

TeleMate, NetSpective, NetAuditor Software Maintenance Plan

Services Provided

Software Support Service. During the period of time or term of the Software Maintenance Plan (the "Plan"), for which the customer has paid TeleMate.Net Software, LLC. ("TELEMATE"), for the services described in this Plan, TELEMATE will provide technical support relating to product installation, configuration, use, and operation of the TELEMATE software licensed by customer. This support will be provided by telephone; Email, and/or on-line via WebEx™ during TELEMATE's normal business hours of 7:30 a.m. to 6:00 p.m. U.S. Eastern time, Monday through Friday, excluding TELEMATE holidays.

Update Service. During the term of the Plan, TELEMATE will provide updates to the licensed software. "Update" means each version of the licensed software released for distribution by TELEMATE that incorporates one or more program fixes, enhancements, or improvements as designated by release level 1.x. "Updates" excludes new products announced by TELEMATE that require additional license fees and which provide more functionality than the software version initially licensed, as designated by the release x.0 ("Upgrade").

Call Storage Devices. During the term of the Plan, TELEMATE will provide updates to the licensed Call Storage Devices ("CSD"). A "CSD Update" means firmware updates of the licensed software released for distribution by TELEMATE's CSD provider that incorporates one or more program fixes, enhancements, or improvements which is designated as upgradeable from the CSD's base model and version. "CSD Updates" excludes new products announced by TELEMATE's CSD provider that require changes to the CSD hardware platform initially purchased. Additionally, the Plan includes advanced replacement of CSD as loaner units for defective units that have been issued a Return Merchandise Authorization or RMA number by TELEMATE Technical Support or TELEMATE's CSD provider. There is no guarantee that a loaner unit will be equal in specifications and storage capacity to the licensed CSD.

Category & Signature Updates. During the term of the Plan, TELEMATE will provide online access via TELEMATE's Online Service to NetSpective and NetAuditor products to automatically and manually obtain URL category and signature updates.

INTERNET Access. Access to technical support via the INTERNET for Frequently Asked Questions (FAQs), and selected data files are available to Plan subscribers at no additional charge.

Correction of Errors. The technical support provided by this Plan includes a limited obligation to assist in the correction of errors in the licensed software. If the licensed software fails to perform in accordance with the functionality specified in the user documentation or help screens, the customer may notify TELEMATE support of the error. TELEMATE technical support staff, at their option, may require additional information sufficient to permit TELEMATE to reproduce the error. In the event TELEMATE is able to reproduce the error, and identify it as an error in the licensed software, TELEMATE will use its best efforts to correct the error. TELEMATE will also provide the customer with known error avoidance or error bypass procedures as soon as possible after the customer notifies TELEMATE of a problem.

New Release of the Software Product(s). At TELEMATE's discretion, TELEMATE will provide the customer with corrected, updated or enhanced releases of the licensed software which TELEMATE makes generally available for use under the applicable software license agreement without additional charge (installation of updates performed by TELEMATE remotely or on site is available for an additional charge). TELEMATE may charge, at TELEMATE's discretion, or require the separate purchase of Upgrades or releases which contain what TELEMATE deems to be significant enhancements in the licensed software functionality.

Limitations

Services NOT Covered. The Plan does not include (i) assistance in the configuration or maintenance of hardware, software or facilities external to the licensed software, (ii) customer modifications or programming changes to the licensed software, (iii) standard product training. The technical support provided through this Plan is not intended to replace standard product training.

The technical support provided through this Plan does not include technical training. Regular training is offered at a fee.

Hardware Modifications, Additional Software or Training. If a hardware modification or additional third party software is needed for a new release of the licensed software to be compatible with the customer's hardware, such required hardware modification or third party software is NOT covered by this Plan and is the customer's sole responsibility. If additional training is necessary to utilize a new release of the licensed software, the cost of such training is NOT covered by this Plan and is the customer's sole responsibility.

