

SGI CUSTOMER SUPPORT AGREEMENT

This SGI CUSTOMER SUPPORT AGREEMENT (the "Agreement") is made as of [REDACTED], 20[REDACTED] between [REDACTED], ("Customer" or "you"), having a principal place of business at [REDACTED] and Silicon Graphics International Corp. ("SGI"), having a principal place of business at 46600 Landing Parkway, Fremont, CA 94538. The purpose of this SGI Customer Support Agreement is to establish the terms and conditions under which SGI will provide maintenance support services to Customer.

1. Definitions.

For the purposes of this Agreement and its Attachment(s), which are incorporated herein by reference, the following definitions shall apply:

"Customer Support Center" or "CSC" means an SGI-authorized location for telephonic technical Support and problem resolution.

"Effective Date" means the date upon which this Agreement is effective, which shall be the first date of the Support as specified on the Quotation.

"Equipment" means the computer workstation, server, peripheral Product and/or accessories thereof accepted for Support by SGI and listed on the Quotation.

"Licensed Software" means software products licensed to you pursuant to a separate license agreement between you and SGI, and accepted for Support by SGI and listed on the Quotation. The term "Licensed Software" also includes Updates delivered pursuant to this Agreement. Licensed Software does not include maintenance Software.

"Operating System" means one of the following:

a) IRIX Operating System: the current release with general bug fixes or previous releases introduced within one year prior to the current release with data integrity and system security bug fixes, which are installed on the Product.

b) SGI Advanced Linux Environment: the current release with general/security Updates, which are installed on the Product.

c) Other Operating Systems certified by SGI on SGI Products: the current operating system with general/security Updates provided by the applicable third party, which are installed on the Product.

d) SGI ProPack Operating Environments: the current ProPack release or service pack with general/security Updates, which are installed on the Product.

"Principal Period of Maintenance" or "PPM" means the hours of Support coverage, which will be a minimum of eight (8) working hours per business day, at the Product installation site, Monday through Friday, excluding SGI's locally-observed holidays, during which time SGI will provide Support to you under this Agreement. Upon request, SGI will provide you with its locally-observed holiday schedule. The PPM may be expanded under certain Support programs and included as an Attachment hereto.

"Product(s)" means Licensed Software and/or Equipment which SGI has agreed to provide Support under the terms and conditions of this Agreement.

"Quotation" means that document provided to you by SGI which shall include, where applicable, pricing, supported Product configurations, term, discount, uplifts and any special terms and conditions applicable to Product under Support which shall be acknowledged and accepted by you as part of this Agreement.

"Support" means, collectively, SGI's contractual maintenance and support services provided under this Agreement and its applicable Attachment(s), for Products specified in the Quotation.

"System Support Engineer" ("SSE") means a SGI representative authorized to perform on-site Support.

"Updates" means new releases of the Licensed Software supported under this Agreement.

2. SGI Support Programs.

SGI offers a comprehensive range of Equipment and Licensed Software Support programs that are available to you. The program you've chosen is defined in the Support Attachment to this Agreement and

SGI agrees to provide you with Support of the SGI Equipment and/or Licensed Software in accordance with the terms of the chosen program.

3. Term.

This Agreement will remain in effect until the last day of the last-to-expire term of Support as specified in any and all Quotations and/or related purchase orders, or unless earlier terminated as set forth herein. The initial term of Support under this Agreement will be one (1) calendar year after the Effective Date, unless otherwise specified on the Quotation or purchase order. The term of Support for all Products purchased in conjunction with a single set of Quotations and/or related purchase orders will begin on the same commencement date and expire on the same expiration date, i.e. be coterminous. Unless Support is terminated by a party by providing written notice to an authorized representative of the other party no later than thirty (30) days before the expiration of the then-current term, Support will automatically renew for successive one (1) year terms, provided that SGI has received a mutually agreeable purchase order from you covering the Equipment and/or Licensed Software Support at the then-current prices, provided to you by an SGI Quotation.

In the event of such termination notice, the last day of the then-current term will be considered the termination date of such Support.

