

F5 Maintenance Terms and Conditions

1. **Agreement.** Subject to your payment of applicable maintenance and support fees, F5 agrees to support, maintain, repair or replace the F5 products ("Product(s)") properly registered and entitled subject to these terms and conditions ("Agreement"). **By accessing F5 support services in any way, you agree to be bound by the terms and conditions below.**
2. **Term.** Coverage under this Agreement will commence on the earlier of (i) (90) days after the date the Product is shipped from the manufacturing facilities of F5, or (ii) the date the covered Product is activated with F5. Customer support agreements will automatically renew for additional one year terms unless either Customer or F5 provides written notice of termination at least 30 days prior to the end of any such term. Each renewal will be at F5's then-current rate. Services pricing will be charged for all F5 product platform and add-on software purchases. The total service price will be calculated as a percentage of total list prices, appropriate to the level of service purchased. Either party may terminate this Customer support agreement upon 30 days' notice in the event of a material breach by the other party, provided such breach is not cured by the end of such 30 day period.
3. **F5's Obligations.**
 - (a) F5 will provide telephone support for any product covered by this Agreement. Such support will consist of responding to trouble calls as reasonably required to make the product perform as described in the current product specifications. Customer will receive Standard or Premium service as indicated in its order for the customer support services. Customer support will be provided in accordance with F5's support policies which are available at www.f5.com/about/guidelines-policies.
 - (b) Customer is entitled, at no charge, to updated versions of covered products, such as bug fixes and new releases, that are generally made available at no additional cost to F5's customers that have ordered maintenance services for the relevant time period. The foregoing right shall not include any options, upgrades or future products which F5 or third party vendors charge for as a separate product or where Customer's installed hardware platform has no further upgrades available according to either (i) the applicable F5 software release notes provided with each release and also available for review via the Ask F5 service or (ii) a written end-of-life announcement communicated to Customer by F5. F5 is not obligated to provide hardware upgrades to ensure compatibility with new software versions of its products or to ensure that new software versions of its products are compatible with outdated hardware platforms.
 - (c) F5 will, at its option, repair or replace any product or component that fails during the term of Customer's support agreement at no cost to Customer, provided that Customer contacts the F5 technical support center to report the failure and complies with F5's return policies. Products returned to F5 must be pre-authorized by F5 with a Return Material Authorization (RMA) number marked on the outside of the package, and sent prepaid, insured and packaged appropriately for safe shipment. Only packages with RMA numbers written on the outside of the shipping carton and/or the packing slips and shipping paperwork will be accepted by F5's receiving department. All other packages will be rejected. A replacement product or component will be shipped to the Customer on the first business day following F5's confirmation of the failure of the original product or component via remote troubleshooting (Note: there are international exceptions). Customer will return the failed product or component to F5 under the RMA number issued by F5 upon receipt of the replacement. F5 may invoice the Customer for any failed products or components (a) with respect to which the damage to such Products or components is attributable to actions taken by Customer or any of its agents (including but not limited to the categories set forth in Section 4 below); or (b) not returned within ten (10) days of shipment of the replacement unit(s) (c) Product not returned in the original packaging box or the replacement unit packaging that causes undue damage to the unit. Title to any returned products or components will transfer to F5 upon receipt. F5 will be responsible for all freight charges for returned Products or components provided Customer uses F5 designated carrier. F5 will replace defective media or documentation or, at its option, undertake reasonable efforts to modify the software to correct any substantial non-conformance with the specifications.
 - (d) ASK F5 is a 24-hour, 7-day-a-week online service that allows customers to receive rapid answers to F5 product and service-related questions. Customers simply type a question into their Web browser; ASK F5 responds to the query. ASK F5 is also fully integrated with F5's technical support center, allowing customers to quickly communicate on-line with support staff who are experts in F5 products. F5 provides ASK F5 online support services at no charge during the term of this Agreement, provided that Customer must register to obtain a user name and password in order to access the Ask F5 services.
 - (e) If remote access is not an available option, it will take significantly longer to identify and resolve the outstanding incident. When accessing customer systems F5 will:

- Inform customer before any access is made.
- Back up copies of configuration files will be made before any work is performed.
- No changes will be made without prior authorization.
- Once authorized, changes will be made on stand-by units whenever possible.
- Make use of security shred bins for all sensitive customer information that may be written on paper.
- F5 does not send out customer information

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(f) F5 specifically disclaims any and all support or repair obligation with respect to any application that has not undergone feature-set approval and F5's QA process for feature integration (a "Non-Supported Application"). Customer acknowledges that if a new support case is created in accordance with F5's support process where the issue is suspected to be, or is found to be, attributable to a Non-Supported Application, F5 may elect one of the following options, at its sole discretion:

- Remove the Non-Supported Application, following consultation with Customer, in order to continue to resolve the issue; or
- Cease work on the case and recommend that Customer remove the Non-Supported Application from the F5 Product in order to continue toward resolution.
- If the F5 Product continues to function improperly or if the issue persists due to the Non-Supported Application, F5 will cease all support efforts on the case. The parties will then cooperate to develop a mutually satisfactory "for-fee" arrangement for continuing work on the issue.

4. **Restrictions.** Services provided by F5 under this Agreement are limited to the covered product and are contingent upon the Customer's proper use of the product in the application for which it was designed. F5 will not be obligated to provide any service or to correct any malfunction, damage or other problem if the product: (a) has been altered, except by F5 or an F5-designated representative or in accordance with F5 instructions, (b) has not been installed, operated, repaired, or maintained in accordance with F5 instructions, (c) has been subjected to abnormal physical or electrical stress, misuse, negligence or accident, (d) has been operated outside of the environmental specifications for the product or (e) is related to configuration of Customer's network beyond that necessary to the use or installation of F5 products. F5 reserves the right to limit or terminate development support (including error correction services) of any product version one (1) year after the date of release of a subsequent product version in accordance with its end of life policies (available through AskF5). The foregoing restriction shall apply even if Customer elects to install a product version other than the then-currently shipping version of the product.

