



data communications



RADcare

GENERAL TERMS AND CONDITIONS

Service Level (3): 7x24 Telephone Coverage w/
4 Hours On-Site Response

CONTRACTED PERIOD MAINTENANCE (CPM)

7 x 24 TELEPHONE Coverage: Available 365 days/24 hours a day. Customer must ensure that personnel properly trained in operation and use of RAD Equipment will place calls for support and that these resources are available to apply testing procedures and recommended courses of action.

Equipment: RAD will provide technical advice and troubleshooting on any related or suspected malfunctions within its own product lines. As to other possible causes for the Customer's experienced failed service condition, RAD will provide its Customers with such assistance as RAD, in its discretion, determines to be appropriate and responsible. However, in no event, will RAD be responsible for the restoration or recovery of any service failure, except when it is determined that such failure is a direct result of RAD equipment failures.

Software: RAD will provide (i:) assistance on conditional matters related to the operational use of RAD Software; (ii) assistance in identifying and verifying causes of suspected errors or malfunctions; (iii) advice on work around if reasonably available.

Any maintenance service calls due to customer-made decisions to implement **adds, moves or changes** that cause operational service disruptions is not covered under this agreement. Any such cause for operational service disruptions falls under the category of **billable time** and shall be billed accordingly.

NOTICE TO CUSTOMER: Additional charges will apply for services NOT published in this agreement. Additionally the customer will be invoiced for any of the following:

- (1): Customer is unable or unwilling to perform the tasks required to diagnose and isolate the problem. After completion of the trouble, if no fault is found within the RAD equipment customer will be billed for T&M (see Schedule 'D')
- (2): The physical RAD Equipment(s) and or logical configuration(s) and profile(s) have been changed, tampered with or altered in any manner that was not approved by RAD.
- (3): Upon determining that service has expired for any item of Equipment



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MAINTENANCE SERVICES (Service Level 3 Only): If a problem appears to be a result of a functional or operational deficiency or failure with the equipment covered by this agreement or when the source of the problem cannot be definitely determined, a Field Support Engineer (FSE) may be dispatched to the site. This dispatch is targeted to be within (4) four hours from the time authorization is provided. This service level provides the Customer with sparing options to expedite the recovery of services that are identified with the direct support of the customer. The Customer is required to have personnel on-site to assist (FSE) with any recommendations that may assist in recovery of any failure. The FSE will not arrive onsite with spare RAD equipment. It is the customers' responsibility for the onsite spare units to be brought onsite. If customer didn't qualify for sparing then necessary arrangement will be made for replacement equipment to ship next business day onsite. If No Fault is Found (NFF) with RAD equipment customer is responsible for T&M rates. (See Schedule 'D')

Sparing Equipment:

All qualified spare parts allocated with an open PO from the customer are strictly the property of and wholly owned by RAD. Any termination of this agreement, in part or in whole, RAD will require that all spare parts be returned within 30 days of notification. Failure to return these spare parts will result in default and the customer will be invoiced for the full amount (list price) of each unreturned spare part.

RAD-owned spare parts housed at customer site(s) for utilization upon determination by RAD technician. One spare will be provided after the 4th regularly purchased unit and for every 20 units thereafter. On-site spares determined by type and volume for inventory management, automatically replenished.

Equipment: RAD will repair or replace any defective RAD equipment that has been verified by serial number as covered under a valid CPM. Customers will work with the Technical Support Engineers (TSE) to isolate the root cause of the failed state and follow the corrective actions or measures recommended by the TSE. In the event when a repair or replacement of a unit is required, parts may be newly manufactured or equivalent to new (refurbished). All repaired or replacement parts will be returned to the customer as replenishment. All equipment under an open RMA and not returned within 30 days negates our responsibility to provide any replenishment. No replacements will be submitted. In the event that a part is lost during shipping, the customer is responsible for the insurance and delivery of each part to RAD. RAD will not be responsible for lost or damaged goods during shipment of returns to it's Mahwah office.

Software: RAD will provide (i) assistance on matters related to the operational use of RAD Software; (ii) assistance in identifying and verifying causes of suspected errors or malfunctions; (iii) advice on work around if reasonably available.

