

**Bosch Security Systems ("Bosch")** develops, markets and licenses software products for use in video, intrusion, fire, access control and security systems which are resold locally by **Robert Bosch Ltda.**, having its registered office at Rod Anhanguera Km 98, Campinas 13065-900, Sao Paulo, Brasil ("**Bosch**"). This Bosch Software Maintenance Agreement (the "Agreement") sets out the terms and conditions under which Bosch will provide "Maintenance Services" (defined below). The provision of Maintenance Services by Bosch is subject to and conditioned on Customer's acceptance of the terms of this Agreement, and the terms of the Service Level Agreement Supplement (the "Supplement"). By accepting Maintenance Services Customer accepts the terms of this Agreement including the Supplement. General business terms and conditions of the Customer conflicting with or deviating from the terms of this Agreement are only recognized insofar as Bosch expressly agreed to them in writing.

## **1. Definitions**

1.1 "Agreement" means this Bosch Software Maintenance Agreement, including the Maintenance Service Level Agreement referred to herein.

1.2 "Customer" means the person or entity ordering the Maintenance Services.

1.3 "Software" means the Software product for which Customer has purchased a license to use and which is specified in the order confirmation issued by Bosch.

1.4 "Additional Features" means the expansions or optional features to the Software that are not part of the standard Software modules licensed by the Customer at the Effective Date, or that are added to the Software configuration after the Effective Date.

1.5 "Effective Date" means the date on which the license activation key for the Software is generated by Bosch.

1.6 "Installation Site" means the specific Customer location where the Software is installed.

1.7 "MSLA" means the "Maintenance Service Level Agreement (Supplement to the Bosch Software Maintenance Agreement)", which sets out the details of the Maintenance Services as applicable from time to time. The MSLA is attached hereto and can be found on your local Bosch Security Systems website (follow the links from [www.boschsecurity.com](http://www.boschsecurity.com)).

1.8 "Maintenance Services" means the maintenance services as described in this Agreement and in the MSLA.

1.9 "Maintenance Services Fee" means the fee to be paid by Customer to receive the Maintenance Services.

1.10 "Major Release" means a major update or upgrade to the Software, which includes significant enhancements and/or a major redesign of the Software, identified by Bosch by a change to the first digit in the release number (e.g. change from version 2.0 to 3.0).

1.11 "Minor Release" means a minor update or upgrade to the Software (including service releases or bug fixes), identified by Bosch by a change in the second or following digit in the release number (e.g. change from version 2.1 to 2.2 or 2.2.1 to 2.2.2.).

1.12 "Support Services" means the support services as described in this Agreement and in the MSLA.

1.13 "Contract Period" means the period of the agreed Contract Years. Each Software configuration may have up to 5 Contract Years, and adding Additional Features does not affect this period.

1.14 "Contract Year" means the period of twelve (12) months starting at the Effective Date of the first Software installation at the Customer, and each subsequent anniversary of the Effective Date (e.g. from 1<sup>st</sup> May year A until 30<sup>th</sup> April year A+1).

1.15 "Update" means updates of the Software to fix bugs and errors and thus increase program security without changing the functional scope of the Software.

1.16 "Upgrade" means an improvement of the Software which is given new program functions that were not previously available.

## **2. Start of the Maintenance Services.**

2.1 The Maintenance Service starts at Effective Date of the first Software installation at the Customer,

## **3. Description and coverage of the Maintenance Services**

3.1 The Maintenance Services are comprised of the technical support (bug-fixing) and technical updates (software maintenance through issuing new Releases) of the Software. The details of the Maintenance Services, which details may list, without limitation, included and excluded services, duties of Customer, and service levels offered by Bosch, are described in the MSLA.

3.2 The MSLA is subject to modification by Bosch via the posting of an updated edition of the MSLA at the Bosch website referenced in Section 1.6 above. Except as stated otherwise in the then current version of the MSLA, a new version of the MSLA will be applicable to and incorporated into this Agreement the earlier of (i) one (1) month after such MSLA version is posted on the Bosch website, or (ii) the start of the first Contract Year following such posting on the Bosch website.

3.3 The Maintenance Services cover the Software configuration licensed at Effective Date. Additional Features are added to the scope of the Maintenance Services as from the Effective Date of such Additional Feature, subject to Customer having paid the license fee for such Additional Feature. The initial period of Maintenance Services for an Additional Feature runs from the Effective Date of such Additional Feature until the end of the running Contract Period during which the Additional Features are added to the Software configuration.

3.4 Updates shall be developed at intervals set by Bosch and made available to the Customer as a download. Updates shall be created only for the respective most recent version of the software

3.5 Within the technical support Bosch shall make commercially reasonable efforts to eliminate errors reported by the Customer in accordance with the MSLA.

## **4. Customer Obligations.**

4.1 Contact Information. Customer shall nominate two designated authorized employees for support requests. For each support request, Customer must provide the following details: Customer's name, software version, operating system version, development environment version, and a detailed description of the error Customer shall provide Bosch prompt written notice of all changes to Customer's contact information.

