



KODAK ALARIS INC. AND KODAK ALARIS OPERATIONS CANADA INC.

Document Imaging

Care Kit Maintenance and Software Assurance Terms and Conditions (United States and Canada)

Kodak Alaris Inc. and Kodak Alaris Operations Canada Inc. (together, "Alaris") and you, the customer ("Customer") enter into these Care Kit Maintenance and Software Assurance Terms and Conditions (the "Agreement") and agree that the terms and conditions of this Agreement will apply to the provision of services by Alaris for the products defined below located in the United States, Hawaii and Alaska and in Canada for equipment located within 325 road Km of a Alaris Service City, excluding Yukon and Northwest Territories, Northern Quebec, Labrador, and other remote areas.

All components of a Product (as defined herein) that are mechanically, electronically, or remotely interconnected must be inspected, tested and adjusted as one operating unit to diagnose correct malfunctions effectively. Alaris Products that incorporate the Alaris Software must be covered by an Alaris Agreement and all interconnected components of that Product must also be covered by warranty or the same level of service that is provided under this Agreement.

In order to obtain uninterrupted service, this Agreement must be purchased prior to expiration of the original equipment warranty and registered with Alaris within 10 days of purchase, or in the case of an extended warranty or post warranty Agreement, prior to the renewal date of such Agreement. The term of an Agreement of extended warranty care kits may be one, two, three or five years' coverage from the date of Equipment or Software purchase or installation. Alaris reserves the right to confirm the date of purchase before providing Agreement coverage. The term of an Agreement for post warranty care kits may be one, two or three years.

1 Products. Products covered by this Agreement are commercial office equipment, non-make or model specific, used by customers in an office environment and software that is developed and/or distributed by Alaris ("Alaris software").

2 Customer Responsibilities. Customer will designate an authorized representative for the purpose of interacting with Alaris' service personnel. The Customer representative and the Customer must:

- a) provide initial problem-solving assistance to site users;
b) coordinate all requests for assistance and act as liaison with Alaris service personnel;
c) perform appropriate problem analysis and corrective actions by following troubleshooting instructions and remedial actions as prescribed by Alaris;
d) maintain system and Product documentation and install software updates, maintenance upgrades and patches supplied by manufacturers;
e) perform preventative maintenance and error recovery procedures as defined in the individual Products' users manual;
f) supply consumable items or other components that are replaced due to normal wear and/or as specified in the relevant manufacturer's manual(s);
g) provide service personnel with immediate access to the Products when service is requested;
h) when necessary, supply and maintain a modem and communication software approved by Alaris which satisfies the respective manufacturer's Product specifications.
i) keep the site environmental ranges within the specifications set forth by the manufacturer of the relevant Product;
j) provide continuous and appropriate resource availability during problem resolution;

FOR SOFTWARE ASSURANCE ONLY

- k) Have a telephone available in the work area and allow remote access to Alaris service.

Failure to meet these obligations may result, at Alaris' sole option, in the imposition of additional charges at prevailing Per-Call rates or immediate termination of this Agreement upon notice to Customer.

2.1 Customer Software. Prior to service commencing on computers with hard drives, Customer is responsible for creating a back-up copy of the file from the hard drive. Alaris is only responsible for formatting (if required) and transferring those files deemed necessary for formatting as more precisely outlined in Alaris formatting procedures for specific Products. Customer is responsible for restoring data. Alaris shall not be held liable for any damages arising from or relating to the loss of data, any software or any other information contained on a computer or similar device, or contained in or stored on a Product

2.2 Product Condition. Customer warrants that the Product covered by this Agreement (a) is in proper operating condition, (b) is without any unauthorized modifications, (c) has all safety features in working condition, and (d) has been maintained in accordance with manufacturer's Product performance specifications. Alaris reserves the right to inspect the Product and site installation to confirm that Products meet those conditions. At Alaris' discretion, such inspection and any repairs necessary to bring the Product up to those conditions shall be treated as Per-Call Service. If at any time Customer fails to maintain the Product in proper operating condition as described above, Alaris may cancel this Agreement immediately upon written notice to Customer.

3 How to Obtain Service. For licensed Alaris Software: Customer must call the Customer Support Center at 1-800-822-1414 and provide the serial number. For Product: Customer must call the Customer Support Centers and provide the Product's K-number or serial number located on the Product(s).

Table with 2 columns: Location (United States, Canada (except Toronto and Quebec), Toronto, Quebec) and Phone Number (1-800-356-3253, 1-800-268-1567, 416-766-8400, 1-800-268-1534 Press 1 for English, Press 2 for French)

4. Types of Service Available.

4.1 Telephone Support. Alaris will provide toll-free telephone support between 8:00 a.m. and 5:00 p.m., Monday through Friday, Customer local time.

