

# Support and Maintenance Agreement

for IPConfigure Software Products

This Software Support and Maintenance Agreement ("**Agreement**") is entered into as of the effective date set forth below by and between IPConfigure, Inc. ("**IPConfigure**") and you, the End User under this Agreement ("**End User**"). BY PURCHASE ORDER OR REMITTANCE OF PAYMENT FOR THE SOFTWARE SUPPORT AND MAINTENANCE AGREEMENT, End User AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT.

Customer/End User: Acme Widgets, GmbH  
IPConfigure Order Number: 1158733000151196266  
Product Edition: Orchid Hybrid SaaS  
Date of Agreement: January 1, 2000  
Support Expiration: January 1, 2100  
Covered License Code(s): 00000-11111-22222-33333 (32768 cameras)

## TERMS AND CONDITIONS

1. **Definitions.** For the purposes of this Agreement

- (a) "**Back-Level Version**" means any Release of the Software with a version number older than the newest version available for download at <http://www.ipconfigure.com>.
- (b) "**Effective Date**" shall mean the date when the End User issues an unconditional Purchase Document for the initial Term of the Software Support and Maintenance, subject to provision of payment.
- (c) "**Error**" means any failure of the Software to conform in any material respect to its or their published specifications.
- (d) "**Error Correction**" means either a modification or addition that, when made or added to the Software, brings the Software into material conformity with its or their published specifications, or a procedure or routine that, when observed in the regular operation of the Software, avoids the practical adverse effect of such nonconformity.
- (e) "**Product**" means a product that IPConfigure manufactures and/or distributes and for which IPConfigure has approved the use of the Software.
- (f) "**Purchase Document**" means IPConfigure's purchase acknowledgment document or other document in which IPConfigure and the End User acknowledge the End User's purchase of a Software Support and Maintenance Agreement.
- (g) "**Releases**" means new versions of the Software, which may include Error Corrections and/or Updates.
- (h) "**Software**" means the object code version of the software program listed on the first page of this Agreement as well as any related software programs, purchased or provided, which are designed to operate in conjunction with that software program.
- (i) "**Update**" means a new update of the Software or Software component (i) which IPConfigure makes commercially available and (ii) which would normally be designated as a change in the digit(s) to the rightmost number in the product version number [x.x.x]. An "Update" may consist of minor modifications of or improvements to the existing features of the Software, which IPConfigure is providing to its support agreement End Users at no additional charge. "Update" does not include a product revision that provides any material enhancement of Software features or functionality. IPConfigure reserves the right and authority to define an update.

2. **Coverage.** The agreement applies only to installations of the Software which have been licensed using the *Covered License Code(s)* set forth above.

3. **Term.** The maintenance term for the Software shall commence on the Effective Date set forth above and shall continue for the duration of the term purchased.
  - (a) **Expiration.** The agreement expires at the end of the term unless renewed.
  - (b) **Impact of Expiration.** If the agreement has expired, the End User may continue to use the Software but is not eligible for Support or Updates.
  
4. **Scope of Maintenance.** During the maintenance term, IPConfigure agrees to basic maintenance services in support of the Software product platform specifically identified on the first page of this Agreement. Basic maintenance services shall consist of:
  - (a) **Error Correction.** IPConfigure shall be responsible for using all reasonable diligence to correct verifiable and reproducible Errors when reported to IPConfigure in accordance with its standard reporting procedures. The Error Correction, when completed, may be provided in the form of a "temporary fix," consisting of sufficient programming and operating instructions to implement the Error Correction.
  - (b) **New Releases.** IPConfigure may, from time to time, issue new Releases of the Software, containing Error Corrections and/or Updates, to End Users who have maintenance agreements in effect. IPConfigure shall provide the End User with one (1) copy of each new Release for each copy of the Software being maintained under this Agreement, without additional charge. IPConfigure shall provide reasonable assistance to help the End User install and operate each new Release. Because Releases are cumulative, each Release is useful only if End User has obtained and installed all prior applicable Releases. Note: Some compatible and related software may be released by IPConfigure and made available to the End User through additional purchases. After purchasing such software, updates to the compatible and related software may be provided for the unit(s) covered under this Software Support and Maintenance Agreement.
  - (c) **Staff.** IPConfigure shall maintain a trained staff capable of rendering the services set forth in this Agreement.
  
