



Annual maintenance agreement

\$12,999 per year

- Support for an AtoM software installation on your servers.
- Direct telephone or support@artefactual.com access to our support technicians during business hours.
- Guaranteed one business day response to email and voicemail messages.
- All support incidents will result in either an answer to your question, a solution to your problem, or an issue filed in our bug tracking system with a release priority.
- Remote login (VPN/SSH) by our technicians for initial installation, upgrade, troubleshooting, and support.
- Twelve support tickets for non-critical issues.

Software maintenance agreement

Support Agreement Number: _____

This Agreement ("Agreement") is made and entered into and effective this ____ day of _____, _____ by and between Artefactual Systems Inc. ("Artefactual"), having its principal place of business at 201-301 Sixth Street, New Westminster, British Columbia, Canada V3L 3A7, and _____ ("Client"), having its principal place of business at:

WHEREAS, the Client has decided to use certain software as specified in Exhibit A of this Agreement ("Covered Software") pursuant to a free software license issued by Artefactual (GNU Affero General Public License version 3);

WHEREAS, Client wishes to have Artefactual provide maintenance and support services pursuant to the terms and conditions of this Agreement;

NOW, THEREFORE, the parties agree as follows:

I. Incorporation of documents

- A. The following documents are attached hereto and, by this reference, incorporated in this Agreement:

Exhibit A Covered Sites and Software

Exhibit B Authorized Client Contacts

Exhibit C Services and Fees

II. Remedial support

- A. **Severity 1:** Produces a high priority situation in which those components of the Covered Software that are available to the general public are inoperable or fail catastrophically.
1. **RESPONSE:** The Client shall notify Artefactual via email (support@artefactual.com) or phone (1-604-527-2056) about the Severity 1 problem.
 2. Artefactual will provide a response by a qualified member of its personnel to begin to diagnose and to correct a Severity 1 problem as soon as reasonably possible during regular business hours - 09:00 to 17:00 Pacific Time (UTC-8 standard time; UTC-7 daylight savings time), Monday to Friday and excluding statutory Canadian holidays.
 3. Artefactual will respond via email to the “Authorized Client Contacts” listed in Exhibit B within one (1) hour if the issue is reported during the support hours listed above, or the next day if reported outside of support hours, to provide a status update on the resolution process.
 4. Artefactual will exercise best efforts to resolve Severity 1 problems as soon as possible.
 5. The resolution to the Severity 1 problem will be delivered as a resumption of operation of the Covered Software.
 6. Artefactual will email the the Authorized Client Contacts to notify them when the Covered Software is operational again and to identify any related Severity 2 or Severity 3 issues that were part of the original problem or which were introduced as a workaround or emergency fix to remedy the Severity 1 issue.
 7. Artefactual may, if required, revert to a previous backup of Client data to resolve a Severity 1 issue that results from incorrect or corrupt data. In no case shall Artefactual be held responsible for data loss that may occur when reverting to a previous data backup when it is necessary to resolve a Severity 1 issue.
- B. **Severity 2:** Produces a high priority situation in which the performance (throughput or response) of the Covered Software degrades substantially under reasonable loads, such that there is a severe impact on use; the Covered Software is usable, but materially incomplete; one or more functions or commands is inoperable; or the use is otherwise significantly impacted.
1. **RESPONSE:** Client shall notify Artefactual via email (support@artefactual.com) or phone (1-604-527-2056) about the Severity 2 problem.
 2. Artefactual will provide a response by a qualified member of its personnel to

begin to diagnose and to correct a Severity 2 problem as soon as reasonably possible during regular business hours - 09:00 to 17:00 Pacific Time (UTC-8 standard time; UTC-7 daylight savings time), Monday to Friday and excluding statutory Canadian holidays.

