

LEVI, RAY & SHOUP, INC.
Maintenance Plan for Perpetual License
Version X2.0

This Maintenance Plan will apply between Licensor and Licensee and shall be effective as the same date as the Agreement. In consideration of the mutual covenants set forth herein, the parties agree to the following:

1.0 Maintenance and Support. Maintenance shall only be provided in conjunction with the current release of the Software and the release immediately preceding the current release of the Software and only if no fees are owed under the Maintenance Plan or the Agreement. Licensor shall provide the following Maintenance to Licensee subject to the terms and conditions of the Maintenance Plan.

- 1.1 Telephone support by qualified personnel shall be available between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday current U.S. Central Time, excluding Licensor holidays (a list of which for any year shall be made available).
- 1.2 Emergency telephone support for Critical Problems by qualified personnel shall be available every day of the year, twenty-four hours a day, with a response time of two hours or less.
- 1.3 Licensor maintains a support section on its Web site for all of its Licensees. All software code and product documentation contained within and made available to Licensee via the support section shall be a part of the Software.
- 1.4 Licensor shall make available to the Licensee all Enhancements to the Software.
- 1.5 Subject to the license restrictions in the License Schedule, if Licensee opts to run the Software on a different operating system that is supported by Licensor, upon Licensee's request which shall include the requisite information to generate a license key, Licensor will provide Licensee with a new license key that enables the Software to operate on the new operating system at no charge.
- 1.6 Licensor shall make available Enhancements to the Software if and as required to cause it to operate with new releases of the operating system so long as such updates are technically and commercially feasible.

2.0 Maintenance Fees.

- 2.1 Maintenance shall be provided without charge to Licensee until the initial Maintenance Due Date for the applicable Software and thereafter only upon Licensee's payment of the Maintenance fees due hereunder. Maintenance fees in the amount set forth in the applicable License Schedule shall always be paid in advance on or before the Maintenance Due Date. Upon Licensee's request, Licensor will make the necessary prorations to bill Licensee for all maintenance fees on the same date when Licensee has different maintenance due dates due to licensing different Software at different times.
- 2.2 Maintenance fees, exclusive of increases due to an Upgrade, shall not increase annually by more than the greater of seven percent (7%) or the composite prime rate first published in the Wall Street Journal in the year that notice of the increase is sent minus two percentage points.
- 2.3 Licensor's obligation to provide Maintenance for any Software shall automatically be cancelled if the Maintenance fees for that Software are not paid when due. Automatic cancellation of Maintenance for Software shall not terminate the Maintenance Plan nor affect Licensee's right to receive Maintenance for Software for which Maintenance fees have been timely paid.
- 2.4 Should Licensee elect to reinstate Maintenance for any Software for which Maintenance has been cancelled, or elect Maintenance after the Maintenance Due Date, all annual Maintenance fees that would have been paid, but for the cancellation, or the failure to elect Maintenance prior to the Maintenance Due Date must be paid up to the amount it would cost Licensee to be re-licensed for the Software.

3.0 Warranty; Exclusive Remedy.

- 3.1 Limited Warranties. Licensor warrants that during the Maintenance Plan it will perform the services detailed in Section 1.0 with reasonable care and skill and that the Software will function substantially in accordance with the Documentation. Licensor does not warrant that the Software will be error free.
- 3.2 NO OTHER WARRANTIES. EXCEPT FOR THE EXPRESS LIMITED WARRANTIES SET FORTH IN SECTION 3.1, LICENSOR MAKES NO WARRANTY, EXPRESS OR IMPLIED, IN

CONNECTION WITH THE SERVICES AND SOFTWARE UNDER THIS MAINTENANCE PLAN INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, ACCURACY, OR FITNESS FOR A PARTICULAR PURPOSE.

