

REMOTE SOFTWARE SUPPORT AGREEMENT

This Remote Software Support Agreement (“**Agreement**”) is entered into effective as of _____, 202X (“**Effective Date**”), between CUSTOMER INC., a Michigan corporation, with offices located at ADD ADDRESS (“**Customer**” or “**Customer**”), and eAGILE, INC., a Michigan corporation, with offices located at 1880 Turner Ave NW, Suite A, Grand Rapids, Michigan 49504 (“**eAgile**”).

This Agreement states the terms and conditions under which Customer or Customer’s Affiliate (defined below) will purchase from eAgile, and under which eAgile will provide to Customer or its Affiliate, remote software support services for eAgile’s software (“**Software**”) licensed to Customer under the End User License Agreement (“**EULA**”) between the parties located at <https://www.eagile.com/end-user-license-agreement-2/>

The parties therefore agree as follows:

1. **Definitions.** For the purposes of this Agreement, the following definitions apply to the respective capitalized terms, and other capitalized terms are defined when they first appear in this Agreement. Terms capitalized in this Agreement but not otherwise defined have the meanings ascribed to them in the EULA.

“**Affiliate**” means any corporation, company, partnership, trust, sole proprietorship, or other entity or individual that, in whole or in part, (a) is owned or controlled by such party; (b) owns or controls such party; or (c) is under common ownership or control with such party. Customer’s Affiliates include the entities listed in section 14(a).

“**Error**” means any failure of the Software to conform in any material respect to its documentation.

“**Error Correction**” means either a modification or addition that, when made or added to the Software, brings the Software into material conformity with its documentation.

“**Remote Support**” means the Error Correction efforts expended by eAgile remotely from its headquarters in Grand Rapids, Michigan, USA.

2. **Term.** The term of this Agreement (“**Term**”) will commence on the Software’s Warranty Period expiration and continue for consecutive one-year periods throughout the EULA Term. Termination of the EULA will automatically terminate this Agreement. In addition, either party has the right to terminate this Agreement for any reason at the end of an annual Term on 30 days prior written notice to the other. Following termination for any reason, eAgile shall invoice Customer for all accrued but unpaid fees and charges, and Customer must pay the invoiced amount in USD upon invoice receipt. Payment terms are net 30 days.

3. **Scope of Remote Support.** During the Agreement Term, eAgile shall render the following Remote Support of the Software in accordance with the following:

- a. The applicable Pricing Table is attached hereto and incorporated herein as **Exhibit A** and contains three Remote Support options: “Essential,” “Select,” and “Premier.” Customer must select one of these options no later than 30 days from the Effective Date and issue its purchase order to eAgile reflecting that selection. The option selected will apply to all Customer sites (listed in **Exhibit B**) using the Software during the Term of this Agreement, and Customer has no right to upgrade or downgrade the Remote Support for any site. Pricing does not include (i) Software licenses or any support services for the unnamed sites nor hardware or integrated systems; or (ii) any on-site services.
- b. The Statement of Work (“**SOW**”) covering the Remote Support is attached hereto and incorporated herein as **Exhibit B**.
- c. For any Support Option, Customer shall first route the issue through an Customer team member having a reasonable degree of knowledge about the Software. If Customer’s resources cannot resolve the Error, Customer shall then report the Error to eAgile.
- d. eAgile shall maintain trained staff capable of rendering the Remote Support in a prompt and efficient manner from its Grand Rapids, Michigan, USA headquarters. All Remote Support communications will be in American English. eAgile is obligated to provide Remote Support only between the hours of 8 am and 5 pm on non-US holidays and weekdays. eAgile’s target response time depends on the Remote Support option selected as stated in **Exhibit A**.
- e. eAgile shall invoice Customer monthly for the Remote Support rendered. The invoices shall contain enough detail for Customer to understand the nature of Remote Support rendered and the eAgile personnel who provided it. eAgile’s time spent investigating and responding to reported Errors is billable time. Customer shall pay eAgile’s invoices in USD within 30 days of receipt.
- f. eAgile’s fees do not include any taxes, duties, tariffs, or other governmental charges or expenses imposed related to this Agreement, including value-added taxes; these taxes will be billed to and paid by Customer. eAgile is responsible for all taxes based on its personal property ownership and net income. A finance charge of 1.5% per month will be assessed on any past due payment that is not disputed in good faith. Any undisputed amount outstanding for more than 45 days after the invoice date will constitute Customer’s material breach of this Agreement.
- g. eAgile’s obligation to provide Remote Support is contingent upon Customer’s (i) allowing eAgile to remotely access the Software at Customer’s site via the internet; and (ii) disabling any firewall or other barrier that would prevent or hinder that access. eAgile is not liable to Customer for any delay or failure to provide Remote Support for these reasons.
- h. eAgile has no obligation to provide Remote Support for any of the following:
- (i) Altered, damaged, or modified Software;
 - (ii) Software that is not the current release when Remote Support is rendered;

