

## SOFTWARE LICENSE AND MAINTENANCE AGREEMENT

This Software License and Maintenance Agreement (“**Agreement**”) dated as of [●]/[●]/2020 is concluded by and between, [●], a corporation established under the laws of [●], with its registered office at [●] represented by its Director [●] (“**Licensor**”), and [●], a corporation established under the laws of [●], with its registered office at [●] represented by its Director [●] (“**Licensee**”).

Licensor and Licensee may be referred to individually as a “**Party**” and, collectively, as the “**Parties**”.

### 1. DEFINITIONS

Save for any other definitions included in special provisions of the Agreement, the terms used in this Agreement have the meaning defined herein and in the annexes

- (a) “**Affiliate**” means any entity which controls, is controlled by, or is under common control with a Party, where “control” means the legal, beneficial or equitable ownership of at least a majority of the aggregate of all voting equity interests in such entity.
- (b) “**Confidential Information**” means as set forth under Article 4.6.
- (c) “**Documentation**” means the then-current user documentation for the Licensor Products.
- (d) “**Intellectual Property**” means all current and future tangible and intangible technology and intellectual property, regardless of form, including without limitation: (i) published and unpublished works of authorship, including without limitation audiovisual works, collective works, computer programs, compilations, databases, algorithms, processes, Software, computer software programs, and applications (in source code and object code form), derivative works, literary works, maskworks, and sound recordings; (ii) inventions, ideas, and discoveries, including, without limitation, know-how, technical information, articles of manufacture, business methods, compositions of matter, improvements, machines, methods, processes and procedures, and new uses for any of the preceding items; and (iii) words, names, symbols, devices, designs, and other designations, and combinations of the preceding items, used to identify or distinguish a business, good, group, product, or service or to indicate a form of certification, including without limitation logos, product designs, and product features.
- (e) “**Intellectual Property Rights**” means all forms of intellectual property rights, interests, and protections throughout the world in or arising from Intellectual Property, whether currently existing or hereafter developed or acquired and whether now known or hereafter recognized, including all right, title and interest arising under local or foreign common or statutory law in and to all: (i) patents and all filed, pending or potential applications for patents, including any patent disclosure, reissue, reexamination, division, continuation or continuation-in-part applications throughout the world now or hereafter filed; (ii) trade secret rights and equivalent rights and all goodwill associated therewith; (iii) copyrights, copyright registrations, design registrations and applications therefor, moral rights, other literary property or authors’ rights, whether or not

protected by copyright or as a mask work; and (iv) proprietary indicia, trademarks, service marks, trade names, trade dress, logos, symbols, domain names, rights in databases, logos and/or brand names.

(f)

(g) **“Products”** means Software, SaaS Services and any related product offerings provided by Licensor. Licensor Products do not include Services or early release, beta versions or technical previews of product offerings.

(h) **“SaaS Services”** means a service offering on a cloud infrastructure hosted and/or managed by Licensor.

(i) **“Services”** means Support, Consulting Services or Education Services provided by Licensor pursuant to an Order Form. Services does not include SaaS Services.

(j) **“Software”** means the generally available release of the Licensor’s software, in object code form, initially provided or made available to Licensee as well as updates thereto that Licensor elects to make available at no additional charge to all of its customers that subscribe to Support for the Software.

## **2. SCOPE AND SUBJECT**

The scope and subject of this Agreement is to regulate the term and conditions of the license on the below products containing support and maintenance services within the scope of this Agreement and its annexes as well as the terms and conditions of the Parties in relation to the license.

## **3. TERM**

This Agreement shall enter into force on [●] following the delivery of the licenses to the Licensee. Unless one of the Parties terminates the subscription /the Agreement, the term shall be renewed for 1 year in each case. License Support and Maintenance Services shall terminate on [●].

## **4. LICENSE**

Policies and rules of the use of licenses are included in Annex-A. Parties declare, accept and undertake that the use of license by Licensee and avail Licensee of the license by Licensor shall be fulfilled with the scope of licenses under Annex-A. The Product/s and Software included in the Order Form annex will be provided by the Licensor in accordance with this Agreement.

## **5. FEES AND PAYMENT**

a. Licensee shall pay any fees due in accordance with the payment terms set forth in the Order Form. Payments are non-cancelable, non-refundable and non-creditable with no right of offset or suspension.

b. Fees for license and support and maintenance shall be reconsidered by Licensor in each year and Licensor shall inform the Licensee in writing of the change in fees 60 days prior to the expiration of the Agreement at the latest.

