

Spirent Maintenance and Support Agreement (“Support Agreement”)

SPIRENT COMMUNICATIONS INC. OR ITS AFFILIATE SPECIFICALLY LISTED ON YOUR QUOTE (“SPIRENT”) SHALL PROVIDE MAINTENANCE AND SUPPORT SERVICES TO YOU AS THE PERSON OR ENTITY (REFERRED TO BELOW AS “YOU” OR “YOUR”) THAT HAS PURCHASED SPIRENT HARDWARE AND/OR LICENSED SPIRENT SOFTWARE UNDER SEPARATE PURCHASE AND/OR LICENSE AGREEMENT(S) (“PROCUREMENT AGREEMENT(S)”) THAT ARE SPECIFICALLY COVERED BY THIS SUPPORT AGREEMENT (THE “COVERED PRODUCTS”) ONLY ON THE CONDITION THAT YOU (I) ACCEPT ALL OF THE TERMS OF THIS SUPPORT AGREEMENT AND ALL PROCUREMENT AGREEMENT(S) AND (II) PAY ALL APPLICABLE SUPPORT FEES AS PROVIDED IN THIS SUPPORT AGREEMENT. APPENDIX A HERETO CONTAINS SPECIFIC SERVICE LEVEL OBJECTIVES, SERVICE LEVEL AGREEMENTS, SUPPORT RESOURCES AND OTHER SUPPORT DETAILS FOR YOUR COVERED PRODUCT(S) DESCRIBED BY SUCH APPENDIX AND IS MADE A PART HEREOF. SPIRENT SHALL NOT BE BOUND BY ANY TERMS OR CONDITIONS WHICH ARE INCONSISTENT WITH THE TERMS AND CONDITIONS SET FORTH HEREIN. ALL PURCHASE ORDER ACCEPTANCES ARE EXPRESSLY CONDITIONED UPON YOUR UNQUALIFIED ACCEPTANCE OF THESE TERMS AND CONDITIONS.

1. Definitions -

- (a) **“Covered Licensed Software”** means Spirent licensed software that is a Covered Product.
- (b) **“Documentation”** means the user documentation Spirent provides for the Covered Products.
- (c) **“Error”** means a reproducible defect in the Covered Product when operated in a Supported Environment, which causes the Covered Product not to operate substantially in accordance with the Documentation.
- (d) **“Error Correction”** means a modification or patch that brings the Software into substantial conformance with the Spirent published Documentation, or a procedure, routine or other information that enables You to avoid the practical adverse effect of an Error.
- (e) **“Maintenance Release”** means an update to an existing version of the Covered Product containing Error Corrections or minor functionality enhancements. A Maintenance Release is designated as a numbered service pack for the current version.
- (f) **Support Term “New Version Release”** means a new version of the Covered Product containing new features or enhancements to functionality. A New Version Release is designated by an increase in the version number. e.g. from 2.5 to 2.6. A New Version Release only includes releases of the Covered Product in a language included in Your Covered Product’s configuration.
- (g) **“Production Environment”** means the computer systems, databases, and hardware used by You in support of Your actual internal business operations and into which You install and operate software for its intended uses by end users in the ordinary course of Your business.
- (h) **“Releases”** means collectively, Maintenance Releases and New Version Releases.
- (i) **“Severity 1 or Critical”** means (1) a product inoperative Error that makes the continued use of one or more functions impossible (or severely restricted) on a business-critical system and prevents You from continued production or severely risks critical business operations, or (2) an Error impacting Your production systems that may cause loss of data from the production systems and/or restrict data availability from those systems and/or cause significant financial impact to the Licensee.
- (j) **“Severity 2 or Urgent”** means an Error that severely affects or restricts major functionality and is of a time-sensitive nature and is important to long-term productivity but is not causing an immediate work stoppage, where no workaround is available, but operation can continue in a restricted fashion.
- (k) **“Severity 3 or Normal”** means (1) a minor Error that does not have a major effect on business operations, or (2) a major Error for which an acceptable workaround exists for the Covered Product.
- (l) **“Spirent Support Representatives”** means the individuals designated by Spirent who are authorized to provide support to Your Contacts and who will coordinate all of Your Error submissions and support requests.
- (m) **“Support Services”** means Spirent’s commercially available professional maintenance and support offerings, which includes “Silver Support”, “Gold Support”, and “Platinum Support” (each as described in Appendix A attached at the end of this Support Agreement).
- (n) **“Support Term”** means any period during which You are entitled to receive Support Services hereunder, including any renewals or extensions thereof.
- (o) **“Supported Environment”** means a hardware, operating system and application platform meeting the minimum system configuration requirements for the proper use and operation of the Covered Product as set forth in the Spirent published Documentation.
- (p) **“Test Environment”** means any operating environment other than a Production Environment and includes, without limitation, the computer systems, databases, and hardware used by You to simulate a Production Environment for the purposes of testing or evaluating the functionality, interoperability or stability of software without impacting the actual Production Environment or Your actual internal business operations.
- (q) **“Upgrade”** means any version of the Covered Product that has been released to the public and which replaces the prior version of the Covered Product on Spirent’s price list pursuant to Spirent’s then-current upgrade policies.
- (r) **“Your Contacts”** means the individuals designated in writing by You and agreed to by Spirent who are authorized to contact Spirent Support Representatives.