5. **Recertification.** Requests for maintenance on Products purchased from sources other than an F5 VAR or directly from F5 (i.e. used or gray market systems - like EBAY), or where maintenance has lapsed on the Product for more than 180 days, will first be subject to an inspection by a representative of F5 at the rate of \$10,000 per unit (\$20,000 for redundant systems). The inspection will determine if the unit is at a maintainable state and eligible for coverage.

Once the unit has passed inspection, a maintenance contract and additional services may be purchased at the current published rates.

6. **Prices and Payment.** Fees for the initial or any subsequent term of Customer's support agreement will be due and payable net 30 days from date of invoice, and all payments will be made in US dollars. F5 may accept payment in any amount without prejudice to its right to recover the balance of the amount due or to pursue any other right or remedy. No endorsement or statement on any check or payment or in any letter accompanying a check or payment or elsewhere will be construed as an accord or satisfaction. Overdue payments may be charged interest at the lesser of 1.5% per month or the maximum interest allowed by law. If F5 is required to retain a collection agency or attorney to collect overdue payment, all reasonable collection costs, including attorney fees, will be payable by Purchaser.

7. **Lapsed Service Fee.** If Customer purchases an annual Maintenance Agreement for a Product where maintenance has lapsed on the Product by up to 180 days, Customer will be charged a "Lapsed Service" fee in addition to the then-current standard maintenance fee pro-rated for the time period during which no maintenance was in effect.

8. **Expedited 4 Hour RMA (Limited Availability Area).** Where Customer has purchased Expedited 4 Hour RMA service, the terms of this Section 8 will also apply. Products covered under this service must have an active maintenance service contract. Expedited RMA service purchased by Customer will be available ten business days after the receipt and acceptance of the purchase order for service and the customer's completed Expedited RMA Service paperwork, providing full hardware configuration to be supported (template provided by F5 Sales). For customers with units deployed within the F5 Four Hour RMA Availability Area (the Availability Area) as posted at <http://www.f5.com/about/guidelines-policies/>, F5 will make a commercially reasonable effort to deliver a replacement unit within 4 hours of an F5 determination that a replacement unit is needed. For customers with units that are not within the Availability Area or which otherwise do not meet the criteria listed for F5 Four Hour RMA Availability, F5 will use commercially reasonable efforts to deliver a replacement unit as

soon as practicable. Provided the customer technical contact supplies necessary information the engineer will validate the hardware is operational, license the box, and restore the UCS configuration file of the previous box if available. The engineer will not troubleshoot, make changes to the environment or configuration, or create a basic configuration. The four hour period will be defined by the business hours covered by customer's support contract. F5 will make a reasonable effort to match the current configuration of the supported hardware, however, it is the customer's duty to notify F5 in writing of any hardware configuration changes or changes to the hardware location covered by this agreement. F5 requires 10 business days to implement necessary changes to support the new configuration and/or location. If change notification is not made, F5 will take responsibility for the configuration on file at F5 only. Notification may be made via email to RMAchanges@F5.com. ARX batteries are not included in the Expedited 4 Hour RMA and will be subject to F5's standard RMA processes.

9. **Taxes and Other Charges.** All charges are exclusive of all foreign, federal, state, municipal, or other government excise, duty, sales, use or occupational taxes or charges now in force or enacted in the future, and therefore are subject to an increase equal in amount to any taxes or charges F5 may be required to collect or pay upon the services performed or materials provided hereunder whether during the service coverage period or otherwise.
10. **Limitation of Liability.** F5 sole obligation and liability hereunder is for the service and repair of the Products covered under this Agreement. F5 will have no further obligation or liability beyond such service and repair. **NO EVENT WILL F5 BE LIABLE FOR ANY DAMAGE RESULTING FROM LOSS OF USE, DATA, PROFIT, OR BUSINESS, OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER ARISING FROM AN ACTION OF CONTRACT, TORT OR OTHER LEGAL THEORY. F5 LIABILITY FOR DAMAGES FOR ANY CAUSE, WHATSOEVER, AND REGARDLESS OF THE FORM OF ACTION (IN CONTRACT OR TORT) WILL BE LIMITED TO THE SERVICE FEE ACTUALLY PAID UNDER THIS AGREEMENT.**
11. **General Provisions.**
 - (a) **Non-Assignment and Non-Transferability:** Customer may not transfer its support agreement to a third party without F5 prior written consent. Maintenance contract entitlement is not transferable between products or customers. A maintenance contract cannot be transferred from one product to provide coverage on another product, unless this transfer is in connection with an RMA replacement. Maintenance contracts do not transfer with product title transfers between Customer and any third party without the prior written consent of F5 and payment of a re-certification fee.
 - (b) **Force Majeure.** F5 will exercise reasonable efforts to meet its obligations hereunder, but will not be liable or in default under this Agreement due to the delays in delivering materials or furnishing services resulting from any cause beyond its reasonable control including, but not limited, to acts of God, weather, strikes, labor disputes, transportation difficulties, and/or any other cause whatsoever.
 - (c) **Governing Law.** All controversies regarding these terms and conditions will be governed by and construed in accordance with the laws of the State of Washington, without regard to its conflicts of law rules.