4. SGI Obligations.

SGI agrees to:

a. Provide Support to you for the Product(s) specified on the Quotation, during the PPM solely under the terms and conditions of this Agreement and the applicable Attachment(s). Included with the chosen Support program, SGI will provide on-line Support tools for your use through SGI's Supportfolio™ on-line web site, which is: support.sgi.com. These support tools provide round-the-clock, immediate access to SGI technical information, including on-line case reporting and tracking and full-featured search and information retrieval.

b. *(This paragraph applies only if the Support program you have purchased includes Equipment. The Attachment to this Agreement describing the Support program(s) you have selected may modify and/or supplement these base terms and conditions.)* Furnish replacement parts to you on an exchange basis to replace parts that fail in Equipment during the term hereof. Such parts will be new parts or parts performing like new parts. Failed parts that you return to SGI become SGI's property; parts that SGI provides to you in exchange for such defective parts become your property.

c. *(This paragraph applies only if the Support you have purchased includes Licensed Software which is supported by SGI. [Certain Software and the appropriate licenses may be obtained from SGI at the time of product acquisition, but support may not be provided by SGI on all Licensed Software products.] The Attachment to this Agreement describing the Support program you have selected may modify and/or supplement these base terms and conditions.)* SGI will make Updates available to you for Licensed Software that you have previously licensed from SGI, on general release of such Updates to SGI's customers and on a "when and if available" basis. SGI does not represent or warrant that specific Updates will be developed or available to its customers. Any representation of a future specified Update, whether written or oral, by SGI, a SGI reseller or by any other third-party, is deemed invalid under this Agreement. SGI will provide Support for Licensed Software in accordance with SGI's then-current software support policy and will only support Licensed Software when used with Equipment configurations approved in writing by SGI. SGI will also provide you access to SupportFolio on-line technical information regarding your Licensed Software.

5. Customer Obligations.

You will promptly notify SGI of any failures or bugs in the Product, and provide SGI with any reasonable assistance in performing its obligations hereunder, including cooperating with SGI's Support personnel in performing reasonable Product testing, and allowing access to the Product and information relating to any problem you report to SGI. Further, you agree to the following:

a. Equipment Support. You must: (i) maintain Equipment in a location that conforms to the environmental conditions listed in the appropriate SGI documentation; (ii) notify SGI of any configuration changes to the Equipment; (iii) notify SGI of your intent to move Equipment and hold SGI harmless from damage resulting from such a move; (iv) include all Equipment components (designated by SGI part or model number) in a system under Support; (v) allow, subject to your reasonable security requirements, SGI SSEs full and unconditional access to the Equipment; (vi) ensure free and non-delayed passage of SGI SSEs, their support tools and exchange of replacement parts. Failure to comply will require you to assume additional responsibilities which may include, but is not limited to: uplifts for Equipment maintained in a legally-mandated security environment such as a United States Government classified program which restricts the free exchange of parts or access by SGI SSEs; (vii) completely disclose to SGI any potential safety or health hazards existing at the site and provide safety procedures to be followed while at the site; (viii) provide, at no charge to SGI, working space, electricity, and access to a local telephone line for the SSE; and (ix) have an authorized representative present during Support at all times or agree to reschedule Support.

You may be asked for the following information to assist your CSC technician or SSE: the type of Equipment you are using, the complete text of error messages and description of the problem, as well as any additional software you are using that falls outside the coverage under this Agreement. Additionally, your CSC technician or SSE may require that you load another version of the Operating System onto your computer system to determine whether the problem is reproducible. You also agree that the completeness and accuracy of the information which you provide to your CSC Technician or SSE will affect SGI's ability to resolve your problem in a timely manner.

If the Support Program you have selected qualifies you for Advanced Parts Exchange, and SGI ships you replacement exchange parts, SGI will ship such parts for your receipt within one (1) business day after fault isolation, or as commercially reasonable. Such parts will be new parts, or parts which perform as new parts. You will: (i) promptly pack the defective part(s) for shipment in the replacement part's packaging and return the defective part to the address on the packaging, postage prepaid; and (ii) if you do not return the defective part within ten (10) days after your receipt of a replacement part, SGI will contact you and request a purchase order for the then current list price for the replacement part; and (iii) if the defective part or purchase order are not received by SGI within thirty (30) days, service for all Equipment under this Agreement will be suspended until the defective part is returned to SGI or an acceptable purchase order for the replacement part is delivered to SGI.