2. Maintenance and Support -

Spirent offers and you may initially select from our Global Tiered Support Model (GTSM) one of the following; Silver, Gold, or Platinum service options. All Covered Licensed Software must be covered by the same service option.

- (a) **“Overview of Service Options”**, as applicable per Appendix A
 - (i) **Spirent Silver**
 - A. Spirent Silver provides the services defined in section (b) and provides a defined Response time as set forth in Appendix A, if applicable.
 - (ii) **Spirent Gold**
 - A. Spirent Gold is an enhanced services package that extends the services provided by Spirent Silver .
 - B. You may elect to receive a number of additional service hours/days for active support at extra cost. If so, You may receive certain additional support activities including installation support, report creation, upgrade support, etc. up to the limit of the service hours/days included in the elected package.
 - (iii) **Spirent Platinum**
 - A. Spirent Platinum is an enhanced services package that extends the services provided by Spirent Gold.
- (b) **“Overview of Core Support Services Provided.”** During each Support Term, Spirent will provide the following Support Services, subject to the procedures and limitations described herein:
 - (i) provide access to Self Help Support Resources.
 - (ii) clarify the Documentation.
 - (iii) assist in identifying and verifying the causes of suspected errors.
 - (iv) provide Error Corrections when required and available.

Such Support Services will be provided for the Spirent Covered Products that are covered during each Support Term. Support will not be provided for licenses that are not covered under this Support Agreement.

- (c) **“Overview of Services Not Included in Support Services.”** The following services are NOT provided as Support Services. The services described herein are not meant to represent all excluded services but are representative of the type of services that are not included in standard Support Services. Services of this type are available at additional cost through Spirent Professional Services:
 - (i) Designing, planning, installing, integrating or Implementing Covered Product.
 - (ii) Installing Updates or Patches.
 - (iii) Custom configuration of Covered Product.
 - (iv) Supporting Third Party applications unless included by Spirent as an integral part of the Covered Product subject to Support Services.
 - (v) Creating custom reports, alerts, dashboards, etc.