4.2 On-Site Service. Alaris will provide on-site service between 8:00 a.m. and 5:00 p.m., Monday through Friday, Customer local time. On-Site Service includes adjustments and/or replacement of parts required to maintain Products operating consistently within manufacturer's published specifications.

4.3 Periodic Maintenance. (Product only) Periodic Maintenance ("PM") services will consist of routine maintenance services required to keep the Products in proper operating condition. Additional scheduled PMs may be purchased to supplement coverage. Note: PM services MAY NOT be included in the Standard Plan for a particular Product.

4.4 Extended Hours. Depending upon local service capabilities, available extended hour plans include 5-, 6-, and 7-day, 8-, 16-, and 24-hour options at additional cost. Alaris will use commercially reasonable efforts to provide Service outside of Agreement Hours as shown below. Any such service performed will be billed at prevailing Alaris Per Call Overtime rates.

4.5 Holidays. Contract support will not be provided on National holidays (New Years, Memorial, Independence, Labor, Thanksgiving and Christmas Days). Services will be available on a best efforts basis at prevailing Per-Call Holiday rates.

4.6 Response Time Alaris' objective is to provide service during Alaris' normal working hours, within the following time frames:

Table with 2 columns: Distance from Alaris Service City (Zone 1 (0 to 50 Miles), Zone 2 (51 to 100), Zone 3 (Over 100 Miles), Over 200 miles) and Within Agreement Hours (Per contract, Per contract, Next Business Day, Contact Alaris)

Alaris will use its best commercial efforts to meet its response time objectives, however Alaris is not liable for any failure to do so.

4.7 Advanced Unit Replacement ("AUR") Support (if applicable). If Alaris determines a Product is not operating consistently within manufacturer's specifications, Alaris will provide next day AUR subject to availability of courier service. The replacement Product will perform at the minimum specifications of the current Product, but may not be the exact make and model. When AUR support is necessary, Alaris will ship the replacement unit to Customer's location, transportation prepaid. Upon delivery of a replacement unit, Customer must place the malfunctioning unit in the shipping case, apply the enclosed labels and call the carrier for pickup within 5 business days after receiving the AUR. Alaris will pay the return transportation charges. If the Customer has not returned the malfunctioning unit within 10 business days, Customer will be invoiced the list price of the unit and be responsible for such charge.

4.8 Parts. Items as referenced in the manufacturer's manual(s) required to maintain Products operating consistently within manufacturer's published specifications may not be included in this Agreement and will be invoiced separately. Parts or components replaced by Alaris will be either new or remanufactured to Alaris' new product standards. Parts removed from the system and replaced at no charge become the

property of Alaris. **NOTE:** If Alaris determines that Parts needed to maintain or repair Products are not available, Alaris will cancel the Agreement and issue a prorated credit for any remaining prepaid coverage.

5. Software Modifications and Upgrades.

5.1 Alaris will provide Maintenance Upgrades, Software Patches and telephone assistance of a technical nature on *licensed Alaris Software* only. Alaris may issue Maintenance Upgrades or Patches and/or provide for on-site services necessary to correct errors that significantly affect software performance in accordance with Alaris' Software Product operating specifications. Unless documentation states otherwise, support will be provided for the current and previous version release of Alaris *Software*. For *licensed Alaris Software*, Maintenance Upgrades and Patches are at no charge and include one copy of the user's manual and/or changes.

5.2 *Alaris reserves the right to develop new features and functionality improvements, which will be offered to Customers as Version Releases under a separate price schedule. Kodak Capture Pro software must not have a lapse in maintenance coverage in order to entitle the user to free Version Releases.*

5.3 All Alaris Software is subject to the terms and conditions of Alaris Software License that was in effect at the time Alaris Software was licensed from Alaris. License Terms are applicable as long as Alaris Software is being used, even if maintenance services are no longer available.

6. Property of Alaris. Maintenance material, tools, documentation, diagnostics and test equipment provided by Alaris shall remain the exclusive property of Alaris.

7. Limitations. The Services outlined in these terms are Alaris' only obligation. Alaris will not be responsible for any indirect, incidental, consequential or special damages resulting from the sale, use or improper functioning or inability to use the Products and/or related software, regardless of the cause, nor will Alaris be responsible for damages of any nature that are not caused by Alaris or are caused by circumstances out of Alaris' control. Such damages for which Alaris will not be responsible include, but are not limited to, loss of revenue or profit, loss of data, downtime costs, loss of use of the Product, cost of any substitute Product, facilities or services. This limitation of liability will not apply to claims for injury to persons or damage to tangible property caused by the sole negligence or fault of Alaris or by persons under its direction or control.