- 3.3 **EXCLUSIVE REMEDY.** LICENSEE'S EXCLUSIVE AND SOLE REMEDY FOR BREACH OF THE WARRANTIES GIVEN IN SECTION 3.1 SHALL BE LIMITED TO REPAIR OF DEFECTS OR REPLACEMENTS OF THE APPLICABLE SOFTWARE, OR, IN THE EVENT LICENSOR IS UNABLE TO EFFECTUATE SUCH REPAIR OR REPLACEMENT WITHIN A REASONABLE PERIOD OF TIME, LICENSEE MAY TERMINATE MAINTENANCE FOR THE APPLICABLE SOFTWARE AND RECEIVE A REFUND OF MAINTENANCE FEES ACTUALLY PAID TO LICENSOR FOR THE APPLICABLE SOFTWARE DURING THE TWELVE (12) MONTHS PRECEDING THE BREACH.

4.0 Limitation of Liability/Independent Clauses.

- 4.1 LICENSOR'S TOTAL LIABILITY FOR DAMAGES UNDER THE MAINTENANCE PLAN, REGARDLESS OF THE FORM OF ACTION OR THEORY OF LIABILITY (INCLUDING CONTRACT, TORT, OR WARRANTY), SHALL BE LIMITED TO THE MAINTENANCE FEES ACTUALLY PAID TO LICENSOR FOR THE APPLICABLE SOFTWARE IN THE TWELVE (12) MONTHS PRECEDING THE BREACH. IN NO EVENT SHALL LICENSOR BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL, OR INDIRECT DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF DATA, LOSS OF USE, OR CLAIMS OF THIRD PARTIES) THAT MIGHT OCCUR AS A RESULT OF THE PERFORMANCE OR BREACH OF THIS MAINTENANCE PLAN OR IN ANY WAY ARISES OUT OF OR IN CONNECTION WITH THIS MAINTENANCE PLAN.
- 4.2 SECTION 4.1 IS INDEPENDENT OF SECTION 3.3 AND SHALL BE VALID AND ENFORCEABLE WHETHER OR NOT THE REMEDIES SET FORTH IN SECTION 3.3 FAIL OF THEIR ESSENTIAL PURPOSE OR ARE FOUND TO BE UNCONSCIONABLE.

5.0 Maintenance Termination.

- 5.1 This Maintenance Plan may be terminated by either party if the other commits any material breach of any term of this Maintenance Plan and fails to remedy such breach within thirty (30) days after written notice thereof by the non-breaching party. This Maintenance Plan will terminate automatically upon the termination of the Agreement for any reason. Licensee may terminate this Maintenance Plan at any time without affecting the Agreement by giving Licensor written notice.
- 5.2 No refund of payments made under this Maintenance Plan shall be made in the event of termination unless caused by Licensor's breach.
- 5.3 All rights and remedies of the parties shall be cumulative but shall always be limited by Sections 3.2, 3.3, and 4.0.

- 6.0 Incorporation of Terms and Conditions.** The following sections of the General Terms and Conditions for Perpetual License Agreement are incorporated into this Maintenance Plan as additional terms and conditions of the Maintenance Plan as if the same were set forth herein: 1.0; 2.3-2.5; 7.0; 12.0; 13.2, and 15.0; however, in all incorporated sections except 1.0, the use of the word "Agreement" shall be replaced with "Maintenance Plan." "Agreement" as used in the Maintenance Plan shall mean the agreement under which the Software was licensed.

- 7.0 Miscellaneous.** If any provision of the Maintenance Plan or the application of such provision to any Company or circumstance shall be held invalid, the remainder of the Maintenance Plan, or the application of such provision to Companies or circumstances, other than those as to which it is held invalid, shall not be affected. The Maintenance Plan constitutes the complete, final, and exclusive expression of the parties' agreement, and supersedes all proposals and other communications made between the parties concerning the subject matter hereof. The Maintenance Plan cannot be modified except by written agreement signed by the parties. If there is a conflict between this Maintenance Plan and the Agreement, the terms of the Maintenance Plan shall prevail. Further, if there is a conflict between the terms incorporated pursuant to Section 6.0 and this Maintenance Plan, this Maintenance Plan shall prevail.