- (iv) Troubleshooting customer's hardware or software platforms and configurations.
- (iv) Providing product training.
- (d) **"Self Help Support Resources."** Spirent provides a robust set of Self-Help Resources to allow You to resolve issues quickly. You hereby agree that You and your authorized end users of the Covered Product will first attempt to answer any questions and resolve any issues with respect to the operation of the Covered Product by using Spirent's self-help resources. You further acknowledge and agree that Your failure to use these resources may result in refusal of technical support service otherwise made available as part of Support Services. Spirent provides the following self-help resources:
 - (i) The Help Function of the Software.
 - (ii) Software Updates / Upgrades and Patch Releases.
 - (iii) The Spirent Customer Portal.
 - (iv) The Spirent Community Site.
 - (v) The Spirent Online Knowledge Base.
 - (vi) The Documentation.
- (e) **"Contacting Spirent Support Representatives."** If you are unable to resolve an issue or question with respect to the Covered Product after using the Self-Help Resources described above, Your Contact may contact a Spirent Support Representative to receive technical support using one of the methods described below. Spirent will provide technical support only in English and only to Your Contact. Any communication between Your Contacts and a Spirent Support Representative must be in English. Spirent will not provide support to end users of the Covered Product or to any person that is not Your Contact. Critical Errors must only be submitted through the designated telephone number as set forth in Section 2(h) below.
 - (i) **Customer Portal.** Spirent provides a Customer Portal to be used for submitting support requests for all support issues. The Customer Portal provides self-service tools to search the knowledge base and allows Your Contact to submit and track support request cases when additional support is required. The support portal is available at <https://support.spirent.com>.
 - (ii) **Email Case Submission.** Spirent provides an email option for submitting issues if specified in Schedule A for your Covered Product. Your Contact may submit email support requests to support@Spirent.com. Emails submitted to this address result in the creation of a new support case that can be tracked in the Customer Portal.
 - (iii) **Telephone Hot Line.** Spirent shall provide technical support to You (through Your Contacts) at the times and through the telephone numbers for your region as set forth in Appendix A (the "Support Hours"). Spirent will provide You with a list of local holidays and any reduced Support Hours on those holidays upon your request
 - (iv) **Email Acknowledgement.** Spirent will use commercially reasonable efforts to provide an email acknowledgement for email or telephone submitted service requests within eight (8) business hours after Spirent receives the email.
- (f) **"Error Correction."** When You report an Error to Spirent, You must include a detailed description of the Error and Your good faith estimation of the severity level determined in accordance with Appendix A. You must also provide accurate information about the version and module of the License Software as well as version number of any companion product (for example: Oracle, SQL, etc.) and similar information regarding operating system. When Spirent receives notice of an Error, Spirent will make a final definitive determination of the severity level (in accordance with Appendix A), assign a problem tracking number to be included in all correspondence between You and Spirent related to the Error and, after Spirent's e-mail acknowledgement, Spirent will provide a response in accordance with the severity levels and response times identified in Section 2(g) below. Thereafter, Spirent will use commercially reasonable efforts to provide an Error Correction. The Error Correction may require that You install the latest Maintenance Release for the supported version of the Covered Product on which You reported the Error. An Error Correction may require multiple contacts and off-line research. The Error Correction, when completed, may be provided in the form of a patch to the Covered Product consisting of sufficient programming and operating instructions to implement the Error Correction, which will be provided to You via email, download or other electronic means.
- (g) **"Response Times."** Spirent's response to an Error depends on the severity of the Error and the level of Support Services purchased by You, as set forth in Appendix A. For each severity level, Spirent Support Representatives will use commercially reasonable efforts to respond, within the times set forth in Appendix A. Response time is the time from Spirent's receipt of notice of the Error until Spirent contacts Your Contact reporting the Error to begin resolution efforts, not the time to deliver an Error Correction. Critical Errors and Urgent Errors will generally not include Errors in other than Production Environments.
- (h) **"Escalation Procedure."** An escalation occurs when an open issue becomes a Critical Error and requires Spirent's escalation procedure, which consists of the following:
 - (i) when escalation of a Critical Error becomes necessary, You will contact a Spirent Support Representative for more information using the telephone number detailed on the Spirent Support Web Site.
 - (ii) once You are connected with a Spirent Support Representative, You must provide your name, case ID, and state that a Critical Error escalation is required.
 - (iii) the Spirent Support Representative will contact the support manager on duty and the support manager will set up an action plan that is required in order to progress the case and will monitor its execution on a regular basis involving the Spirent Support Representative in charge.
- (i) **"Exclusions from Maintenance Program."** Spirent is not responsible or liable for causes external to the Covered Product ("Excluded Services"), including but not limited to:
 - (i) Your failure to incorporate Releases.
 - (ii) installation of the Covered Product or any New Version Releases not in accordance with the Documentation provided with the Covered Product or New Version Releases.
 - (iii) Your use of the Covered Product with any software or hardware other than the Supported Environment.
 - (iv) problems resulting from use of the Covered Product in a manner not permitted pursuant to Your Procurement Agreement(s).
 - (v) modifications, alterations, or additions to the Covered Product by parties other than Spirent (including without limitation, modifications, alterations, or additions to the Covered Product made by You).
 - (vi) damage from any source other than Spirent including but not limited to water, humidity, fire, power surges, computer viruses, and accidents. Any services required to fix the Excluded Services will be billed to You as professional services on a time-and-materials basis in accordance with Spirent then current rates and in accordance with the terms of Spirent's standard professional services agreement. Support Services do not include services in connection with or correcting Errors arising out of or related to a database management server or a web server or any other third-party component that is used in conjunction with the Software Licensed. Spirent may, but is not required to, provide Error Corrections for such Errors at Spirent's then current time and materials rates. Support Services does not include installation or configuration of the Covered Product or any services provided on-site at Your location, facilities or datacenter. If Spirent is required or requested to travel to your location, facilities or datacenter, any services will be provided at then current time and materials rates as professional services (subject to the terms of Spirent's standard professional services agreement) and You shall reimburse Spirent for all reasonable travel expenses, including meals and lodging. Support Services do not include problems or errors in modifications to the Covered Product that Spirent provides as a work product pursuant to a separate professional services engagement. Spirent is not responsible for restoring lost data or damage to Your database that result from Your acts or omissions. If You desire to purchase upgrade services or other professional services from Spirent outside the scope of the Support Services in this Support Agreement, then Spirent will provide such professional services to You for a charge as set forth in a mutually agreed upon professional services agreement
- (j) **"Hardware Support."** You must follow Spirent's prescribed process for returning physical Covered Goods for repair, maintenance or calibration pursuant to this Support Agreement. If a Maintenance Service cannot be performed or an Error cannot be resolved remotely with respect to such Covered Product, You will provide the information necessary to get a return materials authorization to use in returning the Covered Product to Spirent. You must comply with all packing and shipping requirements with respect to the Covered Goods. Upon receipt, Spirent will use commercially reasonable efforts to fix the Error and return the Covered Goods to You. Should a Covered Product become obsolete during the course of this Agreement term, Spirent will on a best effort basis repair the Covered Product. Should the Covered Product be unrepairable, Spirent will either dispose of or return the item to You per Your request.

