END USER SUPPORT AGREEMENT

between

APPLIED TESTING AND TECHNOLOGY, INC.

and

_____

THIS AGREEMENT is made the _____ day of 19__

BETWEEN:

(1)   Applied Testing and Technology, Inc. ("ApTest") whose principal place of business is at 59 North Santa Cruz Avenue, Suite U, Los Gatos, CA 95030 USA; and

(2)   _____ whose principal place of business is

        at _____
        ("the Customer")

Support will be provided, in accordance with the terms of this Agreement, for the software products (the "Products") identified in Appendix 1 herein.

1.   DEFINITIONS

1.1   "Avoidance Procedure"
        An Avoidance Procedure is an instruction which provides a temporary measure to operationally avoid an identified problem.

1.2   "Documentation Correction"
        A Documentation Correction resolves errors or ambiguities in the supporting documentation for the Products.

1.3   "Maintenance Update"
        A Maintenance Update incorporates validated problem resolutions, and is a minor revision of a Product.

1.4   "the End User Licence"
        the End User Licence shall mean the agreement between Customer and ApTest under which the Customer is licensed to use the Products.

1.5   "Nominated Site(s)"
        That site specified in Appendix 1 to this agreement or in the case of a corporate agreement those sites that shall be from time to time notified to X/Open by the customer

2.   SUPPORT SERVICES

2.1   Error Report Service
        The Customer is entitled to submit Error Reports by electronic mail to ApTest using the forms provided within the Products for this purpose, to report potential problems and problems encountered with the Products.

ApTest will use all reasonable endeavors to obtain resolution to verified problems. The Error Report Service can also be used as a vehicle for requesting specific enhancements to the Products. All Enhancement Requests will be reviewed and evaluated as candidates for possible inclusion in future releases of the Products. ApTest will acknowledge receipt of any Error Report submitted. ApTest will acknowledge Enhancement Requests, but ApTest shall not be under any obligation to implement any specific request.

2.2   Problem Correction
ApTest will endeavour to provide correction to verified problems on a timely basis. The response to a problem may be an Avoidance Procedure, Documentation Correction or Maintenance Update of the Products.

2.3   Maintenance Update Services
Maintenance Updates to the Products will be provided by electronic distribution unless otherwise agreed by ApTest and the Customer. By special request from the Customer and on certain occasions, ApTest may distribute by means of magnetic media, however there will be an additional fee for each distribution of this kind.

3.   CHARGES

One month prior to the expiry of this Agreement, the Customer will be informed of any variations in the fees in force for the next year.

4.   PAYMENT

The fee as defined in Appendix 1 shall be paid on execution of this Agreement. The annual service charge for the second and subsequent years shall be due on the anniversary of the date of this Agreement. The said fees shall be paid free of all deductions, together with any taxes due at the rate then in force.

5.   TERM

The initial term of this Agreement shall be for twelve (12) months. This Agreement will automatically renew for additional 12 month periods unless the Customer terminates support in respect of the Products at the end of the initial support period or at the end of any subsequent support year upon at least one (1) month's prior written notice to ApTest. Resumption of support after such a termination shall be conditional upon payment of the support fees which would otherwise have been due for the period during which support was suspended.

6. CUSTOMER'S RESPONSIBILITIES

6.1   The Customer agrees to provide access to its facilities and adequate working space and facilities, to enable ApTest support personnel to resolve Error Reports, if so requested by ApTest. All such facilities shall be within the immediate proximity of the Products, and shall be provided at no charge.

6.2   The Customer shall not perform, or cause to be performed, Support Services on the Products by anyone other than by ApTest personnel, except as defined and authorized in writing by ApTest.

6.3   To enable ApTest to perform its obligations hereunder, it is a condition that the Customer agrees to ensure that any error that gives rise to an Error Report is reproducible and to assist ApTest in reproducing any such error, if so requested by ApTest.

6.4   The Customer will make all reasonable endeavors to ensure that the errors that give rise to an Error Report are genuine faults with the Products.

6.5   The Customer will nominate a single skilled contact person through whom all support requests and responses will be channelled.

7. APTEST RESPONSIBILITIES

Under this Agreement, ApTest shall, subject to the terms and conditions of this Agreement:

7.1   Provide electronic mail responses to Error Report(s), with a normal response time of five business days or less.

7.2   Where in its sole opinion it considers it necessary ApTest may provide on site support, subject to prior approval by the Customer, for which ApTest reserves the right to charge on a time and materials basis.

