

All Maintenance and Support Services are subject to the attached general NetLib Maintenance and Support Terms and Conditions unless otherwise agreed to by Communication Horizons LLC ("NetLib") in a written agreement signed by a duly authorized officer of NetLib.

#### NETLIB - MAINTENANCE AND SUPPORT (M&S) TERMS AND CONDITIONS

##### 1) Maintenance

Maintenance consists of updates, upgrades, bug fixes and maintenance releases or versions of validly Licensed Software of the product licensed at such time as NetLib makes them generally available to all of its customers, including you ("You" or "Customer"). A current and continuous M&S agreement is required to be eligible for software updates, upgrades, bug fixes and maintenance releases, as well as discounting for major new releases. All Maintenance deliveries are subject to the terms and conditions of the applicable Software License Agreement ("SLA") for the Licensed Software.

##### 2) Support

- a) Support entitles You to assistance via E-mail or other automated processes, with the Licensed Software. Support is currently available on business days Monday through Friday during normal business hours (9a-5p ET US). Gold Support customers also have access to telephone assistance at NetLib's published support number. NetLib strives to respond to all support inquiries within 1 business day. After-hours support or emergencies requiring rapid response (less than 1 hour) are subject to charges at NetLib's then current rates and costs.
- b) Support will be provided only for those questions and issues forwarded to NetLib from either of the two authorized technical contacts designated by the Customer, not each individual licensed user. NetLib will attempt to answer Your specific questions; however Support is offered to You on a good faith, diligent effort basis only, and NetLib may not be able to resolve every request for Support. Support is provided for ongoing use of the Licensed Software; it is not intended to be a substitute for training or professional services necessary for the implementation or system redesign of the Licensed Software, which are outside the scope of this Agreement. All such and other services, including without limitation on-site assistance, custom programming, database and network administration, and custom designed reports and forms, may be provided pursuant to a separate agreement by NetLib.
- c) Support is available for the current version of the Licensed Software, and for any version released within eighteen (18) months of the date of the Support request, provided that Customer and NetLib are parties to a current M&S agreement. Resolution of a Support issue may require an update to the latest version of software available.
- d) Unless otherwise stated, Support does not include any of the following:
  - i) supporting database products, including without limits, set-up and alteration and/or configuration of database products, and database or database connectivity software specific errors;
  - ii) resolving network, workstation or environmental errors not directly related to the Licensed Software;
  - iii) supporting any Licensed Software working on or with any version of any database, operating system or similar hardware or software product or system that is not specifically identified as interoperable with the specific version of the Licensed Software (and specifically excludes any "Beta" or non-certified versions of such products/systems);
  - iv) supporting any Licensed Software customizations (changes to the Licensed Software made outside of the product's administration interface);
  - v) supporting any Licensed Software being used in a manner for which it was not designed.
- e) It is Your responsibility to make and maintain adequate back-ups. In no event will NetLib be responsible for lost data.

##### 3) Fees

- a) General. You will be automatically invoiced one month prior to any annual M&S term expiration (initial or renewal terms) and You agree to make payments to NetLib no later than thirty (30) days from invoice. NetLib's obligations hereunder are subject to Your timely payment, and if NetLib does not receive timely payment for products or services provided by NetLib to You, NetLib may immediately terminate or suspend this Agreement. Unless NetLib otherwise instructs, You will directly pay NetLib for M&S renewals. It is Your responsibility to inform NetLib 30 days or more prior to the expiration of your current M&S agreement that you do not wish to be renewed.
- b) Late Payments. Payments made more than 30 days past expiration are subject to a finance charge of 1.5% per month.
- c) Lapse; Reinstatement. If Your M&S terminates as a result of expiration or otherwise pursuant to this Agreement, and you decide to reinstate, You will have to pay the applicable M&S fees for the prorated lapsed period with finance charge as defined above, plus payment for the 12 months following.
- d) Taxes. Customer is responsible for all applicable taxes, value added taxes or other taxes (however designated) related to the M&S of the Licensed Software, excluding franchise taxes and taxes based on NetLib's income.

##### 4) Term/Termination

- a) M&S services are offered on an annual basis, and will renew at the end of the annual term provided You pay the applicable renewal fee. Failure to renew will result in termination of M&S, but M&S may be reinstated through payment of the fees described under "Fees."
- b) This Agreement will automatically terminate as to each Licensed Software upon termination of the SLA corresponding to such Licensed Software. You may also terminate this Agreement for convenience but You will not be entitled to a refund of any paid Fees in such event.

**5) Warranty and Liability Disclaimer**

NetLib warrants that the M&S services provided to Customer under this Agreement shall be performed with due care, and in a professional and workmanlike manner. NetLib does not otherwise warrant the accuracy or completeness of any services provided pursuant to this Agreement.

NETLIB DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE IN CONNECTION WITH THE SUBJECT OF THIS AGREEMENT. IN NO EVENT, UNDER ANY THEORY OF LAW SHALL NETLIB AND/OR ITS AFFILIATES BE LIABLE TO THE CUSTOMER OR ANY OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOST PROFITS ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF A PARTY AND/OR ITS AFFILIATES ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NetLib'S LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE PREPAID AND UNUSED PORTION OF YOUR M&S FEES PAID TO NETLIB. NETLIB SPECIFICALLY DISCLAIMS ALL RESPONSIBILITY FOR ANY SERVICES PROVIDED BY ANY PARTNER OR ANY OTHER THIRD PARTY.

**6) Miscellaneous**

- a) Entire Agreement. This Agreement constitutes the entire agreement between You and NetLib related to the subject matter hereof, and additions or modifications shall be binding upon the parties only if the same shall be in writing and duly executed by You and a duly authorized officer of NetLib. (The Licensed Software is licensed under a separate SLA and professional services, if any, are provided under a separate professional services agreement). The terms and conditions of any Customer purchase order are only binding on NetLib if they are agreed to in writing by an authorized NetLib officer and in a document other than the purchase order. Further, if You purchased this service through a partner reseller ("Partner"), You agree that this Agreement constitutes the entire agreement between You and NetLib regarding the M&S services described herein to the exclusion of any other agreements and that Partner is not NetLib's agent and is not authorized to alter, amend or modify the terms of this Agreement or to otherwise grant any license or other rights relating in any way to the Licensed Software.
- b) Waiver. The waiver or failure of either party to exercise in any respect any right shall not be deemed a waiver of any further or future right.
- c) Assignment. You may assign this Agreement only in connection with a proper and valid assignment of the corresponding SLA to the extent permitted thereunder, provided that You give written notice of such assignment to NetLib. NetLib may freely assign this Agreement to a purchaser of that portion of NetLib's business to which this Agreement relates, to the surviving corporation in the event of a merger, and to any affiliate or third-party whom NetLib authorizes to provide M&S for the Licensed Software of the nature contemplated hereby.
- d) Additional Orders. Orders for additional products or licensed users will increase Your M&S fees under this Agreement. Unless otherwise agreed to by NetLib. You will not be able to purchase additional licenses of the Licensed Software if You are not current on M&S. You may renew M&S on one group of dependent NetLib product(s) without renewing M&S on another group of NetLib products(s) that are determined to be distinct and separate from the first group, provided that the determination whether products(s) are distinct and separate is at NetLib's sole discretion. You agree that any purchase of M&S for additional products or any renewal of M&S, shall be subject to the same terms and conditions as contained in this Agreement, unless otherwise agreed to in writing at the time of such future purchase or M&S renewal, respectively.
- e) Subject to Change. These terms and conditions are subject to change without notice.