3. Your Responsibilities -

- (a) **"Supported Environment and Operations."** You are responsible for undertaking the proper supervision, control and management of Your use of the Covered Product and its use by Your authorized end users, including, but not limited to
- (i) providing, maintaining and assuring proper configuration of the Supported Environment.
 - (ii) following industry standard procedures for the security of data, accuracy of input and output, and back-up plans, including restart and recovery in the event of hardware or software error or malfunction.
 - (iii) maintaining a procedure external to the Covered Product for reconstruction of lost or altered files, data and programs.
- (b) **"Assistance in Providing Maintenance."** You shall provide reasonable assistance to Spirent in determining and resolving Errors You report. Error determination activities may include performing network traces, capturing error messages, collecting configuration information and other similar activities to allow Spirent to reproduce the Error. Resolution activities may require access to your personnel and/or remote access to the Supported Environment. You hereby agree to Spirent's use of remote access tools to access the Covered Product in the Supported Environment and modify its configuration as part of Spirent Error determination and resolution activities. Spirent may not be able to provide You with an Error Correction without such remote access. You are responsible for performing activities to implement any Error Corrections that Spirent provides to You and for responding in a timely manner to requests for information by a Spirent Support Representative. Error Corrections may include changing, installing or reinstalling new or existing versions of web browser software or new components, or modifying processes. Any information You provide to Spirent in connection with Support Services that You designates as "confidential" will be used by Spirent only to resolve reported Errors and will not be disclosed to anyone other than Spirent personnel involved in resolving the Error. As part of Spirent's Error resolution process, information You provide to Spirent may be made available to Spirent employees in foreign countries, unless You notify Spirent otherwise in writing when providing Spirent with such information.
- (c) **"Designation of Support Contacts."** You shall designate at least one individual as Your Contact initially for receiving Support Services hereunder, and You shall maintain the list of Your Contacts throughout the term of this Support Agreement. You represent that all persons designated as Your Contacts are authorized to engage Spirent for Support Services under this Support Agreement.
- (d) **"Training."** You are solely responsible for properly training Your Contacts and all other appropriate personnel in the operation and use of the Covered Products and the Supported Environment and use of support services under this Support Agreement.
- (e) **"Solution Validation."** You are responsible for informing Spirent when any Reported Error has been corrected successfully. After providing a solution, Spirent will attempt to confirm solution with Your Contact two times during one business week before closing the case.