4.2 Customer duties under the MSLA. Customer shall comply with its duties as set forth in the MSLA. In the event Customer does not comply with such duties, then Bosch, without limiting other available remedies, may terminate the Agreement upon written notice to Customer.

## **5. Fees and Payments.**

### **5.1 Maintenance Services Fee.**

5.1.1 The agreed maintenance fee for software maintenance services and support services shall be payable until the due date specified in the invoice issued by Bosch without deductions for the agreed number of Contract Years, and are subject to VAT (where applicable) upon conclusion of the maintenance agreement..

5.1.2 After the agreed Contract Period, the term of this Agreement is only extended if the Customer places a valid order therefore, and pays the then current maintenance Services Fee for the next Contract Period. .

5.2 Additional Features. Additional Features are invoiced at the start of the first Contract Year following the Contract Year in which such Additional Features are activated.

5.3 Reinstatement fee. If Customer wishes to reinstate the Maintenance Services after such Maintenance Services have been terminated, Bosch will charge Customer a reinstatement fee. The reinstatement fee covers the period of time between when the Maintenance Services were terminated and the date the Maintenance Services are to resume. The reinstatement fee will be equal to the then

current prevailing Maintenance Services Fees for covered Software components for the lapsed period of time.

**5.4 Maintenance Services Fee Changes.** Bosch may change (increase or decrease) the Maintenance Services Fee upon written notice at least sixty (60) days prior to the effective date of such change. Such changes do not affect the Maintenance Services fee for the then current Contract Period,

**5.5 Payment.**

5.5.1 All invoices must be paid without any deductions to a bank account specified by Bosch until the due date specified in the invoice issued by Bosch. All Maintenance Services Fee payments shall be in the currency of the license fee paid for the Software.

5.5.2 **Taxes.** The Maintenance Services Fee is exclusive of all applicable federal, state, provincial and local taxes including, without limitation, sales, use, property, value added, goods and services, excise, and similar taxes, and all such taxes shall be assumed and paid by Customer, excluding taxes on Bosch's net income. In the event that Bosch determines that any such taxes are subject to withholding requirements, Bosch may bill Customer for such taxes, and Customer shall promptly pay the amount billed. If any such tax for which Customer is responsible hereunder is paid by Bosch, Customer agrees to promptly reimburse Bosch therefore.

5.6 **Terms.** Failure of Customer to fully pay any fees within the period specified in the applicable Bosch standard terms and conditions after the applicable due date shall be deemed a material breach of this Agreement, justifying suspension of the performance of Bosch's obligations, and shall be sufficient cause for immediate termination of this Agreement by Bosch. Any termination or suspension of this Agreement does not relieve Customer of paying past due fees plus interest. In the event of collection enforcement, Customer shall be liable for any costs associated with such collection, including, but not limited to, legal costs, attorneys' fees, court costs, and collection agency fees.

**6. Warranty and Remedies.**

6.1 **Warranty.** Bosch warrants that the Maintenance Services shall be performed in a professionally diligent manner. THE FOREGOING IS A LIMITED WARRANTY AND BOSCH EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES, CONDITIONS, AND REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. COMPANY ACKNOWLEDGES THAT IT HAS NOT ENTERED INTO THIS AGREEMENT IN RELIANCE UPON ANY BOSCH WARRANTY OR REPRESENTATION.

6.2 **Customer's rights within the warranty are limited to a period of 12 months, beginning on the date of delivery of the update, upgrade or new release.** The warranty claims of the Customer become time-barred after the expiry of this warranty period. By way of derogation, the statutory warranty period applies if Bosch is liable based on Section 7. A guarantee is granted only if it has been expressly named as such in writing.

6.3 **Remedies.** Bosch's sole obligation and Customer's sole remedy under the limited warranty set forth above are strictly and exclusively limited to re-performance of any Maintenance Services which were not performed in accordance with the above warranty, and which are made known to Bosch by written notice from Customer describing such failure in performance in reasonable detail or, at the election of Bosch, a pro rata refund of the Maintenance Services Fees paid by Customer for the portion of the Maintenance Services which were the subject of Customer's warranty claim. The right of the Customer to reduce the remuneration or to withdraw from the Contract at its option in the event of two failed attempts at subsequent performance remains unaffected. The Customer has no right of withdrawal in the event of minor defects.