(iii) Errors, failures, defects, or conditions resulting from or related to Customer's or its Affiliates' agents' or employees' acts or omissions, including Customer's or its Affiliate's failure to fulfill their obligations stated in the SOW); hardware malfunction (unless covered by a separate eAgile equipment warranty); hosting providers' acts or omissions; or other causes beyond eAgile's control;

(iv) Software installed on hardware or in an operating or hosting environment not supported by eAgile; or

(v) Third-party software, hardware, or services.

i. Customer shall pay eAgile for any Remote Support furnished for the excluded conditions stated in subsection "h" on a time and materials basis, including reimbursement for reasonable travel and living expenses, as further described in the SOW (**Exhibit B.**)

4. Limited Warranty; Remedy; Disclaimer. eAgile warrants that the Remote Support shall be provided in a prompt and efficient manner by trained staff. eAgile makes no other representations or warranties, whatsoever. Customer's or its Affiliate's sole remedy and eAgile's sole liability for breach of this limited warranty is for eAgile's trained staff to re-perform the Remote Support in a prompt and efficient manner. eAgile does not promise that the Remote Support will succeed in actually correcting any Software Error.

5. Exclusion of Incidental, Consequential, and Certain Other Damages. To the maximum extent permitted by law, eAgile is not liable for any special, incidental, punitive, indirect, or consequential damages, including for any of the following that arise out of or are any related to the Remote Support, regardless of the liability theory and even if eAgile was advised of the possibility of these damages: (a) loss of profits; (b) loss of confidential or other information; (c) business interruption; (d) personal injury or death; (e) loss of privacy; (f) failure to meet any duty, including of good faith or reasonable care; or (g) negligence.

6. Liability Limitation. Notwithstanding any damages that Customer or its Affiliate might incur for any reason (including all damages in contract, tort, or to any third-party), eAgile's entire liability under this Agreement is limited to Customer's or its Affiliate's actual, direct damages up to the amount that Customer or its Affiliate paid for the Remote Support resulting in the liability. The foregoing limitations, exclusions, and disclaimers (including sections 4, 5, and 6) apply to the maximum extent permitted by law, even if any remedy fails of its essential purpose.

7. Force Majeure. If either party cannot perform its obligations under this Agreement (other than payment obligations) because of Act of God, seizure under local process, sanctions, quarantines or "stay-at-home" orders, restrictions, fire, fog, volcanic ash, smog, flood, weather, mechanical difficulties, riots, or civil commotions, strikes, labor stoppages, war, hazards, pandemics, or dangers incident to a state of war, or any other acts, matters or things, whether or not of a similar nature, beyond the control of the affected party and not its fault, the party who has been so affected will immediately notify the other party and will do everything possible to resume performance and limit

damages to the other party. On receipt of that notice, all obligations under this Agreement will be immediately suspended. If non-performance exceeds 30 days, the party whose ability to perform has not been so affected may, by giving notice, terminate this Agreement.

8. Relationship. eAgile and Customer are independent contractors and not employer/employees, partners, or joint venturers.

9. Non-Solicitation. Customer or its Affiliate shall not solicit or employ, directly or indirectly, in any capacity, any of eAgile's employees or contractors during the Term of this Agreement and one year thereafter (the "**Restricted Period**"). For purposes of calculating the Restricted Period, a former employee or contractor of eAgile shall be deemed an eAgile employee or contractor until one year after termination of their employment or contractor status. If Customer or its Affiliates seeks to hire any eAgile employee or contractor during the Restricted Period, eAgile's consent to the hire will be conditioned on Customer's payment to eAgile of an amount equal to 25% of the annual compensation to be paid to the employee or contractor by Customer or its Affiliates during their first year after hire.

10. Notice. All notices, requests, consents, claims, demands, and waivers under this Agreement (each, a "**notice**" or "**notify**"), excluding routine business communications, must be in writing, and addressed to the parties at their primary business addresses stated on their respective websites or otherwise provided. All notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid). An email notice is effective only if it is acknowledged by an email or fax message from the receiving party, but an automatic or system-generated delivery or read receipt does not qualify as proper acknowledgment. A notice is effective only (a) on receipt of the receiving party; and (b) if the party giving the notice has complied with this section. All notices to eAgile must be sent to the attention of its chief financial officer.

11. Publicity. Customer hereby grants eAgile the right to publish Customer's name, tradename, and trademark in a press release announcing the parties' business relationship or in a public list of eAgile's customers, and eAgile may post the press release or list on its website or elsewhere.

12. No Assignment. This Agreement and any rights or obligations hereunder shall not be assigned by contract or operation of law without the other party's prior written consent. Any assignment contrary to this provision is void. But this provision will not be deemed to prevent eAgile from using subcontractors to deliver the Remote Support on the condition that eAgile shall remain liable to Customer, in accordance with this Agreement, for the Remote Support.