4. New Releases of Software -

- (a) **"Maintenance Releases Provided with Maintenance and Support."** During the Support Term, if and as made available by Spirent, Spirent will provide You, at no additional charge, with any Releases that it makes generally available to customers who have purchased and paid for Support Services. Each Release shall be deemed part of and incorporated into the Covered Product to which it relates for purposes of the Procurement Agreement and shall also be subject to the terms and conditions of this Support Agreement. The designation of a release as a Maintenance Release or a New Version Release will be made by Spirent, in its sole and reasonable discretion.
- (b) **"Maintenance and Support of Prior Releases."** Spirent will provide Support Services, as provided herein, for the current New Version Release and the most recent prior Release. Support for all other prior Versions will be provided by Spirent as professional services and an additional charge on a time and materials basis shall apply.
- (c) **"Installation and Configuration of New Releases."** Support Services do not include the installation or configuration of any Releases. Any services to be provided in connection with the installation or configuration of Releases will be provided for a mutually agreed upon fee as professional services pursuant to a separate professional services agreement. Spirent will not correct Errors arising out of or related to installation or configuration by anyone other than Spirent of the Covered Licensed Software or any Releases.
- (d) **"Migration of Customizations and/or Modifications."** If You have customized and/or modified the Covered Licensed Software, Support Services do not include migrating customizations and/or modifications to any Release, unless otherwise provided under a separate agreement pursuant to which Spirent provided such customizations and/or modifications. Any services to be provided in connection with the migration of customizations and/or modifications to Releases will be provided for a mutually agreed upon fee as professional services pursuant to a separate professional services agreement.

5. Support Fees -

The fee for all Support Services provided by Spirent during a Support Term (the "Support Fee") shall be as set forth in Appendix A. Unless otherwise provided in Appendix A: You will be invoiced by Spirent for the Support Fees for the initial Support Term upon entering into or agreeing to this Support Agreement and, subject to Section 6 below, You will be invoiced by Spirent for any renewal Support Term upon expiration of the then-current Support Term. Payment is due net thirty (30) days from date of invoice unless otherwise agreed to by Spirent in writing. Any amounts not paid by such due date shall bear interest at the lesser of the maximum amount allowable in Your state or jurisdiction or two percent (2%) per month. Fees for any additional services not included as part of Support Services and all expenses incurred in connection therewith will be separately invoiced on a monthly basis at the end of the month in which such services are provided or expenses incurred.

6. Term, Renewal and Termination -

- (a) **"Initial Support Term and Renewal."** The initial Support Term shall begin and end on the dates specified in the applicable order provided, however, that if such dates are omitted from the applicable order then the initial Support Term shall be deemed to commence on the date of Your purchase of Maintenance Services and end one year thereafter. If automatic renewal is applicable for Support Services for Your Covered Products, upon expiration of the initial Support Term and each subsequent Support Term, if any, Support Services shall auto-renew for consecutive additional one-year Support Terms (each, a "Renewal Term") unless
- (i) Spirent notifies You in writing prior to expiration of the then-current Support Term of its election to terminate Support Services.
 - (ii) Spirent notifies its general customer base in writing prior to expiration of the then-current Support Term of its election to discontinue Support Services in respect of one or more versions of the Covered Product.
 - (iii) You notify Spirent in writing at least thirty (30) days prior to the expiration of the then-current Support Term of Your election to terminate or not renew Support Services. Spirent will provide You with written notice of the upcoming expiration date, which shall include notice of any price increase for the upcoming Renewal Term, if applicable. The failure to renew Support Services shall not affect Your licenses to use Covered Licensed Software but will result in the termination of Support Services. Notwithstanding the above, Spirent may terminate or suspend Support Services, without any liability to You, if You fail to timely pay any Support Fee or otherwise breach any term or condition of this Support Agreement or the Procurement Agreement.
- (b) **"Termination of Maintenance and Support."** If a party breaches any material term or condition of this Support Agreement, then the non-breaching party shall give the breaching party written notice of such breach specifying with a reasonable degree of detail the breach and the circumstances giving rise to the breach. If the breaching party fails to cure such breach within thirty (30) days of its receipt of such written notice of breach, the non-breaching party may terminate this Support Agreement. If You properly terminate this Support Agreement as a result of Spirent's uncured breach, then Spirent shall refund to you the pro rata portion of any pre-paid Support Fee in respect of the remaining portion of the then-current Support Term and shall have no other liability to You under this Support Agreement, including any liability for any claims, losses or damages suffered by You as a result of such breach by Spirent. Upon termination or expiration of this Support Agreement for any other reason (or for no reason) Spirent shall have no obligation to refund or credit any Maintenance Fees You have paid.
- (c) **"Reinstatement of Support Services."** If Support Services have terminated or expired (other than due to your breach of this Support Agreement or the License Agreement), You may reinstate Support Services if
- (i) Spirent still offers Support Services for the Covered Product, and
 - (ii) You pay the applicable reinstatement fee plus You pay the Support Fee for the current Support Term. You are also required to upgrade the Covered Product to the latest version that Spirent has made available within sixty (60) days of any such reinstatement of Support Services.