**7. Limitation of Liability.**

7.1 THE LIABILITY OF BOSCH AND ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS, LICENSORS, CONTRACTORS OR REPRESENTATIVES (COLLECTIVELY THE "BOSCH-PARTIES") FOR ANY CLAIM, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR NEGLIGENCE, FOR ANY DAMAGES RESULTING FROM OR IN ANY MANNER CONNECTED WITH THIS AGREEMENT OR THE MAINTENANCE SERVICES PERFORMED HEREUNDER, SHALL BE LIMITED TO THE LESSER OF (I)

CUSTOMER'S ACTUAL DIRECT DAMAGES RELATED THERETO, OR (II) THE AMOUNT OF THE MAINTENANCE SERVICE FEES PAID BY CUSTOMER FOR THE PORTION OF THE MAINTENANCE SERVICES WHICH ARE THE SUBJECT OF CUSTOMER'S CLAIM. IN NO EVENT SHALL THE AGGREGATE LIABILITY OF THE BOSCH-PARTIES EXCEED THE MAINTENANCE SERVICES FEES PAID BY CUSTOMER HEREUNDER DURING THE CONTRACT YEAR IN WHICH THE CLAIM ACCRUED

7.2 In the event of any property and financial damage caused negligently in any other way, Bosch and persons engaged by it for the performance of its obligations shall be liable only in the event of a breach of a material contractual obligation, the amount being limited, however, to the damages foreseeable when the Agreement was entered into and typical of the type of Agreement; material contractual obligations are those obligations the performance of which is characteristic of the Agreement and which Customer may rely on (hereinafter referred to as "Material Obligation).

7.3 Notwithstanding the provision in Section 7.1, in the event of a negligent breach of a Material Obligation evidenced by Customer, the Parties agree – with due regard to the type and scope of Services to be performed under this agreement – to a liability cap per incident of damages amounting to the amount of the maintenance service fees paid by the Customer for the portion of the maintenance services which are the subject of Customer's claim. In no event shall the maximum total damages payable under this section 7 exceed the amount of the maintenance service fees paid by customer hereunder during the contract year in which the claim occurred.

7.4 The foregoing limitations of liability shall also apply in the event of fault by a person engaged by Bosch in the performance of its obligations and to the personal liability of employees, representatives and corporate bodies of Bosch.

IN NO EVENT SHALL ANY OF THE BOSCH-PARTIES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOST BUSINESS, LOST PROFITS AND OTHER ECONOMIC DAMAGES, WHETHER FORESEEABLE OR NOT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**8. Term and Termination.**

8.1 **Term.** The term of this Agreement shall begin on the Effective Date for the agreed Contract Period. .

8.2 **Termination for Cause.** Either party may terminate this Agreement for cause upon written notice to the other party.

8.3 Bosch may terminate this Agreement at any time with a six months' notice period in the case that the Software will no longer be continued to be licensed and / or serviced.

**9. General.**

9.1 **Excusable Delay.** Neither party will be liable for any failure of or delay in performance of its obligations under this Agreement (other than failure to pay money when due) to the extent such failure or delay is due to circumstances beyond its reasonable control, including, without limitation, acts of God, acts of a public enemy, fires, wars, terrorist acts, civil disturbances, sabotage, accidents, pandemics, insurrections, blockades, embargoes, explosions, labor disputes, acts of any governmental body, failure or delay of third parties (including subcontractors) or governmental bodies from whom a party must obtain approvals, franchises, or permits, equipment failure or breakdown, or inability to obtain labor, materials, equipment or transportation, power shortage or blackouts (the foregoing collectively called "Excusable Delay"). Each party will use its best efforts to minimize the duration and consequences of any failure of or delay in performance resulting from an Excusable Delay.

9.2 **Waiver.** Any delay by a party in exercising its rights hereunder will not constitute a waiver of its rights or its ability to enforce any such rights.

9.3 **Severability.** If any provision of this Agreement is for any reason held unenforceable or invalid, then this Agreement will be construed as if such provision were not contained herein.

9.4 **Survival.** The terms and conditions of this Agreement regarding payment, ownership of intellectual property, warranty, indemnification, liability and all others that by their sense and context are intended to

survive the execution, delivery, performance, and termination of this Agreement, survive and continue in effect.

9.5 Governing Law. This Agreement shall be construed according to the laws of Brazil. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply. Any dispute will be subject to the jurisdiction of the courts of Campinas, state of São Paulo, Brazil.

9.6 Relationship of the parties. The relationship of the parties created by this Agreement is that of independent contractor and not that of employer/employee, principal/agent, partnership, joint venture or representative of the other. Neither party shall represent to third parties that it is the representative of the other in any manner or capacity whatsoever.

9.7 Section Headings. Section headings are for convenience only and will not be construed as a part of this Agreement.

9.8 Notices. All notices, requests, demands or other communications by the parties, other than routine operation communications under this Agreement, required or permitted to be given by one party to the other shall be given in writing.

9.9 English Language. The parties hereto expressly required that this Agreement be written in English. The English version of this Agreement will govern in the event of any disagreement over any translation.

9.10 Entire Agreement. This Agreement, including the MSLA, any Bosch Standard Terms and Conditions as applicable from time to time, as well as all exhibits, schedules or appendices hereto, constitutes the complete and exclusive statement of the terms hereof and supersedes all prior oral and written statements of any kind made by the parties or their representatives with respect to the subject matter hereof. Any Customer purchase order or similar document issued by Customer shall not be part of this Agreement and shall not add to or modify any of the terms hereof. This Agreement may only be changed or supplemented by a written amendment signed by authorized representatives of the parties.