Conditions

The Plan does not constitute a warranty. TELEMATE will provide the services described herein subject to the following conditions:

1. **This Plan is NOT an Agreement for Trouble Free Service.** TELEMATE does not represent that the operation of the licensed software will be uninterrupted or error free. TELEMATE is not responsible for problems caused by the customer's computer hardware, or the customer's use of the licensed software in conjunction with non-TELEMATE software or in conjunction with other than the specified hardware and operating system environment, or the customer's unauthorized use of the licensed software. TELEMATE will not be responsible for loss, damage or injury resulting from any delay in rendering the services required under this Plan.
2. **Remote Diagnostic Access.** The customer must provide access to the licensed software and computer(s) on which the licensed software resides through the use of an internet connection where WebEx™ remote access can be used through a Windows browser session. (TELEMATE will provide support to customers that do not implement the specified remote diagnostic capability, but TELEMATE reserves the right to charge additional fees that reflect TELEMATE's additional support costs associated with the lack of remote diagnostic capabilities.)
3. **Hardware Requirements.** Customer equipment must meet the minimum computer hardware and software configuration specified and provide access to all information necessary to operate the licensed software (i.e. phone numbers, passwords, etc.). Additionally computer hardware utilizing the Windows operating system must be listed in the current Microsoft Windows NT Hardware Compatibility List (HCL)
4. **Software Operations.** The customer is responsible for providing personnel with the appropriate knowledge and skills to operate software programs.
5. **Accounts Receivable.** TELEMATE will not provide services specified under this plan to customers whose Plan accounts are thirty (30) days or more past due or customers who have not paid for the software license in accordance with the terms and conditions agreed upon in writing at the time of sale.
6. **No Liability for Consequential Damage.** NEITHER TELEMATE NOR ITS DISTRIBUTORS OR AGENTS SHALL IN ANY CASE BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, INDIRECT OR OTHER SIMILAR DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR LOSS OF USE) ARISING FROM BREACH OF WARRANTY, FAILURE TO PROVIDE THE SERVICES DESCRIBED HEREIN, NEGLIGENCE, MALPRACTICE OR ANY OTHER LEGAL THEORY, EVEN IF TELEMATE OR ITS DISTRIBUTOR OR AGENT HAS BEEN ADVISED OF SUCH DAMAGES.
7. **Disclaimer of any Implied Warranties.** NO IMPLIED WARRANTY, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, SHALL APPLY TO ANY MEDIA, DOCUMENTATION, SOFTWARE PRODUCT, OR SERVICE PROVIDED BY TELEMATE UNDER THIS PLAN. OTHER THAN AS SET FORTH EXPRESSLY IN THIS PLAN, ALL EXPRESS WARRANTIES ARE HEREBY DISCLAIMED BY TELEMATE.
8. **Modifications to the Software Maintenance Plan.** The features of this Plan can only be modified by a written agreement signed by a duly authorized representative of TELEMATE and the customer. The terms and conditions of this Plan are exclusive, notwithstanding any variance from the terms and conditions of any purchasing, ordering document, or other instrument submitted by the customer whether formally rejected by TELEMATE or not.

Optional Services

A number of optional services are available to TELEMATE Plan subscribers. These services and others are available for an extra fee:

1. **Installation by TELEMATE.** On-Site and remote installations services are available for an additional fee.
2. **Software Training.** Regular training sessions are conducted at TELEMATE's offices in Norcross, Georgia.
3. **Custom Reports.** Custom reports developed by TELEMATE are available for an additional fee.

Other Chargeable Items

1. **Excessive Support Charges.** TELEMATE may charge for unusual or excessive support expenses not directly related to the failure of the licensed software. However, in all cases TELEMATE will notify the customer of the possibility of these costs in advance.
2. **Extraordinary Expenses.** Any extraordinary expenses incurred by TELEMATE in the carrying out the services described herein shall be paid by the customer. Such expenses may include, but are not limited to (a) express or priority shipment of materials, (b) airline fares, (c) local hotel accommodations, transportation, and meals. TELEMATE will notify the customer of the possibility of these expenses in advance for customer approval.

Plan Pricing and Terms

1. **Basic Price and Terms.** Current pricing for the Plan is available on the TELEMATE price sheet. For those customers not providing remote diagnostic capabilities via Webex™, TELEMATE reserves the right to increase the cost of this Plan for the licensed software. However, TELEMATE will notify the customer of the possibility of this increased cost in advance.
2. **Payment Terms.** Payment in full for the upcoming term is due thirty (30) days prior to the expiration of the current Plan term. Payment not received by the commencement date of the NEW term will be considered PAST DUE. TELEMATE will not provide support services or updates to customers who are thirty (30) days or more past due. Payments past due thirty (30) days or more will be subject to a standard restart fee.
3. **Agreement to Terms and Services.** Payment, partial payment, or agreement to pay through the execution of a document such as an Order Confirmation by the customer indicates agreement on the part of the customer to the maintenance service, updates, terms and conditions provided for under the Plan.