7. Confidential Information -

- (a) "**Confidential Information**" means the following information which is made available or disclosed by one party (the "Discloser") to the other party (the "Recipient") whether in tangible or intangible form:
- (i) a party's proprietary technology or computer software in all versions and forms of expression, whether or not the same has been patented or the copyright thereto registered, is the subject of a pending patent or registration application, or forms the basis for a patentable invention (collectively the "Proprietary Technology");
 - (ii) manuals, notes, documentation, technical information, drawings, diagrams, specifications, formulas or know-how related to any of the Proprietary Technology;
 - (iii) information regarding current or proposed products, customers, contracts, business methods, financial data or marketing data, financial results and projections, company and market strategy, product roadmaps, product and competitive sales analysis and plans, product or marketing plans, fees, pricing plans or structures, personnel and recruiting matters, and future releases;
 - (iv) offers or proposals, and (v) any other information disclosed that by its nature should be considered confidential and proprietary.
- (b) "**A Recipient shall**"
- (i) not disclose the Confidential Information to any third party at any time and Recipient shall limit disclosure of Confidential Information within its own organization to its employees or its legal, financial and accounting advisors having a need to know and who have agreed to be bound by the terms of this Support Agreement;
 - (ii) protect the confidentiality of the Discloser's Confidential Information with at least the same degree of care as Recipient uses to protect its own Confidential Information of a like nature, but no less than a reasonable degree of care, and
 - (iii) use the Confidential Information solely in connection with provision and receipt of Support Services. Recipient shall be entitled to disclose Confidential Information solely to the extent necessary to comply with a court order or as otherwise required by law or by a regulatory agency or government body, provided that Recipient shall first give notice to Discloser and make a reasonable effort to obtain a protective order to protect the confidentiality of the information. If such protective order is not obtained, Recipient agrees to disclose only that portion of the Confidential Information which it is legally required to disclose. Recipient shall immediately notify Discloser of any actual or suspected unauthorized disclosure of Confidential Information. Recipient shall not modify, reverse-engineer, decompile, create other works from, or disassemble any software programs contained in the Confidential Information without Discloser's prior written consent.
- (c) "**Obligations**" The obligations described in Section 7 imposes no obligation upon Recipient with respect to any Confidential Information which
- (iv) is or becomes a matter of public knowledge through no fault of Recipient;
 - (v) is rightfully received by Recipient from a third party without a duty of confidentiality to a third party by, or with the authorization of, Discloser;
 - (vi) is disclosed without a duty of confidentiality; or
 - (vii) is independently developed by Recipient.

The burden of proving any of the above exemptions is on Recipient.

(d) Upon the written request of Discloser, Recipient shall immediately destroy or return to Discloser, as requested by Discloser, all Confidential Information of Discloser in its possession, together with all records in any manner pertaining to any of Discloser's Confidential Information. Recipient shall also, upon the written request of Discloser, furnish Discloser with a certificate of an officer verifying that all of the foregoing have been destroyed or returned to Discloser.

