

# MetaCare Assurance Plan

## **TERM; TERMINATION; RENEWAL**

This Agreement commences on the Effective Date and continues to be in effect for a period equal to the term purchased in the Order. Notwithstanding the foregoing, this Agreement will immediately and automatically terminate if You fail to comply with its terms or the terms under which you originally obtained the Software, or upon notice posted on MetaGeek's web site ([www.metageek.com](http://www.metageek.com)).

Following the expiration of this Agreement, MetaGeek may, in its sole discretion, allow you to obtain new maintenance services pursuant to a separate agreement at MetaGeek's website or through an authorized MetaGeek distributor or reseller. Once this Agreement expires, You will no longer be eligible to receive any Software Maintenance (including Software Upgrades or Software Updates that are released), unless you purchased new maintenance services pursuant to such separate agreement.

## **DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITY**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE MAINTENANCE (INCLUDING ANY SOFTWARE, SOFTWARE UPDATE, SOFTWARE UPGRADE OR DOCUMENTATION) IS PROVIDED "AS IS," "WITH ALL FAULTS" AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND; AND, METAGEEK HEREBY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ANY WARRANTY ARISING OUT OF ANY COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. NOT LIMITING THE FOREGOING, METAGEEK DOES NOT WARRANT THAT THE SOFTWARE MAINTENANCE WILL MEET YOUR NEEDS OR EXPECTATIONS OR THAT THE USE OF THE SOFTWARE MAINTENANCE WILL BE ERROR FREE, UNINTERRUPTED OR FREE OF HARMFUL COMPONENTS.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL METAGEEK HAVE ANY LIABILITY FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY NATURE, INCLUDING LOSS OF DATA, LOST PROFITS, OR COST OF COVER, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER FOR BREACH OF WARRANTY OR CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF METAGEEK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY STATED HEREIN. IN NO EVENT WILL METAGEEK'S TOTAL AND CUMULATIVE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY YOU TO METAGEEK UNDER THE ORDER.

Some states or jurisdictions do not allow the exclusion or limitation of incidental, consequential, or special damages, or the exclusion of implied warranties or limitations on how long an implied warranty may last, so the above limitations may not apply to You.

## **GENERAL**

This Agreement is governed by the internal laws of the State of Idaho, United States of America, without regard to conflict of law principles. You will only bring actions under this Agreement in the state or federal courts for Ada County Idaho; and, You hereby consent to the jurisdiction and venue of such courts in any actions arising under or related to this Agreement. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods. If any part of this Agreement is found unenforceable, it will not affect the validity or enforceability of any other provision of this Agreement. No amendment, modification, or waiver of any provision of this Agreement will be effective unless it is set forth in a writing signed by an authorized officer of MetaGeek. Except as explicitly referenced in this Agreement, this Agreement constitutes the complete agreement between You and MetaGeek with respect to the Software Maintenance and supersedes all proposals, oral, or written, all previous negotiations, and all other communications. You may not assign, by operation of law or otherwise, this Agreement or any right or duty arising hereunder to a third party without MetaGeek's prior written consent; and, any purported assignment in violation of the foregoing will be void.

# MetaCare Assurance Plan

## Software Maintenance Agreement

The MetaCare Assurance Plan entitles you to obtain and legally install future software updates for MetaGeek software. Your plan is valid for all updates released during the period the plan is in effect. Updates range from bug fixes, minor feature updates, major enhancements, and all the other wonderful changes we have in store.

MetaCare is provided by MetaGeek directly, whether you purchased your software from MetaGeek or through an authorized MetaGeek Reseller. The agreement is by default an annual contract – longer terms are available for purchase and will guarantee you have the most current and feature-rich versions of the Wi-Fi Troubleshooting tools you need.

## Terms and Conditions

This Software Maintenance Agreement (“Agreement”) is entered into between MetaGeek, LLC (“MetaGeek”) and the party (“You”) identified in the corresponding order referencing this Agreement (“Order”). This Agreement becomes effective and You agree to be bound by its terms when You pay for the Software Maintenance (as defined below) (the “Effective Date”), but only if you have a current and valid license for the Software (as defined below) for which you are purchasing the Software Maintenance. If the person entering into this Agreement is doing so on behalf of a legal entity, such person represents that it has the legal authority to bind such legal entity to this Agreement. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement agree as follows:

## DEFINITIONS

When used in this Agreement with initial letters capitalized, in addition to terms defined elsewhere in this Agreement, the following terms have the following meanings:

“Software” means the specific version of the MetaGeek software product for which You are purchasing Software Maintenance as identified in the Order; and includes related explanatory written materials and files (“Documentation”) relating thereto.

“Software Update” means a version of the Software that is classified by MetaGeek as a “maintenance” release that attempts to correct deficiencies and/or bugs affecting performance to the Software description.

“Software Upgrade” means a version of the Software, as classified by MetaGeek, which has been enhanced, improved and/or modified and replaces the existing version of the Software.

## MAINTENANCE

During the term of this agreement, MetaGeek will provide You with Software Updates and Software Upgrades for the Software along with other Documentation, that MetaGeek, in its sole discretion, makes available to you (collectively, the “Software Maintenance”).

This Agreement does not authorize You to increase the licensed number of versions or copies of the Software. You will not: (i) use the Software Maintenance for any software for which you have not paid the applicable fee; or, (ii) transfer any prior version of the Software to any other person (and You will promptly destroy or archive any prior version of the Software). The use of all Software Updates, Software Upgrades and Documentation are governed by the license agreement under which you originally obtained the Software.

## PAYMENT

You will pay Metageek, the amount identified in the Order in advance of receiving the Software Maintenance. Your payment will be immediately applied via the applicable payment methods described on MetaGeek’s website or any pre- approved terms set by MetaGeek, in its sole discretion.