Defective parts that you return to SGI become SGI's property; parts that SGI provides to you in exchange for such defective parts become your property. SGI will accept a maximum two (2) requests for parts from you to repair a specific problem. If the part provided in the second instance does not resolve the problem, SGI will make a recommendation regarding problem resolution that may involve SGI visiting your site. Except for any damage you may have caused to the Equipment, you will not be obligated for payment of the replacement parts required to solve the problem during an SGI on-site service call. You will be obligated to pay for SGI's actual time, travel and per diem charges.

b. Licensed Software Support.

Licensed Software Support is limited to circumstances when the Licensed Software fails to function as specified in the applicable SGI User's Guide or other SGI documentation, or when you believe that the SGI documentation is unclear as to the proper use or configuration of the Licensed Software. Customer agrees to maintain all software and firmware at the current levels and revisions when requesting Support hereunder.

Maintain a current backup copy of the Operating System and all other applicable software programs and data residing on your system for as long as necessary to utilize the Support services contemplated under this Agreement.

You understand that software is not perfect or error-free and that, despite its commercially reasonable efforts, SGI may be unable to provide answers to or resolve some or all of your requests for Licensed

Software resolutions. SGI makes no promises, guarantees or assurances, of any kind, that it will be able to provide all software resolutions you seek.

6. Additional Support; Exclusions and Limitations for Equipment and Licensed Software Support.

a. Additional Support. You may obtain additional support services not covered under this Agreement, including, but not limited to: software configuration, installation and de-installation, system and remote system administration, and other services through SGI's Consulting and Managed Services programs at the then-current SGI terms and conditions and pricing.

b. Pre-Maintenance Inspection.

If you wish to include any Product for Support under this Agreement that has not been under SGI's extended warranty or other Support program during the previous thirty (30) day period, SGI may, at its discretion require inspection of such Product to determine its condition before acceptance hereunder. If SGI determines that such Product is not operational, you agree and acknowledge that such Product must be made operational before SGI will provide Equipment and/or Licensed Software Support. SGI will charge you and you agree to pay for any such inspection and repairs in accordance with Section 7 below.

c. Exclusions and Limitations.

Equipment Support applies only to the repair or replacement of Equipment specified in the Quotation. Preventive maintenance, installation, de-installation, relocation services and Licensed Software Support are not included in Equipment Support. SGI has no obligation to repair or replace: (i) Equipment that has been damaged through no fault of SGI by abuse, accident, act of God or War, misuse, misapplication, improper installation, shipment or environmental factors (e.g. electrical power anomalies, temperature, shock or humidity); (ii) Equipment that has been modified or has had its serial number removed or altered; and (iii) components, parts or assemblies added to Equipment by anyone other than an authorized SGI Support representative. SGI is not obligated to repair or replace monitors that have been defaced or locked-down or are damaged due to etched or burned-in screens.

SGI will not be liable for any loss of or damage to software, data or removable storage media.

Licensed Software Support specifically excludes configuration of Equipment or networking services, general solution provider services, general computer maintenance or any on-site services. SGI shall have no obligation to provide Licensed Software Support for any system that includes unsupported Equipment. SGI maintains a list of supported Equipment at <http://support.sgi.com>. This list may be amended at anytime by SGI in its sole discretion.

d. Exclusion of third party products.

Except by separate, express written agreement between the parties, SGI will not provide Support for hardware or software not supplied by SGI, and SGI will not be liable or responsible for the performance or nonperformance of such hardware or software, the services provided by the suppliers thereof, or incompatibility between SGI Products and such third party hardware and/or software.

7. Prices, Payment, Taxes.

a. Prices. Prices for Equipment and Licensed Software Support will be SGI's then-current charges (as of the beginning of each such term) including any billing or location surcharges, less any applicable discounts, specified on the Quotation. If you request support that is outside the scope of the Agreement, and SGI generally makes such support available to its other customers, SGI will provide you with such support at SGI's then-current rates, including time and material expenses. SGI's minimum billing period for such Support will be two (2) hours per call during the PPM, and four (4) hours at any other time.

b. Payment. At the beginning of initial term of this Agreement, SGI will send an invoice to you covering charges for the initial period of Support. Thereafter, SGI will send invoices on an annual basis, or more frequently with the appropriate surcharges as agreed by the parties, and you agree to pay such invoices within thirty (30) days after your receipt thereof. SGI will apportion charges for any fraction of a month based on a thirty (30) day month.