8. LIMITATION OF LIABILITY.

(a) "**LIMITATION OF LIABILITY.**" TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE, IN NO EVENT WILL SPIRENT, ITS PARENT COMPANY, ANY OF THEIR AFFILIATES OR ANY OF THEIR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, SHAREHOLDERS, AGENTS, LICENSORS, RESELLERS OR SUPPLIERS (COLLECTIVELY "SPIRENT PARTIES") BE LIABLE TO YOU OR ANY THIRD PARTY CLAIMING THROUGH YOU FOR (i) ANY COSTS OF PROCUREMENT OF SUBSTITUTE OR REPLACEMENT GOODS AND SERVICES, LOSS OF PROFITS, LOSS OF USE, LOSS OF OR CORRUPTION TO DATA, BUSINESS INTERRUPTION, LOSS OF PRODUCTION, LOSS OF REVENUES, LOSS OF CONTRACTS, LOSS OF GOODWILL, OR ANTICIPATED SAVINGS OR WASTED MANAGEMENT AND STAFF TIME; OR (ii) ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR INDIRECT DAMAGES WHETHER ARISING DIRECTLY OR INDIRECTLY OUT OF THIS SUPPORT AGREEMENT. IN NO CASE SHALL SPIRENT PARTIES' AGGREGATE CUMULATIVE LIABILITY UNDER THIS SUPPORT AGREEMENT EXCEED THE AGGREGATE SUPPORT FEES PAID OR PAYABLE BY YOU FOR THE COVERED PRODUCT IN THE TWELVE (12) MONTHS PERIOD PRIOR TO THE EVENT GIVING RISE TO THE CLAIM. NOTHING IN THIS SUPPORT AGREEMENT SHALL OPERATE SO AS TO EXCLUDE OR LIMIT A PARTY'S LIABILITY FOR ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED BY LAW.

9. Miscellaneous.

- (a) "**ENTIRE AGREEMENT.**" This Support Agreement is the complete and exclusive agreement between You and Spirent relating to the technical support and maintenance services to be provided by Spirent in respect of the Covered Product and supersedes any previous or contemporaneous oral or written communications, proposals, and representations with respect to its subject matter. This Support Agreement prevails over any conflicting or additional terms of any purchase order, ordering document, acknowledgement or confirmation or other document issued by You, even if signed and returned by Spirent. Spirent reserves the right to change or modify this Support Agreement without notice at any time in Spirent's sole discretion by publishing the revised Support Agreement on the following website: www.Spirent.com. Your express acceptance or Your continued use of the Covered Product shall constitute Your acceptance to be bound by the terms and conditions of the revised Support Agreement.
- (b) "**GOVERNING LAW AND VENUE; SEVERABILITY; WAIVER.**" THIS SUPPORT AGREEMENT WILL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT GIVING EFFECT TO ANY CHOICE OF LAW RULES. YOU HEREBY AGREE THAT THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE FOR ANY LITIGATION ARISING FROM OR RELATING TO THIS AGREEMENT OR THE SUBJECT MATTER HEREOF SHALL BE IN AN APPROPRIATE U.S. FEDERAL OR STATE COURT IN THE STATE OF CALIFORNIA. Further you waive any defense of personal or subject matter jurisdiction. Such governing law is exclusive of any provisions of the United Nations Convention on Contracts for Sale of Goods, including any amendments thereto, and without regard to principles of conflicts of law. If any provision of this Support Agreement is found partly or wholly illegal or unenforceable, such provision shall be enforced to the maximum extent permissible, and remaining provisions of this Support Agreement shall remain in full force and effect. A waiver of any breach or default under this Support Agreement shall not constitute a waiver of any other breach or default.
- (c) "**Notices.**" All notices, requests, demands or other communications which are required or may be given pursuant to the terms of this Support Agreement shall be in writing and shall be deemed to have been duly given if sent by a nationally recognized overnight express courier. Notices shall be delivered to the following:
Spirent Communications Inc., Support Contracts Administration, 101 Crawford's Corner Rd, Suite 4-216, Holmdel, NJ 07733 USA
- (d) "**Force Majeure.**" Neither party shall be in default if its failure to perform any obligation under this Support Agreement (other than obligations to make payments when due) is caused solely by supervening conditions beyond that party's reasonable control, including acts of God, war, terrorism, civil commotion, strikes, labor disputes, Internet service interruptions or slowdowns, vandalism or "hacker" attacks, or governmental demands or requirements.
- (e) "**Assignment.**" You may not assign the rights granted hereunder or this Support Agreement, in whole or in part and whether by operation of contract, law or otherwise, without Spirent's prior express written consent.

SEE APPENDIX A FOR SPECIFIC SERVICE LEVEL OBJECTIVES, SERVICE LEVEL AGREEMENTS, SUPPORT RESOURCES AND OTHER SUPPORT DETAILS FOR YOUR APPLICABLE COVERED PRODUCT(S) DESCRIBED THEREIN.