3. Artefactual will respond via email to the “Authorized Client Contacts” listed in Exhibit B within four (4) hours if the issue is reported during regular business hours (see above), or the next business day if reported outside business hours, to provide a status update on the status of the resolution process.
 4. Artefactual will exercise best efforts to resolve Severity 2 problems within five (5) business days.
 5. The resolution to the Severity 2 problem will be delivered to the Client as a workaround, or as a software code patch to the Covered Software, or as a configuration change to the web server hosting the Covered Software.
 6. Artefactual will email the Authorized Client Contacts to notify them when work to rectify the Severity 2 issue has been completed, and to detail any Severity 3 issues that were part of the original problem or which were introduced as a workaround or emergency fix to remedy the Severity 2 issue.
- C. **Severity 3:** Produces an inconvenient situation in which the Covered Software is usable, but does not provide a function in the most convenient or expeditious manner.
1. **RESPONSE:** Artefactual will exercise best efforts to resolve Severity 3 problems in the next public release of the Covered Software.
 2. Artefactual may, at its discretion, apply a software patch to the Covered Software to resolve a Severity 3 issues prior to the next public software release.
 3. As per Article III of this Agreement, the Client may use a Support Ticket to request a fix for a Severity 3 issue before the next public release of the Covered Software.

III. Support Tickets

- A. Some support service products offered by Artefactual entitle Client to a limited number of “Support Tickets”, which may be redeemed by Client to request technical support services from Artefactual that fall outside the basic services guaranteed under this Agreement.
- B. A Support Ticket may be redeemed by Client at any time during the Agreement term for:
 1. resolution of a Severity 3 issue before the next public release of the Covered Software,

2. direct changes to data in the Covered Software database or search index (e.g. to correct data that was incompletely or incorrectly imported),
 3. configuration changes to the Covered Software or server environment which are not covered under Remedial Support Severity 1 or Severity 2 terms listed in Article II
 4. any other technical support services outside of the basic services guaranteed under this Agreement, at Artefactual's discretion.
- C. A request to redeem a Support Ticket for technical support services must be made by Client to Artefactual, in written form, and must clearly describe the desired outcome of the requested services.
- D. Artefactual will evaluate the estimated work required to deliver the requested services and provide a written estimate of the work required to the Authorized Client Contacts listed in Exhibit B, or a written explanation of the reasons for declining to provide the requested services.
- E. In general Artefactual will consider one Support Ticket to entitle the Client to up to four (4) hours of technical services by a qualified member of its personnel
- F. Artefactual reserves the right to refuse any Support Ticket service request if Artefactual determines the requested service has the potential to adversely affect the security, performance, maintainability or functionality of the Covered Software, or for other reasons that Artefactual determines not to be in the best interests of the AtoM software project, Artefactual, or the Client. In the case that a Support Ticket request is refused by Artefactual, the Support Ticket shall be considered "unused" and may be redeemed by the Client at any later date within the Agreement term, for any other support request as per the conditions and terms specified in this Article.
- G. Support Tickets have no cash value and may not be transferred, exchanged or sold.
- H. Support Tickets are only valid for the duration of this Agreement. If at any time this Agreement is cancelled, any unused hosting Support Tickets are considered null and void and may not be redeemed.
- I. The Client is entitled to twelve (12) Support Tickets for the duration of this Agreement.
- J. If this Agreement is renewed at the end of the current term, any unused hosting Support Tickets will be considered null and void, and Client shall be issued a number of hosting

Support Tickets equal to the amount granted in the initial agreement. Unused hosting Support Tickets may not be carried over or accumulated when renewing the Agreement.