Late payments will accrue a late fee at a rate equal to the lesser of: (a) one percent (1%) per month; or (b) the highest rate allowable by applicable law. If payment for Support is more than forty-five (45) days past due, SGI may terminate or suspend provision of Support to Customer upon written notice to Customer. SGI reserves the right to invoice Customer, and Customer agrees to pay, for any such Support services performed during the above-noted late payment period at commercially reasonable rates. The parties agree that any such termination or suspension will not be considered a breach hereof by SGI for Support not performed as of the date of termination or suspension, and SGI will have no liability for such unperformed Support.

c. Taxes and Duties. You agree to pay to SGI any applicable taxes (excluding taxes on SGI's net income), duties and other governmental charges resulting from Support provided to you (and any other transactions under this Agreement), or to supply SGI with appropriate tax exemption certificates in a form satisfactory to SGI.

d. Price Adjustment. In the event the initial (or renewal) term of Support under this Agreement is for multiple years, and the applicable invoice for such multi-year term is not paid in full prior to commencement of such term, the annual price of such multi-year term will automatically increase by 3.2% per annum.

8. Default; Termination.

a. Default. In the case of default hereunder, if such default has not been cured within thirty (30) days after a party has received a written notice of the default from the other party, the non-defaulting party may terminate this Agreement by written notice at any time thereafter.

b. Termination by SGI. If SGI terminates this Agreement for your default, SGI may at its sole discretion convert any future charges for any and all Support rendered to you to SGI's then-current rates.

9. Limited Warranty; Disclaimer.

a. SGI warrants that all Support will be performed in a professional and workmanlike manner in accordance with industry standards. In the event of any material breach of the foregoing, SGI will re-perform the applicable Support at no charge.

b. EXCEPT UNDER SECTION 6.a, SGI PROVIDES ALL SOFTWARE, SUPPORT, SERVICES AND PARTS UNDER THIS AGREEMENT 'AS IS', WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS. THE REMEDIES STATED HEREIN ARE THE EXCLUSIVE REMEDIES FOR ANY BREACH OF WARRANTY.

10. Limitation of Liability.

SGI'S LIABILITY UNDER THIS AGREEMENT, WHETHER FOR BREACH OF CONTRACT, TORT, OR OTHERWISE, SHALL BE LIMITED TO A REFUND OF THE PRO RATA CHARGES PAID FOR THE SPECIFIC SUPPORT INVOLVED IN ANY CLAIM. SGI SHALL NOT BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR SPECIAL, CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, USE, DATA, SOFTWARE, GOODWILL OR PROPERTY DAMAGE), WHETHER FORESEEABLE OR NOT, EVEN IF SGI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE SUPPORT FURNISHED HEREUNDER. THE ESSENTIAL PURPOSE OF THIS SECTION IS TO LIMIT SGI'S POTENTIAL LIABILITY UNDER OR ARISING OUT OF THIS AGREEMENT AND THE SUPPORT FURNISHED HEREUNDER. THE LIMITATIONS OF THIS PARAGRAPH SHALL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES OR IMPLIED WARRANTIES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

11. Confidential Information.

a. The parties acknowledge that during the performance of this Agreement, any information disclosed by a party ("Discloser") to the other ("Recipient") or received by the Recipient as a result of the performance of the Agreement, will be deemed confidential and proprietary to the Discloser, and will be clearly marked or identified as such at time of disclosure ("Confidential Information"). The parties agree (i)

to treat as secret and confidential, and (ii) not to, at any time during the term (or renewal term) of this Agreement and for three (3) years thereafter, disclose, or distribute, or publish, or copy, or reproduce, or sell, or lend, or manipulate, or otherwise make use of (except for the purpose of performing this Agreement), or permit use to be made of, any Confidential Information, except with the Discloser's express written consent. The foregoing shall not apply to any Confidential Information that (i) can be shown by documentary evidence to have been previously known to Recipient at the time of disclosure without any obligation of confidentiality, (ii) is independently developed by the Recipient without reference to or reliance upon Confidential Information, (iii) is lawfully obtained from a third-party without restriction on use or disclosure, or (iv) is or becomes part of the public domain through no fault of the Recipient.

