

## THREE-YEAR SOFTWARE MAINTENANCE AGREEMENT

*THIS MAINTENANCE AGREEMENT* (“Agreement”) is made between **MEISolutions**, a Washington corporation (“MEI”), and the r Customer Name (“Licensee”).

1. **Purpose**. The Licensee has purchased *Name of Software* software (the “Software”) from MEI. The purpose of this Agreement is to set forth the respective obligations of the parties with regard to the maintenance of the Software.

### 2. **Maintenance Support**

2.1 **Telephone Assistance**. Except as described in this subsection, MEI shall provide telephone assistance service on Mondays through Fridays between the hours of 5:00 a.m. and 5:00 p.m., Pacific Time. No telephonic assistance shall be available on the holidays of Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day and New Years Day.

2.2 **Online Diagnostics**. MEI will provide online application diagnostics and repair service via dial-up modem. This service is available during the same hours as MEI’s telephone assistance service. The Licensee shall be responsible for initiating the physical and password-secure procedures to start any online session.

2.3 **Updated Documentation**. MEI will provide user guide information on the Internet. Hard copies are available at an additional cost.

2.4 **Software Updates**. MEI will provide the Licensee with one free annual Update of the Software per calendar year, if any are released. The term “Update” means a change and improvement to correct known defects and to maintain the operational quality of the Software. The Licensee must install an Update within 90 days of its release. MEI’s maintenance obligations under this Agreement are limited to support of the most recent Update of the Software. Thus, in the event multiple Updates are released in any given calendar year, MEI reserves the right to require the Licensee to purchase additional Updates in conjunction with MEI’s support services.

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**2.5 Error Correction.** MEI shall use all commercially reasonable efforts to correct reproducible, material Errors in the Software after receiving written notification from the Licensee describing the Error in sufficient detail for MEI to reproduce the Error at its headquarters. As used in this Agreement, an "Error" shall mean the failure of the Software to function substantially in conformity with its Documentation.

**3. Term.** This three-year Agreement shall commence upon MEI's receipt of an executed copy of this Agreement, and shall end at 5:00 p.m., Pacific Time, on December 31 of the third full calendar year. For example, if the initial term commences during 2004, the initial term shall end on December 31, 2007. Unless the Licensee provides written notice of termination of this three-year term to MEI at least 10 days prior to the end of the three-year term, this Agreement shall automatically renew for successive 3-year terms.

**4. Maintenance Fee** For the initial partial calendar year, the annual maintenance fee shall be prorated. For subsequent years, the annual maintenance will be billed for the entire year and due before January one. The Licensee may cancel the remaining portion of this agreement by paying 50% of the remaining balance.

**5. Termination.** Notwithstanding anything contained herein to the contrary, MEI may terminate this Agreement in the event the Licensee fails to pay the annual maintenance fee prior to December 31 for the next calendar year. To reinstate this Agreement after such termination, the Licensee must pay the then-current year's annual maintenance fee in full (regardless of when the Agreement is reinstated), plus a \$250.00 reinstatement fee. MEI reserves the right to deny reinstatement of this Agreement for any reason.

**6. Default and Forfeiture.** In the event of the Licensee's default under this Agreement, MEI may terminate this Agreement and the Licensee shall forfeit all maintenance fees paid to MEI for the then-current calendar year. In the event there are 1 or more full calendar years remaining under the then-current term for which no maintenance fees have been paid, the Licensee shall also pay to MEI one-half of the balance of the remaining maintenance agreement. This section shall not limit MEI's right to pursue any other remedies that may be available at law or in equity.

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**7. Disclaimer; Limitation on Liability.** Except as expressly provided in this Agreement, MEI disclaims all warranties for maintenance of the Software, including all warranties of merchantability or fitness for a particular purpose. The cumulative liability of MEI to the Licensee for all claims relating to this Agreement shall not exceed the Licensee actual cost or amount actually paid by the undersigned to MEI for maintenance services during the term of this Agreement in which the claims arise whichever is the less amount. In no event shall MEI be liable for any incidental, special, or consequential damages—including, without limitation, lost profits.

**8. Dispute Resolution.** Unless resolved informally by the parties, all disputes arising under this Agreement shall be submitted to binding arbitration through the Washington Arbitration & Mediation Service, for arbitration in Spokane County, Washington. Should legal action be required to enforce or interpret this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all costs and reasonable attorneys' fees incurred in connection therewith as determined by the presiding authority.

**9. Miscellaneous.** Any notice required or authorized under this Agreement must be in writing, and may be delivered via U.S. certified mail (return receipt requested) or by fax. This Agreement may not be amended or assigned without the written consent of MEI. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof. In the event a provision of this Agreement is held to be invalid by an arbitrator or court of competent jurisdiction, such provision shall be deemed modified only to the extent required to make such provision enforceable, and the other provisions of this Agreement shall remain in full force and effect. The waiver of any breach of this Agreement must be in writing, and shall not be deemed to be a waiver of any subsequent breach.

Licensee

DATED: _____	
_____	
Store Name	
_____	
(Signature)	
_____	
Name	Title