



SOFTWARE MAINTENANCE AGREEMENT

This Software Maintenance Agreement is entered into on _____ (the "Maintenance Agreement") between Infosys Inc, a public computer services company of the country of Barbados, hereinafter referred to as "the VENDOR," and _____, a company existing under the laws of _____, hereinafter referred to as "the CLIENT."

WHEREAS, the VENDOR, its staff and consultants are developing the SOFTWARE and Support Materials identified in Supplement A; and

WHEREAS, the CLIENT has evaluated the SOFTWARE and has expressed interest in using this system; and

WHEREAS, the CLIENT wishes to engage the VENDOR to perform various maintenance services in connection with the SOFTWARE and Support Materials and the VENDOR desires to provide such maintenance services;

WHEREAS, the CLIENT has executed the License Agreement for the SOFTWARE; and

NOW THEREFORE, in consideration of the mutual promises and agreements set forth in this Maintenance Agreement, VENDOR and CLIENT agree as follows:

1. Maintenance Services

In accordance with the terms of this Maintenance Agreement, the VENDOR will furnish the installation, support, or error-correction services identified on Supplement A (the "Services") for the SOFTWARE.

2. Maintenance Fee and Expenses

CLIENT will pay the VENDOR the fee(s) set forth on Supplement A to this Maintenance Agreement within Thirty (30) days of the Commencement Date identified in Supplement A. The VENDOR shall have the right to change the fee once each year, effective with the next renewal date, provided that: (i) the VENDOR gives CLIENT at least sixty (60) days prior written notice of any such change; and (ii) so long as the change is not an increase of more than 20 percent (20%) of the then-current fee. CLIENT shall pay the VENDOR for services outside the scope of this Maintenance Agreement on a time and material basis at the VENDOR's then-prevailing rates. CLIENT is responsible for the payment of any taxes assessed in connection with payments due under this Maintenance Agreement except for any tax based solely on the VENDOR's net income.

Upon CLIENT's prior written approval, CLIENT shall reimburse the VENDOR for any and all reasonable travel and living expenses incurred by the VENDOR in performing services under this Maintenance Agreement. These expenses shall be billed to CLIENT, and CLIENT shall pay these billings within thirty (30) days of the date such services were rendered.

Upon termination of this Maintenance Agreement, the VENDOR will be reimbursed for all reasonable costs and non-cancelable commitments incurred in the performance of the scope of work and for which the CLIENT has not yet paid.

3. Term and Termination

(a) **Term.** This Maintenance Agreement shall commence on the Commencement Date stated in Supplement A and continue for an initial period defined in Supplement A ("Initial Term"). This Maintenance Agreement shall thereafter renew for successive periods defined in Supplement A ("Renewal Term"), of which VENDOR will notify CLIENT in writing at least sixty (60) days prior to the expiration date, unless terminated by either party upon written notice to the other party pursuant to Section 3(b) below. All terms and conditions of this Maintenance Agreement shall apply during the Renewal Term, except for the fees. The fee for the Renewal Term shall be the VENDOR's rates then in effect, so long as such rate does not increase by more than thirty percent (30%) annually.

(b) **Termination.** This Maintenance Agreement shall terminate (i) immediately upon termination or expiration of CLIENT's right to use the SOFTWARE; (ii) upon expiration of the then-current term, provided that at least thirty (30) days advance written notice of termination is given to VENDOR by the CLIENT; (iii) upon expiration of the then-current term, provided that at least thirty (30) days advance written notice of termination is given to CLIENT by the VENDOR; or (iv) upon thirty (30) days advance written notice if the other party has breached this Maintenance Agreement and has not cured such breach within such notice period.

4. Warranty and Remedies

The VENDOR warrants that it will use reasonable efforts to perform the services to conform to generally accepted industry standards, provided that: (a) the SOFTWARE has not been modified, changed, or altered by anyone other than the VENDOR; (b) the operating environment, including both hardware and systems software, meets the VENDOR's recommended specifications; (c) the computer hardware is in good operational order and is installed in a suitable operating environment; (d) CLIENT promptly notifies the VENDOR of its need for service; (e) CLIENT provides adequate troubleshooting information and access so that the VENDOR can identify and address problems; and (f) all fees due to the VENDOR have been paid. THERE ARE NO OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS OR

IMPLIED, WITH RESPECT TO THIS MAINTENANCE AGREEMENT, AND THE SERVICES TO BE PROVIDED BY THE VENDOR UNDER IT INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CLIENT's sole and exclusive remedy and the VENDOR's only obligation under this warranty is to redo the Services until the SOFTWARE conforms to the most recent specifications stated in the documents listed in Supplement A. In the event that these services cannot be provided within a reasonable time after notification, CLIENT's sole and exclusive remedy is to terminate this Maintenance Agreement upon written notice to the VENDOR and to receive a refund of any fees paid for the period beginning on the date the problem requiring correction was reported to the VENDOR. CLIENT ACKNOWLEDGES AND AGREES THAT UNDER NO CIRCUMSTANCES SHALL INFOSYS INC, ITS STAFF OR CONSULTANTS BE LIABLE FOR ANY LOSS, COST, EXPENSE, OR DAMAGE TO CLIENT IN AN AMOUNT THAT COLLECTIVELY EXCEEDS THE ANNUAL MAINTENANCE FEE. CLIENT ACKNOWLEDGES AND AGREES THAT THE VENDOR, ITS STAFF OR CONSULTANTS SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL, CONSEQUENTIAL DAMAGES OR SIMILAR DAMAGES, INCLUDING ANY LOST PROFITS OR LOST DATA ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE EVEN IF INFOSYS INC ITS STAFF OR CONSULTANTS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

