.2 below, will use commercially reasonable efforts to correct or recommend a workaround solution for Software errors in accordance with the priority levels, times of service and escalation procedures set forth in Schedule 1 included herein. Such support is provided for (i) the current release of the Software, (ii) the most recent previous release of the Software, and (iii) any other release of the Software for up to one (1) year following INAPL's announcement of discontinuance of such Software release.

2.2 Corrective Maintenance.

INAPL will use commercially reasonable efforts to provide Fixes and/or workarounds to correct errors in the Software discovered by the Customer conditioned on the following:

- 2.2.1 the error is promptly reported and sufficiently described in writing by the Customer in order for INAPL to reproduce it;

- 2.2.2 the error did not result from a modification of the Software done by someone other than INAPL without INAPL's approval;
- 2.2.3 the error is not due to a failure of equipment, hardware, material or software (drivers, operating systems, etc.) not supplied or supported by INAPL, and the error occurs through no fault of the Customer;
- 2.2.4 the Software is used in the form in which it was supplied and/or updated and/or upgraded by INAPL;
- 2.2.5 the Software is and has been at all times installed and used in accordance with the instructions and Documentation supplied by INAPL; and
- 2.2.6 the applicable license fees have been paid in accordance with the respective terms.

2.3 **Fixes, Updates and Upgrades**

- 2.4 INAPL may from time to time develop Fixes, Minor Updates and Major Upgrades for release to its Customers generally. During the Maintenance Services Term Customer will be entitled to receive Fixes and Minor Updates at no additional charge, subject to INAPL's established procedures for delivery to its customers. Major Upgrades will be made available to Customer for an additional fee. INAPL will provide reasonable assistance to help Customer install and operate such enhancements, provided that such assistance, if required to be provided at Customer's facility, shall be subject to supplemental charges at INAPL's then current hourly rates for on-site technical support.

2.5 **Excluded Services**

The standard Software Maintenance Services provided by INAPL under this Exhibit A exclude customized software programming services and hardware or related supplies.

2.6 **On-site Technical Support; Training**

On-site technical support and training are excluded from the standard Software Maintenance Services provided by INAPL under this Exhibit A. INAPL will, however, make on-site technical support and/or training services available to Customer at INAPL's then current hourly rate per man-hour for such services, plus travel and other reasonable expenses. On-site technical support and/or training services will be furnished at mutually agreed times and (in the case of training) location(s).

3 **CUSTOMER OBLIGATIONS**

3.1 **Customer Contact**

Customer shall designate and notify INAPL of Customer's principal contact and one alternate back-up contact who are tasked with operation and maintenance of the Software for Customer "**Customer Contact(s).**" To the maximum extent practicable, Customer's communications with INAPL will be through such designated Customer Contacts.

- 3.2 **Customer Cooperation.** Customer acknowledges and agrees that INAPL shall not be liable for any deficiency in performing the Maintenance Services if the deficiency is directly caused by the Customer's failure to:

- 3.2.1 promptly make available to INAPL without charge such data, assistance and cooperation from Customer's personnel, as are reasonably required by INAPL, as well as access (subject to INAPL's compliance with the Customer's site access requirements) to Customer's facilities, systems and equipment (including but not limited to server and mobile devices) as reasonable and necessary to enable INAPL to carry out its maintenance service obligations under this Maintenance Services Agreement;
- 3.2.2 notify INAPL in writing immediately on becoming aware of a fault in the Software or of any proposed material change to the Designated System or of any other circumstances, which might materially affect the operation of the Software;

- 3.2.3 use the Software in accordance with the Documentation and terms of the Master Software License;
- 3.2.4 keep full security copies of all data processed by the Software in accordance with best computing practice;
- 3.2.5 ensure that all employees, consultants and contractors of Customer who use the Software or the Maintenance Services are properly trained in respect of such use;
- 3.2.6 ensure that a suitable modem link (e.g., a VPN) as specified by INAPL is installed and operated in conjunction with the Designated System by the Customer at its own expense, for the purpose of providing INAPL with continual remote access to the Designated System to assist performance of the Maintenance Services; and
- 3.2.7 use only the current release version or two immediately prior release versions of the Software as may be provided by INAPL from time to time.

3.3 Installation of Fixes, Updates and Upgrades

Customer agrees to install all Software Fixes, Minor Updates and Major Upgrades in accordance with the instructions and in order of receipt from INAPL.

3.4 No Modification of Software

Customer agrees not to modify, enhance or otherwise alter the Software unless and only to the extent specifically authorized in the Software user guide or manual furnished by INAPL or to the extent that the prior written consent of INAPL is obtained.

4 LIMITED WARRANTY AND DISCLAIMER

- 4.1 INAPL represents and warrants that its Maintenance Services will be performed in a professional, workmanlike manner by qualified professionals exercising reasonable care, skill and diligence; and that it has the authority to enter into this Maintenance Services Agreement with Customer.
- 4.2 The foregoing representations and limited warranties are exclusive and in lieu of all other warranties (which are hereby disclaimed), whether express or implied, statutory or otherwise including (but not limited to) the implied warranties of merchantability, fitness for a particular purpose, satisfactory quality, title, noninterference and noninfringement with regard to the maintenance services provided by INAPL, its licensors, suppliers, representatives or service providers.
- 4.3 INAPL does not warrant that the maintenance services provided hereunder will solve any general or specific problem or meet any general or specific customer needs. INAPL does not warrant, guarantee or make any representations regarding the use, or the results of the services in terms of correctness, accuracy, reliability or that they are error-free, or that all non-conformities can or will be corrected.