8. This Agreement does not cover, and Alaris shall not be responsible for:

- a) operating system services (e.g., database maintenance/recovery, product integration or application support,
- b) system administration services (e.g., system restarts, error monitoring and reporting basic system matters, including restoring the database);
- c) network system administration (e.g., installation of new software packages, maintenance of user and group accounts, solving network problems, performing system maintenance functions, monitoring networks, installing application software, maintaining configurations
- d) consultation services;
- e) version release or software support to other than *licensed Alaris Software* products;
- f) Product installation, set-up, configuration or other non-repair services;
- g) cable and installation of cable runs or any acquisition of permits
- h) Customer training;
- i) circumstances beyond Alaris' control (such as customer overriding, bypassing or defeating interlock switches on equipment or devices sold by Alaris or any other 3rd party);
- j) problems due to failure of Customer to conform to Alaris' site specifications provided in the manufacturer's documentation;
- k) time spent in locating Product not at the specified location or waiting for Product availability;
- l) relocation of Product or service associated with relocation;
- m) seasonal hibernation (de-installation) and reactivation (re-installation);
- n) service or parts associated with any unauthorized modifications, attachments or service;
- o) rebuilding or reconditioning of Product;
- p) misuse or abuse of Product;
- q) or failure to follow Alaris' operating instructions or instructions provided by the manufacturer.

Alaris may provide, at its sole discretion, service in these situations under Per-Call terms and at prevailing Per-Call rates.

9 Confidentiality of Customer Data. Alaris does not wish to receive any confidential information of Customer in the course of providing maintenance services, and Customer is expected to take all reasonable precautions to avoid disclosing any of its confidential information or that of its customers, employees or clients ("Confidential Information") to Alaris and its employees or contractors. However, in the event that Alaris' employees or contractors become exposed to Confidential Information, Alaris will ensure that such information is protected against unauthorized disclosure using the same degree of care, but no less than a reasonable degree of care, as Alaris uses to protect its own information of a like nature.

10. Use of Other Party's Name

Except as necessary to perform their obligations under this Agreement, neither party may make any reference to the other party, its trademarks or trade names in advertising, public announcements, or promotional materials without express written permission from the other party.

11. Severability

If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective while this Agreement remains in effect, the legality, validity and enforceability of the remaining provisions shall not be affected thereby, and in lieu of each such illegal, invalid or unenforceable provision the parties shall negotiate in good faith to add a provision similar in terms to such illegal, invalid or unenforceable provision as may be possible.

12. Waiver Of Default

Any failure of either party at any time, or from time to time, to require or enforce the strict keeping and performance by either party of any of the terms and conditions of this Agreement shall not constitute a waiver by either party of a breach of any such terms or conditions in the future and shall not affect or impair such terms or conditions in any way, or the right of either party at any time to avail itself of such remedy as it may have for any such breach of any term or condition. No waiver of any right or remedy hereunder shall be effective unless expressly stated in writing by the waiving party.

13. Independent Contractor

Customer shall act as an independent contractor and nothing herein shall be construed to make Customer, or any of its employees, officers, directors or representatives, the agent employee or servant of Alaris.

14. Assignment

Neither party may assign this Agreement without the prior written consent of the other party. Any attempted assignment, whether by divestiture, operation of law, change of control, merger, or otherwise, in contravention of the above shall be null and void and of no force or effect. Alaris, however, may assign this Agreement without the Customer's consent to any third party which acquires all or substantially all of that portion of the business assets of Alaris to which this Agreement pertains whether by merger, reorganization, acquisition, sale or otherwise.

15. Forum

All actions arising out of or related to this Agreement must be filed in a court of competent jurisdiction in the state or province where the Services were delivered.

16. Language of the Agreement. The Parties hereto specifically require that this Agreement, and all notices and other documents related hereto, be drawn in the English language.

Les parties ci-jointes, exigent et acceptent par les présentes, que ce contrat et tous avis ou documents relatifs ou requis par les présentes, soient rédigés en langue anglaise.

17. Renewals. Renewals will be available at the prices and terms then in effect, as long as a Standard Maintenance Service Agreement is available.

18. Force Majeure With the exception of any payments due hereunder, neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of cause(s) beyond the control and without fault or negligence of the non-performing party. Such cause(s) may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics and unusually severe weather, material shortages, strikes or similar labor disruptions.

19. Additional Terms. These terms may be amended or supplemented only by the express agreement of the Parties, in writing and signed by each Party.

20. Entire Agreement/Amendment. This Agreement may be amended or supplemented only by the express agreement of the parties. This Agreement and the terms and conditions set forth in the original equipment warranty, which are incorporated herein, represents the entire agreement and supersedes all prior agreements and understandings, whether written or oral, with respect to the subject matter of this Agreement. Furthermore, in the event of a conflict of terms between this Agreement and the original equipment warranty, this Agreement shall be the controlling document.