IV. Maintenance services

- A. As requested by the Client during the term of this Agreement and as per the clauses within this Agreement, Artefactual will liaise with Client personnel to install and configure a production system instance of the Covered Software.
- B. As requested by the Client during the term of this Agreement, Artefactual will perform system monitoring, problem diagnosis, reconfiguration and tuning, and resolution for the Covered Software as well as interfacing with Client personnel on production system issues, to the extent possible and under the Remedial support terms in Article II of this Agreement.
- C. Artefactual shall upgrade the Covered Software within ninety (90) days of any new public release. Artefactual will provide Maintenance Services for previous releases of the Covered Software for a minimum period of twelve (12) months following the general availability of a new release or software update. After this time, Artefactual shall have no further responsibility for supporting and maintaining the prior releases.
- D. Artefactual assumes no responsibility for the correctness of, performance of, or any resulting incompatibilities with, current or future releases of the Covered Software if the Client has made changes to the system hardware/software configuration, virtualization platform, network or security software or modifications to any supplied source code which changes affect the performance of the Covered Software and which were made without prior notification and written approval by Artefactual.
- E. Artefactual assumes no responsibility for the operation or performance of any Client-written or third-party application (except any third party software embedded in the Covered Software).

V. Services not included

- A. Maintenance Services do not include any of the following:
 - 1. Custom programming services
 - 2. Transportation or travel accommodation expenses for on-site visits
 - 3. Support of any software not listed as Covered Software

VI. Covered software

- A. This Agreement covers the site and software components described in Exhibit A.

VII. Access

- A. Software Maintenance is conditional upon provision by Client to Artefactual of reasonable appropriate access to the system(s) running the Covered Software, including, but not limited to, passwords, system data, file transfer capabilities, and remote log-in-capabilities via Secure Shell (SSH) protocol or Virtual Private Network (VPN). Artefactual will maintain security of the system and use such access only for the purposes of this Agreement, and will comply with Client's standard security procedures. Information accessed by Artefactual personnel as a result of accessing Client's system shall be deemed confidential information.
- B. Client shall also use commercially reasonable efforts to provide an active voice telephone line at each site which is available continuously when required for support access.

VIII. Fees

- A. Fees for Maintenance Services provided under this Agreement are specified in Exhibit C.

IX. Payment

- A. Maintenance fees and fees for on-site support, if applicable, will be invoiced annually, thirty (30) days in advance of the agreement expiry date.
- B. All undisputed invoices shall be due and payable within thirty (30) days of the date of the invoice. A service charge of 1.5% per month or the lawful prevailing rate, whichever is lower, will be applied to all invoices which are past due. Such charges shall apply from the date Client is notified that the amount is past due.

X. Support agreement number

- A. For purposes of problem notification, it is necessary for Client to utilize the Agreement Number shown on page 1 of this Agreement.

XI. General

- A. Each party acknowledges that it is bound by the terms of this Agreement and further agrees that it is the complete and exclusive statement of the Agreement between the parties, which supersedes and merges all prior proposals, understandings and all other Agreement with respect to software maintenance, oral and written, between the parties relating to this Agreement.
- B. This Agreement may not be modified or altered except by a written instrument duly executed by both parties.
- C. This Agreement and performance hereunder shall be governed by and construed in accordance with the laws of the Province of British Columbia, Canada as applied to transactions to be carried out wholly within British Columbia by British Columbia residents. Any and all proceedings relating to the subject matter hereof shall be maintained in the provincial courts of British Columbia which courts shall have exclusive jurisdiction for such purpose. Each of the parties waives any objection to venue or in personam jurisdiction, provided that service is effective.
- D. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.
- E. Neither party may assign, without the prior written consent of the other, its rights, duties or obligations under this Agreement to any other person or entity, in whole or in part.
- F. The waiver or failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further right hereunder.
- G. This Agreement shall be binding upon and inure to the benefit of the parties' respective successors and permitted assigns. Neither party may assign this Agreement and/or any of its rights and/or obligations hereunder without the prior written consent of the other party and any such attempted assignment shall be void, except that either party may assign this Agreement and/or any of its rights and/or obligations hereunder, upon written notice to the other party to another entity in the event of that party's merger or consolidation with another entity, without the consent of the other party, provided that the assignee is capable of fulfilling and intends to fulfill the obligations of the assigning party under this

Agreement. Each party may terminate this Agreement in case there is a change of control of the other party, but shall not be entitled to any refund whatsoever and all amounts owing shall be immediately paid.