b. Notwithstanding the foregoing, a party may disclose Confidential Information of the other party without violating the obligations of this Agreement, to the extent such disclosure is required by a valid order of a court or other governmental body having jurisdiction, provided that the Recipient provides the Discloser with reasonable prior written notice of such disclosure and makes a reasonable effort to obtain, or to assist the Discloser in obtaining, a protective order preventing or limiting the disclosure and/or requiring that the Confidential Information so disclosed be used only for the purposes for which the law or regulation required, or for which the order was issued.

c. Each party shall use the same degree of care to avoid unauthorized disclosure of the Confidential Information as it employs with respect to its own confidential/proprietary information of like quality and nature, but employing no less than a reasonable standard of care.

d. Upon expiration or termination of this Agreement, each party shall return all Confidential Information of the other party to the other party, and shall not be entitled to make or retain copies thereof.

12. General Provisions

a. Force Majeure. SGI shall not be liable for its failure to perform its obligations under this Agreement for causes beyond its reasonable control.

b. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California, excluding its choice of law rules. In the event that any dispute or controversy between the parties arises out of or is related to this Agreement, whether sounding in tort or breach of contract, and/or the performance or termination thereof, such dispute or controversy shall be subject to, and the parties expressly consent to personal and the exclusive jurisdiction of the California state courts in and for Santa Clara County, California (or, if there is federal jurisdiction, the U.S. District Court for the Northern District of California) and the prevailing party shall recover all of its costs, including reasonable attorneys' fees.

c. Export Regulations; Customer's Compliance. Products, technology, support and services are subject to the export control laws and regulations of the U.S. and other countries, including without limitation, the Export Administration Regulations, International Traffic in Arms Regulations, and the sanctions regulations of the U.S. Department of Treasury Office of Foreign Assets Control. Customer agrees to comply with all applicable laws and regulations, and accepts sole responsibility to monitor and comply with any changes to same. Customer further agrees that it will not, without prior U.S. government authorization, supply any Product, technology or service, directly or indirectly, to any of the following: (i) any country subject to a U.S. trade embargo (currently Cuba, Iran, North Korea, Sudan, and Syria) or to any resident or national of any such country; (ii) any person or entity listed on the "Entity List" or "Denied Persons List" maintained by the U.S. Department of Commerce or the list of "Specially Designated Nationals" maintained by the U.S. Department of Treasury; (iii) any end-user engaged in activities in any way related to weapons of mass destruction or missile technology in a country of proliferation concern; or (iv) any military or nuclear end-user or military or nuclear end-use in Russia. Customer further agrees to indemnify, defend (with counsel approved in advance by SGI) and hold SGI harmless against any claims for costs, damages, expenses, including reasonable attorneys' fees, or liability arising out of or in connection with any breach of this section.

d. Transferability. You may not assign this Agreement without written consent from SGI and any attempted assignment without SGI's consent shall be null and void. SGI may assign its right and obligations under this Agreement to a third party.

e. Unenforceable Provisions. If any term of this Agreement is found to be illegal or unenforceable, the remaining portions of this Agreement shall remain in effect.

f. Complete Agreement; Amendments. This Agreement and any attachments hereto represent the complete and exclusive agreement between you and SGI and supersede all prior proposals, oral or written, negotiations, conversations or discussions relating to this Agreement. This Agreement may be amended to add, delete or modify Support by the execution of subsequent amendments. All additional attachments shall be in writing and shall be executed by both parties. This Agreement may be executed in counterparts and by facsimile, each of which when so executed, will be deemed an original, and all of which together shall constitute one and the same instrument.

AGREEMENT

IN WITNESS WHEREOF, the undersigned do hereby execute this Agreement by duly authorized officials as of the Effective Date:

SILICON GRAPHICS INTERNATIONAL CORP.

CUSTOMER

By:

By:

Name (print or type)

Name (print or type)

Title

Title

Date

Date