5. **Additional Services.** In addition, IPConfigure may provide additional services, as mutually agreed, in support of the Software, subject to payment of its normal charges and expenses:
  - (a) **Additional Training.** Subject to space and staff availability, for an additional charge, IPConfigure will provide the End Users employees with additional or advanced training classes.

- (b) **Custom Enhancements.** IPConfigure will consider and evaluate the development of custom enhancements for the End Users specific use and will respond to the End Users requests for additional services pertaining to the Software.
  - (c) **Back-Level Support.** If the End User chooses not to install any Release, IPConfigure will use reasonable commercial efforts maintain back-level versions of the Software at the End Users request, at extra charge, subject to availability of technical support staff. IPConfigure may, at its discretion, determine that an issue is resolvable only by installing a new Release.
6. **Software Location.** The End User understands and acknowledges that the Software is licensed for use by the End User on the Product specifically identified on the first page of this Agreement and that the Software is licensed for use at a specific location. Subject to any and all applicable regulatory requirements, the End User may move the Product and designate a new Product Location by giving written notice to IPConfigure.
7. **Cooperation of the End User.** The End User agrees to notify IPConfigure promptly following the discovery of any Error. Further, upon discovery of an Error, the End User agrees, if requested by IPConfigure, to submit to IPConfigure a listing of output and any other data that IPConfigure may require in order to reproduce the Error and the operating conditions under which the Error occurred or was discovered.
8. **Exceptions.** The following matters are not covered by basic maintenance:
- (a) Any problem resulting from the misuse, improper use, alteration, or damage of the Software;
  - (b) Any problem caused by modifications in any version of the Software not made or authorized by IPConfigure;
  - (c) Any problem resulting from programming other than the Software or equipment;
  - (d) Any problem resulting from the combination of the Software with such other programming or equipment to the extent such combination has not been approved by IPConfigure;
  - (e) Errors in any version of the Software other than the most recent Release, provided that IPConfigure will continue to support superseded Releases for a reasonable period, not to exceed forty-five (45) days, sufficient for End User to implement the newest Release (notwithstanding the provisions of 5c); or
  - (f) Any problem resulting from the misconfiguration of the Operating System or hardware components.

The End User will be responsible to pay IPConfigures normal charges

and expenses for time or other resources provided by IPConfigure to diagnose or attempt to correct any such problem. In addition, the End User is responsible for procuring, installing, and maintaining all equipment, telephone lines, communications interfaces, and other hardware necessary to operate the Software and to obtain maintenance services from IPConfigure. IPConfigure will not be responsible for delays caused by events or circumstances beyond its reasonable control.

9. **Fees and Expenses.** The maintenance fee for the Software is due and payable at the beginning of the initial Term and each renewal year of maintenance hereunder. Maintenance fees do not include any applicable travel and living expenses for installation and training, file conversion costs, optional products and services, directories, consulting services, shipping charges, or the costs of any recommended hardware. The End User agrees to pay such fees and costs, when and as the services are rendered and the expenses incurred, as invoiced by IPConfigure. IPConfigure reserves the right to require prepayment or advance deposit for such additional charges or expenses in some instances. The End User is also responsible for sales or use taxes and state or local property or excise taxes associated with End Users licensing, possession, or use of the Software or any associated services.
10. **Annual Renewal.** The Software Support and Maintenance Agreement shall automatically expire at the end of the Term unless renewed by the End User prior to end of the Term of the Agreement. Within thirty (30) days of expiration, IPConfigure will provide notification to the End User with instructions for renewal. Software Support and Maintenance Agreement renewal will provide End User an additional Term of Software Support and Maintenance as outlined in the original Agreement.
11. **Use and Restrictions.** IPConfigure shall have sole and exclusive ownership of all right, title, and interest in and to such works (including ownership of all copyrights and other intellectual property rights pertaining thereto), subject only to the license expressly granted to the End User therein. Unless otherwise agreed, the End User is entitled to make and use only the number of copies of such works as the End User is authorized to use of the Software to which they relate, and the End User agrees to return or destroy, as requested by IPConfigure, superseded copies of the Software when replaced by such works.
12. **Limited Warranty.** IPConfigure shall perform its services hereunder in a workmanlike manner. Notwithstanding the addition of any Error Correction, Update, or Release to the Software for purposes of the Software License Agreement, IPConfigures obligation to correct Errors in such additions shall be limited to the maintenance terms of this Agreement. EXCEPT AS EXPRESSLY SET FORTH IN THIS PARAGRAPH, IPCon-