XII. Term and termination

- A. The term of this Agreement shall be for twelve (12) months, starting on _____.
- B. Software Maintenance service shall remain in effect for the original twelve (12) months term and, thereafter, for renewal terms on a year-to-year basis until terminated
1. by Client in the event the Covered Software is taken out of service and upon sixty (60) days' notice to Artefactual;
 2. by either party upon sixty (60) days' notice prior to the expiration of the original twelve (12) months or any subsequent twelve (12) month renewal term;
 3. by either party upon a default of the other party, such default remaining uncured for thirty (30) days from the date of written notice from the non-defaulting party to the other specifying such default; or
 4. upon the bankruptcy or insolvency of Artefactual. Upon such termination, Artefactual shall refund to Client a portion of the maintenance fee prorated to reflect the date of termination and neither Artefactual nor Client shall have any further obligations hereunder.

XIII. Support option election(s)

- A. By signing this Agreement, Client requests and Artefactual agrees to provide remote, off-site software maintenance services on a per incident basis for a period of twelve (12) months in accordance with the terms set forth in this Agreement.

- B. IN WITNESS WHEREOF, each party has caused a counterpart of the original of this Agreement to be executed as of the date first written above by its duly authorized representative.

On behalf of Artefactual Systems Inc:

On behalf of the Client:

Signed: _____

Signed: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

COVERED SITES, SOFTWARE AND CONFIGURATION

I. Covered site

- A. This Agreement covers the following Client site (name and address of institution):

II. Covered software

- A. This Agreement covers the following software components at the site indicated in Exhibit A, Section I:

1. **AccesstoMemory (AtoM)**

- i. as made available for public download at <http://accesstomemory.org>.
- ii. for the features and functionality documented in the end-user manual for the most current public release.

- B. The Covered Software may be installed directly on the hardware located at the Covered Site indicated in Exhibit A, Section I, or on virtual machines at the same Covered Site using the Client's own hardware and server virtualization platform. A virtual machine is an isolated software container that can run its own operating systems and applications as if it were a physical computer. A virtual machine behaves exactly like a physical computer and contains its own virtual (i.e., software-based) CPU, RAM hard disk and network interface card (NIC). Each virtual machine is assigned its own Internet Protocol (IP) address.

- C. Artefactual is responsible solely for supporting the Covered Software installed on the servers or virtual machines allocated by the Client to run the Covered Software. The Client is responsible for providing Artefactual with remote, administrator-level access to the servers or virtual machines which are running the Covered Software.

- D. Artefactual is not responsible for the Client's server or virtual machine resource allocation, data backup, security, or network availability and response time except where those may be affected by the operation of the Covered Software within the Client's servers or virtual machines.

III. Updates

- A. Updates to software shall be applied remotely by Artefactual or, if necessary, on-site at the location listed in Exhibit A, Section I.
- B. Updates to software documentation shall be made available at <http://accesstomemory.org>.

EXHIBIT B

AUTHORIZED CLIENT CONTACTS

A. For purposes of this Agreement, the following individuals shall be designated as the authorized Client support contacts:

1. Contact name: _____

Email address: _____

Phone number(s): _____

2. Contact name: _____

Email address: _____

Phone number(s): _____

3. Contact name: _____

Email address: _____

Phone number(s): _____

EXHIBIT C

SERVICES AND FEES

I. Maintenance fee

- A. The maintenance services described in Article III of this Agreement for the applications and configuration listed in Exhibit A of this Agreement will be provided for a fee of **\$12,999.00** per year, plus applicable taxes, for the first year of this Agreement.
- B. This fee will be adjusted at each anniversary date of this Agreement to the then current pricing.
- C. Should additional software be licensed and installed at the Covered Site, the fee will be adjusted to reflect the additional software.