1. TERMS

1.1 CPM has a minimum twelve (12) month initial term commencing only after payment has been received by RAD. RADcare Programmed Services are strictly



designed for the maintenance of active serviceability of an installed and operational platform or infrastructure utilizing RAD Equipment. These services do not cover any form of installations or generalized support for application, solution or project support. (See Schedule 'D' for Pricing.)

- 1.2 Customer will have (30) days from the shipment date of the Equipment and receipt of the invoice to submit payment in full. Any and all additional parts and products assigned to this agreement shall have the same (30) day net payment requirement or these products shall be deemed canceled from being added to this service agreement by the Customer.
- 1.3 RADcare Program Service Agreement commencement date will be the shipment date of each item of Equipment covered by this Agreement. Any and all additional parts and products assigned to this Agreement after the initial commencement date shall have a service activation date of the actual shipment date of each item of Equipment from RAD Inc. facilities in Mahwah, New Jersey.
- 1.4 The annual charges of this agreement are fixed for the initial twelve (12) months. After the initial 12-month period, prices will be adjusted based on the mutual written agreement of the parties, but in no event shall exceed (4%) increase per year. All services placed within this agreement are non-refundable.

2. GENERAL CONDITIONS

- 2.1 Customer shall not modify RAD Products nor make any change in the Form, Fit or Function or with product configurations, unless approved by RAD.
- 2.2 Equipment shall be installed in accordance with RAD's product recommendations and specifications.
- 2.3 Customer shall provide RAD with all pertinent information when requested, such as: Carrier of service for circuit(s) identifiers, carrier trouble reporting telephone #'s and contacts along with customer's organizational contacts, telephone numbers and escalation information.
- 2.4 Additional charges will be billed for any trip to a site located outside the continental United States. These additional charges will include round-trip travel time (maximum of 6 hours to Puerto Rico and maximum of 12 hours to Alaska or Hawaii) plus reasonable cost of transportation, lodging and meals.
- 2.5 The annual per unit charge for CPM covers only the Services as described in this document. There are additional charges for optional services of RAD Products. RAD expressly reserves the right to subcontract the provision of all services to qualified representatives. (See Schedule 'D' for pricing.)
- 2.6 The annual per unit CPM charge does not include: (i) installation or relocation of RAD Products; (ii) service required because of misuse, misapplication or improper operation of RAD Products; (iii) repair of damage attributable to alterations to RAD Products not performed or authorized by RAD; (iv) repair of damage attributable to accidents, misuse, negligence or failure of Customer to



follow instructions in the care and use of RAD Products or to maintain RAD's environmental specifications; (v) repair of damage attributable to external factors including, but not limited to, failure or fluctuation of electrical power or air conditioning, fire, flood, or lightning; (vi) delays or repeated on-site calls caused by inaccessibility of RAD Products; (vii) failures of equipment or services not covered by this Agreement. (Any Support coverage by RAD personnel or it's authorized agents as a consequence of any of these factors is billable time and shall be billed and invoiced to the Customer for all associated time, materials and expenses.)

2.7 Customer may order, subject to RAD acceptance, Services not covered by CPM. Charges for such Services and related materials are based on most current hourly rates (including minimums) and material charges. (Pricing: Schedule 'D')

2.8 If this CPM expires without the customer renewing it prior to expiration, the agreement can be reinstated subject to a 60 day exclusion period for product repair. If the customer wishes to obtain repair services within this 60 day exclusion period, they will be charged a repair fee of 25% of the equipment list price.

3. PAYMENT

3.1 Payment for each item of Equipment is due in full prior to CPM/Service Activation for such item. This applies to any and all additional parts and RAD products that may be added to this Agreement.

4. SERVICE REQUEST

4.1 The authorized Customer representative shall initiate a service request by calling and providing the following information:

- RAD Product model, Serial Number
- Company Name and Site address
- Service ID Number
- Brief Description of the Problem
- Names and phone numbers for customer contacts on-site.

4.2 Whenever a dispatch is authorized, the Customer shall provide the FSE with immediate on-site access to RAD Products. If unreasonably delays for access are experienced, RAD may impose additional charges for such delays.

4.3 Customer shall provide ancillary equipment and communications facilities to FSE.



5. SERVICE ACTIVATION: RAD may require registration form to be completed in the event RAD equipment is shipped without required information of the end user.

5.1 Only RAD equipment covered under this agreement that has been installed and registered for each item of Equipment placed under this Agreement will maintenance services be activated for said equipment: RAD will provide:

- Activation Certificate containing RAD Inc SID number, Product ID and Call Center Hotline.

