

Ricoh
Software Maintenance Agreement For Production Printing Software

This Agreement is a legal agreement between you ("**Licensee**" or "**you**"), and Ricoh Company, Ltd and/or its "Affiliates" (as defined below) (collectively, "**Ricoh**"). For the purposes of this Agreement, "**Affiliate**" means any entity that, from time to time during the term of this Agreement, Controls, is Controlled by, or is under common Control with Ricoh Company, Ltd. "**Control**" means the power, whether directly or indirectly (by ownership of stock, share capital, the possession of voting power, contract or otherwise) to appoint and/or remove the majority of the members of the governing body of Ricoh, or otherwise exercise control over Ricoh's affairs and policies.

This Ricoh Software Maintenance Agreement for Production Printing Software (called the "Agreement") governs your acquisition of Software Maintenance ("SWM") as set forth herein.

This Agreement is the complete agreement regarding the acquisition of SWM and replaces any prior oral or written communications concerning such SWM.

By your ordering or making payment for SWM and Ricoh's acceptance of your order or payment, both you and Ricoh agree to the terms of this Agreement without modification. Once in effect, 1) unless prohibited by applicable local law or specified otherwise, any reproduction of this Agreement made by reliable means (for example, photocopy or facsimile) is considered an original and 2) SWM you order under this Agreement is subject to it. Additional or different terms in any written communication from you (such as a purchase order) are void and do not apply.

1. Software and Software Maintenance:

1.1 Eligible Software: Eligible Software is defined as the software identified either 1) in the order, certificate of purchase or other confirmation issued by Ricoh ("Order Confirmation") in connection with your license of the software and which identifies SWM as being included with the license of the software, or 2) in an Order Confirmation for the purchase of SWM. The Eligible Software must be at the currently supported versions and/or release levels. A currently supported version is a version supported by Ricoh until its End Of Software Maintenance Service and Support notification is effective.

1.2 Initial SWM Period: You must choose either one year, the charge for which may be included with the Eligible Software, or, for an additional charge, two, three, four or five years of SWM at the time you order software. The Initial SWM Period begins on the date that Ricoh makes the Eligible Software available to you.

1.3 Subsequent SWM Periods (under this Agreement): Subsequent SWM periods of one, two, three, four or five years, at your option, may be available.

1.4 Renewal (under this Agreement): It is your responsibility to renew SWM by the end of each Software Maintenance Period. Ricoh will renew expiring SWM under the Agreement terms and charges in effect on that date, if it receives your order to renew (e.g., order form, order letter, purchase order) not later than the expiration date. Subsequent SWM Periods begin on the day following the end of the preceding SWM Period.

1.5 Software Maintenance:

1. Ricoh makes available to you the most current commercially available version, release, or update to all of the Eligible Software for which you acquire SWM under this Agreement, should any be made available. For Eligible Software under this Agreement, you may obtain upgrades to any current commercially available version, release or update.
2. For Eligible Software, Ricoh provides you assistance for your 1) routine, short duration installation and usage (how-to) questions; and 2) code defect-related questions.
3. For Eligible Software, Ricoh provides assistance via telephone and, if available, electronic access, only to your information systems (IS) technical support personnel during normal business hours (Ricoch published prime shift hours in your time zone). Ricoh provides Severity 1 assistance 24 hours a day, every day of the year. For additional information consult the Ricoh Production Printing Software Support Handbook on our website.
4. SWM does not include assistance for 1) the design and development of applications, 2) your use of Eligible Software in other than its specified operating environment or 3) failures caused by products for which Ricoh is not responsible under this Agreement. For additional information consult the Ricoh Production Printing Software Support Handbook on our website.

1.6 Other SWM scenarios:

1. No active maintenance agreement: SWM is unavailable until a maintenance contract is obtained.
2. Active maintenance agreement but running software subject to an end of software maintenance and support notification (not Eligible Software): upgrade to an Eligible Software will be required, which can be made available per this Agreement.

1.7 Software Maintenance After License Fee: The SWM After License Fee is defined as a fee Ricoh charges for the resumption of SWM if you did not renew SWM prior to the end of the then current SWM Period, or you terminated SWM prior to the SWM Period end date. The SWM Period for the resumption of SWM begins on the date that Ricoh accepts your order.

1.8 Changes to SWM Charge: Ricoh may increase the SWM Charge without notice. An increase will not apply to you if Ricoh receives your order for SWM before the announcement date of the increase and within three months of receipt by Ricoh of your order Ricoh makes SWM available to you. You receive the benefit of a decrease in the SWM Charge for amounts which become due on or after the effective date of the decrease.

2. Charges and Payment

2.1 Charges for SWM during each SWM Period, called the SWM Charge, are invoiced in advance.

2.2 Amounts are due and payable upon receipt of invoice. You agree to pay accordingly, including any late payment fee.

2.3 If any authority imposes a duty, tax, levy or fee, excluding those based on Ricoh' net income, upon SWM Ricoh supplies under this Agreement, then you agree to pay that amount as specified in the invoice or supply exemption documentation.