5 LIMITATION OF LIABILITY

- 5.1 Subject to section 5.3 and except for damages for physical harm to persons, tangible personal property or real property caused by the negligence or willful misconduct of INAPL, INAPL shall not be liable to customer or any to third party for any consequential, indirect, special, punitive or incidental damages, loss or damage caused or alleged to be caused directly or indirectly, incidentally or consequently, by any of the maintenance services or software provided hereunder or by any inadequacy thereof or deficiency or defect therein, even if INAPL has been advised of the possibility of such potential loss or damage.
- 5.2 Subject to section 5.3, in no event shall INAPL's total liability in connection with this maintenance services agreement, the maintenance services or the software furnished, whether based on contract, warranty, tort (including negligence), strict liability or otherwise, exceed the actual amount of annual maintenance services fees paid to INAPL by customer within the prior year.
- 5.3 The limitations in Sections 5.1 and 5.2 do not apply to the extent that:
 - 5.3.1 the liability or obligation of INAPL is an insured liability under a policy of insurance; or

- 5.3.2 INAPL is able to recover or should, using reasonable endeavours, be able to recover, any payment or other benefit from any third party in respect of INAPL's liability;
 - 5.3.3 the liability cannot be limited at law;
 - 5.3.4 the liability arises out of a breach or alleged breach by INAPL of any patent, copyright, trademark, trade secret or other intellectual property right (including moral rights); or
 - 5.3.5 the liability arises as a result of the Gross Negligence, fraud, willful Misconduct or criminal conduct of INAPL or its Affiliates or their respective directors, officers, employees, contractors, representatives or agents.
- 5.4 The foregoing limitations shall apply notwithstanding any failure of essential purpose of any limited remedy.
- 5.5 The parties agree that INAPL has set its fees and entered into this Maintenance Services Agreement in reliance upon the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties (including the risk that a contract remedy may fail of its essential purpose and cause consequential loss), and that the same form an essential bases of the bargain between the parties.

Schedule 1

Error Priority Levels, Support Times, Escalation

I. SUPPORT HOURS

<u>Support Level</u>	<u>Support Hours</u>
Standard Support	7am – 5pm WST Australia (M-F)

II. TELEPHONE SUPPORT

INAPL will provide telephone support during applicable support hours as set forth above, excluding INAPL holidays.

INAPL holidays are as follows (adjusted accordingly for applicable support year):

- New Year's Day
- Australia Day
- Labour Day WA
- Good Friday
- Easter Monday
- ANZAC Day
- Western Australia Day
- King's Birthday
- Christmas Day
- Boxing Day

III. ELECTRONIC MAIL SUPPORT

INAPL will provide electronic mail assistance to Customer during applicable support hours as set forth above, excluding INAPL holidays.

IV. PRIORITY LEVELS OF ERRORS

In the performance of Maintenance Services, INAPL applies priority ratings to problems reported by Customer in the following manner:

Issue Severity	Severity Level 1	Severity Level 2	Severity Level 3	Severity Level 4	Comments
Severity Type	Emergency	Severe Impact	Limited Function	Circumventable Problem	
Severity Description	Severe loss of functionality, significant restrictions that prevents operation of the system.	An individual function is not performing properly. The issue is impacting the Customer's	A defect in the operation of the Software or a deliverable which prevents the Software from operating in	A defect in the operation of the Software or a deliverable which does not result in the Customer being	

	The issues are impacting the Customer's operation, deliverables and deadlines.	deliverables and deadlines.	accordance with its Documentation but does not impact on use of the Software or a deliverable for the Customer.	unable to utilize functionality but which constitutes operation other than in accordance with the Documentation.	
Target Response Time (in Hours) (During Support Hours)	4	4	24	36	Incident is opened, Support, Engineer assigned and Customer is contacted with Incident number.
Target Issue Resolution Time (in Days)	1	2	10	15	
Escalation/Penalty			Issues not resolved within the target resolution times are escalated to the next severity level, moving from 4 to 1, until resolved or the parties mutually agree on a different course of action.		
Reporting Mechanism in relation to Severity Levels					
Issue Severity		Severity 1	Severity 2	Severity 3	Severity 4
Standard Business Hours	Email	support@inapl.com	support@inapl.com	support@inapl.com	support@inapl.com
	Phone	+618 9205 6300	+618 9205 6300	+618 9205 6300	+618 9205 6300
	Other				
After Business	Email	support@inapl.com	support@inapl.com	support@inapl.com	support@inapl.com
	Phone	+618 9205 6300	+618 9205 6300	+618 9205 6300	+618 9205 6300

V. ESCALATION PROCEDURES

The previous sections define the process for addressing errors that may arise with the Software. Sufficient Customer Contact information should be provided to INAPL so that either party can contact the other as needed if a problem arises.

In an urgent situation in which the Customer reasonably requires an escalation of the aforesaid Maintenance Services support for Severity Level 1 or 2 Error corrections, Customer may contact the following INAPL personnel:

SEVERITY LEVEL 1 AND 2 ERRORS ONLY		
Time of Communication	INAPL Escalation Contact	Contact Information
Regular Business hours	Senior Support Engineer	Phone: +61 8 9205 6300
Non-business hours	Rotational support personnel	Phone: +61 8 9205 6300