figure SHALL HAVE NO LIABILITY FOR THE SOFTWARE OR ANY SERVICES PROVIDED, INCLUDING ANY LIABILITY FOR NEGLIGENCE; IPConfigure MAKES AND the End User RECEIVES NO WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR IN ANY OTHER PROVISION OF THIS AGREEMENT OR ANY OTHER COMMUNICATION; AND IPConfigure SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

13. **Limitation of Liability; Exclusion of Consequential Damages.** IN NO EVENT SHALL IPConfigure BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR EXEMPLARY DAMAGES OF ANY NATURE IN CONNECTION WITH THIS AGREEMENT AND THE SERVICES OR SOFTWARE PROVIDED HEREUNDER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF: BUSINESS PROFITS, BUSINESS INTERRUPTION, BUSINESS INFORMATION OR DATA STORAGE, GOODWILL, COMPUTER FAILURE OR MALFUNCTION, OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE, EVEN IF IPConfigure HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
14. **Default.** Should the End User fail to pay any fees or charges due hereunder or fail to carry out any other obligation under this Agreement or any other agreement with IPConfigure, IPConfigure may, at its option, in addition to other available remedies, terminate this Agreement or suspend maintenance services, provided that it first gives the End User thirty (30) days prior notice in order to permit the End User to cure the End Users default. In addition, maintenance coverage will automatically terminate with respect to any copies of Software that are no longer regularly used by IPConfigure End Users whether as a result of expiration or replacement of such versions with new Releases.
15. **Notices.** All notices or other communications required to be given hereunder shall be in writing and shall be delivered by personal delivery, mail, courier, email, or facsimile to the address or facsimile number of the other party set forth on the Purchase Document. Notice shall be deemed given based on any one of the following notification methods: upon personal delivery; if sent by fax, with confirmation of correct transmission, on the next business day after it was sent; upon the couriers confirmed delivery if sent by courier; and if sent by mail with proper postage prepaid, five (5) days after the date of mailing. A party may change its address for notice by delivering to the other party written notice.
16. **Governing Law.** This Agreement shall be governed by the laws of the Commonwealth of Virginia and the United States as applied to agreements entered into and fully performed therein by residents thereof.

17. **Jurisdiction and Venue.** Any action or proceeding arising directly or indirectly from this Agreement shall be litigated in an appropriate state or federal court in the City of Norfolk, Virginia. Both parties consent to the jurisdiction of such courts.
18. **Attorneys Fees.** The prevailing party in any action to enforce this Agreement shall be entitled to recover costs and expenses, including attorneys fees.
19. **Modification and Waiver.** This is the entire agreement between IP-Configure and the End User relating to the subject matter hereof may be amended by IPConfigure at any time and without notice. The failure of either party at any time to require performance by the other party of any provision hereof shall not affect in any way the right to require such performance at any time thereafter. Nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of any subsequent breach of the same provision or any other provision.
20. **Purchase Order Terms.** The terms stated in this Agreement are the exclusive terms regarding the End Users rights and obligations with respect to the services provided hereunder or the Software. Any terms or conditions stated in any purchase order, acknowledgment or invoice shall be of no force and effect, and no course of dealing, usage of trade, or course of performance shall be relevant to explain or modify any term expressed in the Agreement. The issuance of a purchase order and/or payment of the license fee invoice by the End User shall constitute full and unconditional acceptance and acknowledgement of this Agreement and its terms by the End User.
21. **Language.** The official version of this Agreement is in the English language and this Agreement will be construed in accordance with this version. Translations of this agreement into any other language are for the purpose of accommodation only and shall be of no legal effect.