3. Software Maintenance Transferability

3.1 You may transfer SWM only to a location that is 1) within your Enterprise, and 2) within the same country for which SWM was purchased. You agree to inform Ricoh of all such transfers.

4. Your Responsibilities

4.1 You agree that when you acquire SWM for Eligible Software:

1. You will acquire SWM at the same authorized level of use (production versus non-production) as the Eligible Software for which you are acquiring it, as well as all copies of the Eligible Software at the same location. This includes software you have already acquired and those you may acquire subsequently;
2. You are responsible for the results obtained from the use of the SWM;
3. You remain responsible for adequately protecting your system and all data contained in it whenever Ricoh remotely accesses it with your permission to assist you in isolating the software problem cause;
4. To provide sufficient, free, and safe access to your facilities for Ricoh to fulfill its obligations; and
5. To provide operating system and application administrators that can perform reasonable tasks for those roles.

5. Limitation of Liability

5.1 Unless otherwise required by applicable law without the possibility of contractual waiver or limitation and subject to clause 5.4, in no event shall Ricoh, its Affiliates or suppliers, or its or their officers, directors, employees, representatives or agents (collectively, the "Ricoh Parties") be liable to you (whether for breach of contract, negligence or for any other reason) for any: (a) loss of profits, sales, business, anticipated savings or revenues; (b) loss of goodwill; (c) loss, damage or alteration of data; (d) loss of or loss of use of hardware, software or data, or (e) indirect, consequential, exemplary or special loss or damages.

5.2 In addition, unless otherwise required by applicable law without the possibility of contractual waiver or limitation, Ricoh Parties' total aggregate liability under this Agreement and in relation to the SWM and anything which Ricoh has done or not done in connection with this Agreement (and whether the liability arises because of breach of contract, negligence or for any other reason) shall be limited to the greater of the total amounts paid and payable by you for the SWM or \$100 US Dollars.

5.3 Notwithstanding the foregoing, Ricoh Parties' liability for: (a) death or personal injury caused by the negligence of Ricoh Parties' or their agents or employees; (B) fraudulent misrepresentation, or (C) any other liability that cannot be excluded or limited by mandatory applicable law; is not excluded or limited by this Agreement, even if any other term of this Agreement would otherwise suggest that this might be the case.

5.4 TO THE EXTENT PROHIBITED BY APPLICABLE LAW, AS DEFINED IN SECTION 9.3, SOME OR ALL OF THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU.

6. Warranty for Software Maintenance

6.1 Ricoh warrants that SWM will be provided using reasonable care and skill and according to its current description in this Agreement.

6.2 The warranties will be voided by misuse, accident, modification, unsuitable physical or operating environment, operation in other than the specified operating environment, or failure caused by a product for which Ricoh is not responsible.

6.3 THIS AGREEMENT SETS OUT THE FULL EXTENT OF RICOH'S OBLIGATIONS AND LIABILITIES IN RESPECT OF THE SWM. EXCEPT FOR THE LIMITED WARRANTY STATED ABOVE, YOU ACKNOWLEDGE THAT THE SOFTWARE, SWM, SUPPORT AND ANYTHING ELSE SUPPLIED TO YOU UNDER THIS AGREEMENT ARE BEING PROVIDED "AS IS", WITHOUT WARRANTY OF ANY KIND WHATSOEVER. RICOH EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, CONDITIONS, REPRESENTATIONS OR OTHER TERMS WHATSOEVER (WHETHER EXPRESS OR IMPLIED) INCLUDING, BUT NOT LIMITED TO, THE IMPLIED TERMS OF SATISFACTORY QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. YOU ASSUME RESPONSIBILITY FOR THE SELECTION OF THE SOFTWARE TO ACHIEVE YOUR INTENDED RESULTS. RICOH DOES NOT WARRANT THAT THE SOFTWARE WILL MEET YOUR REQUIREMENTS; THAT ITS OPERATION WILL BE UNINTERRUPTED, SECURE OR ERROR-FREE; OR THAT ALL ERRORS OR DEFECTS WILL BE CORRECTED. TO THE EXTENT PROHIBITED BY APPLICABLE LAW, AS DEFINED IN SECTION 9.3, SOME OR ALL OF THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU.

6.4 Ricoh does not warrant uninterrupted or error-free provision of SWM.

7. Changes to Agreement Terms

7.1 Ricoh may change the terms of this Agreement by giving you three months' written notice by letter or e-mail. These changes are not retroactive and apply, as of the effective date Ricoh specifies in the notice, only to new orders and renewals.

7.2 Otherwise, for a change to be valid, both of us must sign it.

8. Termination, and Withdrawal

8.1 Either party may terminate this Agreement if the other does not comply with any of its terms, provided the one who is not complying is given written notice and reasonable time to comply.

8.2 Ricoh may withdraw SWM for Eligible Software by sending you written notification or publishing a notification of withdrawal on our web site not less than 12 months prior to its effective date. If Ricoh withdraws SWM for which you have prepaid and Ricoh has not yet fully provided it to you, Ricoh will either continue to provide SWM to you until the end of the current SWM Period or give you a prorated refund.