13. Applicable Law. This Agreement is governed by Michigan (U.S.A.) law, without regard to its choice of law principles, as applied to agreements entered into and performed entirely in the State of Michigan. Unless expressly waived by eAgile in writing for the particular instance, the state and federal courts located in Kent County, Michigan, U.S.A., have sole and exclusive jurisdiction and venue for actions related to the subject matter of this Agreement. Customer hereby consents to the jurisdiction of these courts.

14. Entire Agreement; Amendment; Severability.

a. This Agreement supersedes any communications or advertising related to its subject matter. This Agreement is a complete statement of the agreement between the parties for the Remote Support, and there are no other prior or contemporaneous understandings, promises, representations, or descriptions concerning the Remote Support. In particular, but not by way of limitation, neither party shall construe the following purchase orders between eAgile as seller and Customer’s Affiliates as buyers as applicable to the Remote Support:

Name of Customer Affiliate	PO #	Date
List of Purchase Orders or other contracts		

b. No amendment to or modification of this Agreement is binding unless made in writing and signed by eAgile’s authorized officer. No failure to exercise or delay in exercising any right or any power in this Agreement will operate as a waiver. If any provision of this Agreement is held void, invalid, unenforceable, or illegal, the other provisions will continue in full force and effect, and the invalid, unenforceable, or illegal provision will be amended to achieve as closely as possible the effect of the original term. If there is any conflict or contradiction between this Agreement and (a) an attached Exhibit; or (b) the EULA, this Agreement will control.

15. Confidential Information. All Remote Support content is an eAgile valuable trade secret and its “**Confidential Information.**” Customer shall not, during or after the term of this Agreement, permit the duplication, use, or disclosure of any Confidential Information to any person (other than Customer’s employees, agents or representatives), unless eAgile specifically authorizes that duplication, use, or disclosure in writing before any disclosure. To the extent that eAgile authorizes the duplication of Confidential Information, all such copies will bear the same confidentiality notices, legends, and intellectual property rights’ designations that appear in the original versions, and Customer shall keep detailed records of the location of all Confidential Information.

Customer shall use reasonable diligence, and in no event less than that degree of care that Customer uses for its own confidential information, to prevent the unauthorized disclosure or reproduction of the Confidential Information.

16. Survival. Expiration or earlier termination of this Agreement for any reason will not release either party from any liabilities or obligations stated in this Agreement that (a) the parties have expressly agreed will survive; or (b) remain to be performed or by their nature would be intended to be applicable following expiration or earlier termination. Specifically regarding section 15 (*Confidential Information*), the confidentiality obligations will survive the expiration or earlier termination of this Agreement for five years from the expiration or termination date, except

Confidential Information that constitutes a trade secret under applicable law will survive for as long as the Confidential Information remains a trade secret under that law.

The parties are signing this Agreement by their authorized officers or agents on the Effective Date.

CUSTOMER INC.
("Customer" or "Customer")

eAGILE, INC.
("eAgile")

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Exhibit A: Pricing Table

(NOTE: Customer must select one of these three options and issue its purchase order to eAgile reflecting that selection.)

	“Essential”	“Select”	“Premier”
Call In: Operational Time	U.S. EST Business Hours* (8 AM - 5 PM EST M-F)	Customer Site(s) Business Hours*	24x7x365 Support
Target Response Time	1 Business Day*	3 Business Hours*	1 hour
Target Response Time Anticipated Service Level	Not Applicable	90%	95%
Pricing (USD)	\$ TBD per month	\$ TBD per month	\$ TBD per month
Remote Monitoring	Unattended Remote Access Required	Unattended Remote Access Required	Unattended Remote Access Required

*Business day is defined as a weekday (M-F) that is not a U.S.-observed holiday and includes a shift-end carry over. Business Hours are hours that occur from 8 AM to 5 PM, Eastern Standard Time.

Exhibit B: Statement of Work

This Statement of Work for eAgile's Remote Support is incorporated into the Remote Software Support Agreement between eAgile, Inc., and Customer, Inc. Capitalized terms in that Agreement have the same meanings as used in this SOW. This SOW contains certain business obligations applicable to the Remote Support.

The Remote Support includes eAgile's remote system monitoring.

eAgile will respond to all Customer requests, but if the issue is determined to be caused by Customer, either in whole or part, or is otherwise excluded from eAgile's maintenance obligations under the Agreement, eAgile shall invoice support as a compensable additional charge to the support plan at the following rates, and Customer shall pay these additional charges net 30 days from invoice receipt:

Standard eAgile Rates (in USD)

<i>On-Site RFID Hardware/Software Services</i>	\$175/hr
<i>Travel and Hotel Accommodations (approximate per person)</i>	\$1,000 - \$1,500
<i>In-House (Remote) Hardware/Software Services</i>	\$150/hr

(end)