CLIENT WILL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE VENDOR, ITS STAFF OR CONSULTANTS AGAINST ANY LOSS, DAMAGE, EXPENSE, OR COST, INCLUDING REASONABLE ATTORNEYS' FEES, ARISING OUT OF ANY CLAIM, DEMAND, PROCEEDING OR LAWSUIT RELATED TO CLIENT's UNAUTHORIZED USE OR MISUSE OF THE SOFTWARE.

The VENDOR agrees to defend, indemnify and hold harmless the CLIENT, its officers, agents, and employees from any and all liability, including claims, demands, losses, costs, damages, and expenses of every kind and description (including death), or damages to persons or property arising out of or in connection with or occurring during the course of this Maintenance Agreement where such liability is founded upon or grows out of the acts or omissions of the officers, employees, or agents of the VENDOR of Pharmacy Controller while acting within the scope of their employment where protection is afforded by the labour laws of the Barbados Constitution.

5. CLIENT Support

The level of support that the VENDOR can provide is dependent upon the cooperation of CLIENT and the quantity of information that CLIENT can provide.

If the VENDOR cannot reproduce a problem or if the CLIENT cannot successfully gather adequate troubleshooting information, the VENDOR may need temporary login access on the CLIENT's system to identify and address the problem.

6. CLIENT Responsibility

The CLIENT shall not distribute the SOFTWARE to any third party. The CLIENT shall not make any modifications to the SOFTWARE, unless otherwise allowed under the License Agreement. If CLIENT is allowed to make modifications under such License Agreement, the VENDOR shall not be responsible for maintaining CLIENT modified portions of the SOFTWARE or for maintaining portions of the SOFTWARE affected by CLIENT modified portions of the SOFTWARE. Upon CLIENT's prior written approval, corrections for difficulties or defects traceable to the CLIENT's errors or systems changes shall be billed at the VENDOR's standard time and material charges.

7. Right to Work Product

All error corrections, enhancements, new releases, and any other work product created by the VENDOR or the VENDOR's developer(s) in connection with the support services provided under this Maintenance Agreement ("Work Product") are and shall remain the exclusive property of the VENDOR regardless of whether the CLIENT, its employees, or agents may have contributed to the conception, joined in its development, or paid the VENDOR for the development or use of the Work Product. Such Work Product shall be considered SOFTWARE, and subject to the terms and conditions contained herein and in the License Agreement.

8. General

- (a) Each party acknowledges that this Maintenance Agreement is the complete and exclusive statement of the agreement between the parties, which supersedes and merges all prior proposals, understandings and all other agreement, oral and written, between the parties relating to this Maintenance Agreement. This Maintenance Agreement may not be modified or altered except by a written instrument duly executed by both parties.
- (b) This Maintenance Agreement and performance hereunder shall be governed by and construed in accordance with the laws of Barbados without regard to its conflict of laws rules.
- (c) If any provision of this Maintenance Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.

- (d) The CLIENT may not subcontract, assign, or transfer its rights, duties or obligations under this Maintenance Agreement to any person or entity, in whole or in part, without the prior written consent of the VENDOR.
- (e) The waiver or failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further right hereunder.

VENDOR ACKNOWLEDGES THAT CLIENT HAS READ THIS MAINTENANCE AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE LEGALLY BOUND BY IT.

WHEREFORE, the parties have caused this Maintenance Agreement to be executed by their duly authorized representatives.

_____ INFOSYS INC

By:

By:

Title:

Title:

Date:

Date:

Supplement A

Coverage of Maintenance Agreement

The SOFTWARE covered by this Maintenance Agreement is as follows:

- The Pharmacy Controller version 2.5 and any future versions offered by VENDOR as part of the Internal Use License for Pharmacy Controller. The Pharmacy Controller is a pharmacy management database product that enables users to monitor, control and manage critical day-to-day dispensary operations from desktop or notebook computer systems running in single user or multi user environments.

The manuals, handbooks, and other written materials furnished by the VENDOR for use with the SOFTWARE (the “Documentation”) are:

- The Pharmacy Controller User’s Manual (in electronic form)
- The Pharmacy Controller Administrator’s Manual (in electronic form)
- The Pharmacy Controller Technical Reference

Support Policy Descriptions

In accordance with the terms of this Maintenance Agreement, the VENDOR will furnish one or more of the following support services (the “Services”) for the SOFTWARE. *Installation and Basic Operation* support is required. The remaining available support services can optionally be added for supplementary coverage.