8.3 Ricoh may withdraw SWM in its entirety on 12 months' written notice to you by letter, e-mail or publishing a notification of withdrawal on our web site.

8.4 If you terminate SWM, Ricoh does not issue credits for the unused portion of a SWM Period.

8.5 Any terms of this Agreement which by their nature extend beyond the Agreement termination remain in effect until fulfilled and apply to both of our respective successors and assignees.

9. General.

9.1 Ricoh may transfer, assign, sub-contract or otherwise dispose of this Agreement, or any of its rights or obligations arising under it, at any time during the term of the Agreement. This Agreement may not be assigned or otherwise transferred by you except to (i) a wholly owned subsidiary or (ii) an affiliate that is controlled by or under common control with you and which, in either case, expressly agrees in writing to assume all obligations under this Agreement. No such permitted assignment shall release the original licensee from liability hereunder.

9.2 You agree to comply with all applicable export and import laws and regulations applicable to the jurisdiction in which the Eligible Software was obtained and in which it is used. Without limiting the foregoing, in connection with use of the Software, you shall comply with all export laws and regulation applicable to goods of United States origin including those that prohibit the Eligible Software from being exported or re-exported (a) into any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By using the Eligible Software and SWM, you represent and warrant that you are not located in any such country or on any such list. You also agree that you will not use the Eligible Software for any purposes prohibited by United States law, including, without limitation, the development, design, manufacture or production of missiles, nuclear, chemical or biological weapons.

9.3 The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. The governing law and jurisdiction for this Agreement will depend upon where you purchased or obtained the Eligible Software, as follows:

1. if you purchased or obtained the Eligible Software in the Americas, this Agreement shall be deemed made under the laws of the Commonwealth of Pennsylvania, USA, excluding the choice of law and conflict of law provisions, and any claim against Ricoh may be enforced or disputed only and exclusively in the courts of the Commonwealth of Pennsylvania,
2. if you purchased or obtained the Eligible Software in Europe, the Middle East or Africa, this Agreement shall be deemed made under the laws of the England, excluding the choice of law and conflict of law provisions, and any claim against Ricoh may be enforced or disputed only and exclusively in the courts of England, or
3. if you purchased or obtained the Eligible Software in the regions other than those provided in clauses (a) and (b) above, this Agreement shall be deemed made under the laws of Japan, excluding the choice of law and conflict of law provisions, and any claim against Ricoh may be enforced or disputed only and exclusively in the courts of Tokyo, Japan.

To the extent permitted by local law, the parties hereto waive any right they may have to trial by jury.

9.4 Should any provision of this Agreement be held to be void, invalid, unenforceable or illegal by a court, the validity and enforceability of the other provisions will not be affected thereby, it being the intent of the parties that this Agreement shall be enforced to the full extent allowable

under applicable law. Without limiting the foregoing, if any limitation or exclusion of liability is held by a court or tribunal of competent jurisdiction to be unenforceable as to a particular claim or cause of action, the parties intend that it shall nonetheless apply to the maximum extent permitted by applicable law to all other claims and causes of action.

9.5 Failure of Ricoh to enforce any provision of this Agreement shall not be construed as a waiver of such provision or of the right to enforce such provision.

9.6 No amendment to this Agreement shall be effective unless signed by a duly authorized representative of both parties.

9.7 No term of this Agreement is enforceable by a person who is not a party to this Agreement, except that all of Ricoh Affiliates are direct and intended third-party beneficiaries of this Agreement and shall have the benefit of and the right to enforce all provisions of this Agreement which benefit and are enforceable by Ricoh.

9.8 If there are discrepancies between the English version of this Agreement and any other language versions of this Agreement, the English version of this Agreement shall prevail unless otherwise required by local law without the possibility of contractual waiver or limitation.

9.9 Nothing in this Agreement affects any statutory rights of consumers under applicable law that cannot be waived or limited by contract.

9.10 Neither party grants the other the right to use its (or any of its Enterprise's) trademarks, trade names, or other designations in any promotion or publication without prior written consent.

9.11 Either party may communicate with the other by electronic means and such communication is acceptable as a signed writing to the extent permissible under applicable law. An identification code (called a "user ID") contained in an electronic document is sufficient to verify the sender's identity and the document's authenticity.

9.12 Both parties will allow the other reasonable opportunity to comply before it claims that the other has not met its obligations.

9.13 You agree that this Agreement will not create any right or cause of action for any third party, nor will Ricoh be responsible for any third-party claims against you except as permitted by the Limitation of Liability section for bodily injury (including death) or damage to real or tangible personal property for which Ricoh is legally liable.

9.14 Neither party will bring a legal action more than two years after the cause of action arose unless otherwise provided by applicable local law without the possibility of contractual waiver or limitation.

9.15 Neither party is responsible for failure to fulfill any obligations due to causes beyond its control.

9.16 If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions remain in full force and effect.

9.17 You agree to allow Ricoh and its affiliates to store and use your business contact information, including names, business phone numbers, and business e-mail addresses, anywhere they do business. Such information will be processed and used in connection with our business relationship and may be provided to contractors acting on Ricoh's behalf and assignees of Ricoh and its subsidiaries for uses consistent with our business relationship.