6. WARRANTY

6.1 This CPM /Service Agreement supplements the original product warranty. This service shall be for as long as the CPM Service Agreement remains in effect by the Customer and that Customer complies fully with all of its obligations hereunder.

6.2 When RADcare Services are purchased for products already 'Out of Warranty', these components are subject to our most current repair charges. These repaired or replaced components will then have all premium service coverage for as long as the customer complies with its' obligations of this agreement. RADcare coverage will be honored beginning 60 days after receipt of full payment on the products to be covered.

6.3 Any RAD product and component over 4 years outstanding does NOT qualify for RADcare Service programs, unless expressly waived in writing by RAD Inc. RAD Inc. will review any such request after this elapsed timeline on a case-by –case basis.

7. LIMIT OF DAMAGES

7.1 Each party's liability on any claim, whether based on breach of contract, tort or any other grounds, including negligence arising out of or connected with this Agreement, shall in no case exceed the selling price of the equipment.

7.2 IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF THE EQUIPMENT OR ANY ASSOCIATED EQUIPMENT, COST OF SUBSTITUTED FACILITIES, EQUIPMENT OR SERVICE, DOWN-TIME COSTS, OR CLAIMS OF EITHER PARTY FOR SUCH DAMAGES.

7.3 Neither party shall be considered in default of performance of its obligations hereunder if performance of such obligations is prevented or delayed by acts of God or government, labor disputes, failure or delay of transportation, or by vendors or subcontractors, or any other similar causes or causes beyond its



reasonable control.

8. PROPRIETARY INFORMATION

8.1 "Proprietary Information" means Software, Firmware, all technical documentation (including manuals) and any other information confidential to RAD or its licensors, or Customers.

8.2 Each party shall keep in confidence and protect Proprietary information from disclosure to third parties and restrict use to its employees. Each party shall inform its employees of this obligation of confidentiality. Each party may give third party access to Proprietary information only with the prior written consent of RAD.

8.3 Each party shall keep in confidence and protect Proprietary information from disclosure to third parties and restrict use to its employees. Each party shall inform its employees of this obligation of confidentiality. Each party may give third party access to Proprietary information only with the prior written consent of RAD.

8.4 Each party shall not modify, de-compile, reverse-engineer or disassemble Software and shall not copy, de-compile or disassemble firmware.

8.5 Section 8 obligations shall survive this Agreement.

9. DISPUTE RESOLUTION

9.1 Any controversy or claim arising out of or relating to this Agreement, its making, performance or interpretation, shall be settled by binding arbitration before three (3) arbitrators in accordance with Rules of the American Arbitration Association and judgment upon the award may be entered in any court having jurisdiction. At least one arbitrator shall be an attorney. The arbitrators shall have no authority to award punitive damages and/or any other damages not measured by the prevailing party's actual damages and may not make any ruling, finding or award that does not conform to the terms of this Agreement. Neither party nor any arbitrator may disclose the existence or results of arbitration without the prior written consent of both parties.

9.2 This agreement shall be deemed to have been entered into, shall be governed by and construed in accordance with the law of the State of New Jersey.

9.3 No arbitration proceeding or legal action, regardless of its form, related to or arising out of this Agreement, its making, performance or interpretation, may be brought by either party more than one (1) year after the cause of action first accrued.



10. INTEGRATION

10.1 The terms of this Agreement supersede and replace all correspondence and RAD proposals concerning the subject matter herein.

11. OTHER

11.1 Customer shall comply with the export laws and regulations of the United States relating to export of Products and technical data originating within the United States. Without limiting the foregoing, such compliance includes restriction on providing technical data to certain foreign nationals within the United States.

11.2 This Agreement may be modified only in writing and signed by duly authorized representatives of each of the companies.

11.3 Neither party may assign this Agreement without the prior written consent of the other party, except that either party may assign this Agreement to an affiliated company without such consent. Any assignment or transfer prohibited by this provision shall be void.

**SCHEDULE (D)
RAD PRICING AND FEES**

PLEASE CONTACT YOUR DISTRIBUTOR FOR PRICING AND AVAILABILITY FOR THESE ADDITIONAL SERVICES.

Additional Services:

- Installations
- Staging
- Remote Configuration
- Time & Material services