7.3   ApTest will from time to time distribute the Maintenance Updates and Documentation Corrections for the Products to the Customer.

8. TERMINATION

8.1   In the event that ApTest is in material breach of its obligations hereunder, the Customer may terminate this Agreement. The Customer, to the

exclusion of all other remedies, shall then be entitled to a pro rata refund of all fees paid in respect of the unexpired period of support.

8.2   In the event that the Customer fails to make payment in accordance with Clause 4, ApTest, at its option, may at its sole discretion suspend the support services and thereafter terminate this Agreement.

8.3   ApTest shall have the right to terminate this Agreement by reason of the Customer's bankruptcy, insolvency or if any proceedings are instituted for the winding up or dissolution of the Customer, or if the Customer does not comply with any of the terms and conditions contained herein.

9.   WARRANTY AND LIMITATION OF LIABILITY

ApTest will not be liable to the Customer or to any third party as a result of any delay in furnishing or failure to furnish service hereunder. In the event that any service performed by ApTest is unsatisfactory ApTest's sole liability shall be to re-perform such Support Service. The Customer acknowledges and agrees that such limitation of liability, without limiting the generality of the foregoing, extends to loss of data, profit, actual or anticipated revenue, loss due to failure of the Products and/or damage to business reputation.

IN ANY EVENT APTEST SHALL NOT BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, INTERRUPTION OF BUSINESS, NOR FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND WHETHER UNDER THIS AGREEMENT OR OTHERWISE.

10.   EXCLUSIONS

10.1   The Support fee does not include telephone support or e-mail support requests arising from: (i) abuse, misuse, modification or mishandling of the Products; (ii) damage due to forces external to the Products including, but not limited to, the following: Acts of God, flooding, power failures, transportation, faulty communication lines, etc., or any other causes beyond the control of ApTest. The Customer agrees to pay ApTest's standard charges for service calls covering such cases.

10.2   ApTest can accept no responsibility for modification of the Products which has been done without prior written approval.

10.3   The Customer agrees that ApTest will not be under obligation to provide support for the Products for which a valid End User Licence is not in effect.

11.   GENERAL

11.1 All original material, including but not limited to the Products, prepared for or jointly with the Customer pursuant to this Agreement, shall belong to, and be the property of, ApTest.

11.2 ApTest is not accountable for any changes in computer hardware or software requirements or for any changes that may be necessary to Customer's software or application programs, as a result of an Avoidance Procedure, Maintenance Update or Documentation Correction.

11.3 Certain enhancements may, in ApTest's opinion, be so significant as to create a new product. The Customer may elect to purchase a licence or upgrade package for the new product, and include any upgrade for the remaining period of this Agreement.

11.4 All notices hereunder shall be in writing and shall be addressed to each party at their respective addresses set forth above, or to such other address or addresses as either party may specify by written notice to the other

11.5 No term or provision hereof shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute a consent to, waiver of, or excuse for any other different or subsequent breach.

11.6 In the event any provision of this Agreement is held illegal, void or unenforceable, to any extent, in whole or in part, as to any situation or person, the balance shall remain in effect as to all other persons or situations, as the case may be.

11.7 This Agreement constitutes the entire Agreement between the parties with respect to its subject mater; except as provided herein, all other prior agreements, representations, statements, negotiations and undertakings are terminated and suspended hereby.

11.8 This Agreement shall be deemed to have been made in the State of California, and shall be governed and construed in accordance with the laws of the State of California, notwithstanding the conflict of law provisions of any state and the parties submit to the non-exclusive jurisdiction of the courts of Santa Clara County, California.

APPENDIX 1

to

END USER SUPPORT AGREEMENT

Products to be Supported

_____   _____

_____   _____

_____   _____

Commencement Date

This Agreement shall commence on the date of last signature to this Agreement.

Fees

The fee payable upon execution of this Agreement is _____

Type of license   ❏ Single Site   ❏ Corporate

Customer Contact

Contact Name _____   Contact E-mail _____

Contact Phone # _____   Contact Fax # _____

Site Address

_____

_____

_____

_____

_____

Note: For a corporate license, specify the primary point of contact through which activities with this Agreement will be routed.

AGREED by the parties through their authorized signatories:

FOR AND ON BEHALF OF   FOR AND ON BEHALF OF
APPLIED TESTING AND TECHNOLOGY   **THE CUSTOMER**

....
Signed   Signed

....
Name   Name

....
Title   Title

....
Date   Date