Support Policy #1: Installation and Basic Operation (Required)

Support for the proper installation of the current release of the SOFTWARE, and any subsequent patches or updates to the version, on a pool of up to 10 heterogeneous workstations.

Support Policy #2: Network installation and Policy Customization (Required)

Support for network administrators at CLIENT’s site(s) consisting of up to five users per site containing a total of up to 10 heterogeneous workstations. The VENDOR will ensure that the CLIENT’s site is supplied with all necessary configuration data to aid in successful network installation.

Support Policy #3: National Formulary Support (Required)

Support Policy #1 and #2 are aimed at assisting system users and administrators responsible for the proper uses, management, and configuration of The Pharmacy Controller. This support policy is aimed at the implementation of the national Formulary as distributed by the Drug Service on an annual basis. The VENDOR will obtain, modify and import this said Formulary and present it as readable data for update of The Pharmacy Controller’s inventory tables.

Support Policy #4: Software Troubleshooting (Required)

The VENDOR is liable to correct all software glitches or inconsistency in as much as it pertains to the functionality of the software. VENDOR's liability terminates where such glitches or inconsistency are a result, directly or indirectly of faulty, inconsistent or invalid hardware or software. In such cases the CLIENT shall be billed at the VENDOR's standard time and material charges.

Support Policy #5: Support Methods (Required)

The VENDOR shall provide support services through direct visit to CLIENT's location or through our remote assistance software utility. For remote assistance the CLIENT is expected to have all necessary support hardware in place as follows:

- a) One high speed DSL modem/router
- b) An active high speed internet connection with a minimum baud rate 10Mbits per second
- c) Windows File Sharing capabilities installed and functional.

24/7 online service & support for The Pharmacy Controller Database system including data checking & integrity and file purge services.

Customized Project (Optional)

At CLIENT's request, the VENDOR will consider developing modifications or additions that materially change the utility, efficiency, functional capability, or application of the SOFTWARE ("Enhancements") at such charge and on such schedule as the parties may mutually agree in writing. One example would be to customize Pharmacy Controller in order to pull pricing lists into its inventory tables for a specific application.

Training

The VENDOR will provide ____ (____) standard training sessions in the use of the SOFTWARE per Term or Renewal Term for up to _____ (____) of CLIENT's personnel at such time and location as the parties may mutually agree.

"Hotline" Support for contacting the VENDOR

The VENDOR will provide the following communication mechanisms for the CLIENT to use when asking for support:

- (a) **Telephone Support.** VENDOR shall maintain a telephone hotline during regular business hours (8 a.m. to 4:30 p.m. Monday-Friday) to assist CLIENT in reporting errors and in providing first-line support in the use and operation of the SOFTWARE.

(b) **Internet Email.** VENDOR shall maintain an email address for the express purpose of providing contracted Pharmacy Controller support. This email address shall be managed by Help Desk software which tracks problem progress on an incident by incident basis in order to ensure a timely turn-around for the CLIENT.

Limitations on telephone support

CLIENT agrees that its point of contact for maintenance and support of the SOFTWARE will be limited to two (2) designated employees of the CLIENT at any one time, who will act as the support liaison between the VENDOR and CLIENT, and that telephone support services for the SOFTWARE is subject to this Maintenance Agreement and will be available to CLIENT through electronic mail communication or by telephone.

Timeliness of Incident Resolution

VENDOR shall use reasonable effort to provide modifications or additions to correct errors in the SOFTWARE reported by CLIENT under the conditions described in Section 5, "CLIENT Support." Upon receipt of notice of an error, VENDOR will assign a priority level as determined by the CLIENT to the error according to the following criteria:

Priority A – An error that results in the SOFTWARE being substantially or completely nonfunctional or inoperative.

Priority B – An error that results in the SOFTWARE operating or performing other than as represented in the Documentation, but which does not have a material adverse impact on the performance of the SOFTWARE.

VENDOR will make reasonable efforts to correct the error or provide a work-around solution for each priority level and, if a work-around is the immediate solution, will make reasonable efforts to provide a final resolution of the error. Reasonable efforts will be made to respond to the incident within the following time frames after receiving notice and sufficient information and support from the CLIENT:

<u>Priority Level</u>	<u>Correction or Work-Around</u>	<u>If Work-Around, Resolution</u>
A	2 business days	15 business days
B	7 business days	30 business days

New Releases

The VENDOR shall be responsible for providing technical support and correcting errors for the most recent release of the SOFTWARE provided to CLIENT; additionally, the VENDOR shall continue to support the immediate prior releases for a reasonable period, not to exceed eighteen 18 months.

Fee Assessment

	Annual Cost	Semi Annually	- Quarterly
Support Policy #1 through Support Policy #4:	\$1,500.00	\$1000.00	625.00
All other customization or modifications requested by the CLIENT	150.00 per hour or part thereof		

Policy or Policies Selected: _____

Total Annual Maintenance Fee for the Initial Term of this Maintenance Agreement:

Commencement Date: The date on which services under this Maintenance Agreement shall begin _____.