- c. License fee including the fee for support and maintenance shall be invoiced on one shot by Licensor to Licensee right after the delivery of the license. This invoice shall be made out for 1 year licensing at least.
- d. In case of the need of additional licenses for other users, the invoicing shall be done in monthly basis by a calculation to be made in direct proportion and the invoicing for this additional licensing shall be in any event performed on the date of the termination of the first license period at the latest.
- e. Invoices shall be issued on the currency set forth under this Agreement and the payment of such amounts shall be done on the same currency as being regulated under this Agreement.
- f. Payments shall be done within 15 (fifteen) days following the date of the invoice and partial payment shall not be accepted by Licensor.
- g. In case of delay in the payments under this Agreement, monthly 3% shall be paid by Licensee as delay interest. In case the delay reaches to 2 months, following the expiration of this 2 months period, monthly 6% shall be applied as delay interest. The term of these payments shall be deemed to be final and in this regard, there shall be no need to put Licensee into default by sending any notification or by any other means and breach of this payment obligation shall be deemed to be material breach of this Agreement.
- h. Fees do not include sales, use, withholding, value-added or other taxes or duties. Customer agrees to pay all applicable taxes, public fees, duties, deductions or withholdings for which Licensor is required to pay or account, exclusive of any tax on Licensor's income. Customer shall directly pay any such taxes or duties assessed against it, unless Customer provides Licensor in a timely manner with a valid certificate of exemption or other evidence that items are not taxable.

## **6. CONFIDENTIALITY AND DATA PROTECTION**

- a. In performance of this Agreement, Licensee acknowledges that it will have access to valuable Confidential Information of Licensor. Licensee acknowledges that such confidential, trade secret and business activity information is the property of Licensor and is considered to be confidential, and the publication and/or disclosure to third parties of such information will cause immediate and irreparable harm Licensor.

The Parties acknowledge and agree that the Licensor's Products and all pricing information shall be treated as the Confidential Information of Licensor.

- b. Licensee covenants, agrees and undertakes:
  - i) to treat and hold the Confidential Information in trust and the strictest confidence and protect it in accordance with a standard of care which shall be no less than the care it uses

to protect its own information of the same importance;

- ii) not to use the Confidential Information, directly or indirectly for any purpose other than the performance of its obligations under this Agreement;
  - iii) not to disclose the Confidential Information to third persons except with the prior written consent of the Licensor
  - iv) to safeguard the Confidential Information and to limit and control the copies, extracts and reproductions made thereof.
  - v) to take all necessary measures to ensure the confidentiality of Confidential Information
- c. If Licensee had questions on being the confidentiality of any information, Licensee shall consider that the subject information falls under the Confidential Information, unless otherwise provided by Licensor clearly and in writing.
- d. These confidentiality obligation shall survive for 5 (five) years after the termination and/or expiration of this Agreement.
- e. The term “Confidential Information” under this Agreement shall mean this Agreement, its annexes including but not limited to fees and any information including but not limited to activities of Licensor their commitments, operations, services, technical and administrative documents,

all Business Plans which contain all kind of system and configuration, drawings, plans, reports, technology, know-how, patent, utility model, industrial design but not limited to, intellectual property rights, innovations, inventions, personnel, price policies, trade secrets, consumer information, strategies including all performed trade actions between Parties, financial marketing policies, financial statement, legal and financial business, business network formulas, product and services, methods, network configurations, network products, all materials containing documents about products, hardware, software and information relevant to administrative, technical and industrial attributes, all kind of information including reports, analyses, data, plans, works, name, shape and technical specification, type of work and production of the machine of which a photograph has been submitted in the Annex of this Agreement, but not limited to all other information, which has been provided by Licensor to Licensee All information derived from Confidential Information and disclosed by Licensor to Licensee shall also be considered as Confidential Information.

- f. While fulfilling their obligations under the contract, the parties must comply with all obligations stipulated for the "Data Controller" and "Data Processor" of the states parties especially the General Data Protection Regulation (“GDPR”), without being limited to those regulated under this article.
- g. Parties; shall only be able to process the personal data that it has learned, accessed or obtained in any way about the other party during the performance of the contract or in connection with the performance of the contract, only for the purposes specified in the Contract. Parties shall take all necessary technical and administrative measures in order to prevent the unlawful

processing of said personal data, to prevent illegal access to such data, and to ensure the preservation of such data. The parties will continue to protect the personal data obtained under the contract as specified in the article of the decision until the said data is destroyed, even if the contract is terminated. Parties will be able to give the personal data they learned during the performance of the contract or in connection with the performance of the contract only in cases of necessity and to their workers or employees who need to learn this information due to their job, to the extent necessary and relevant to the performance of the contract. Parties are obliged to ensure that their workers and employees also act in accordance with the obligations of the contract in the article.

- h. Any personal data obtained by the parties within the scope of the contract cannot be transferred to third parties under any circumstances, with the exception of consultants who are obliged to receive support in line with the performance of the contract. In case the legal reasons requiring the processing of personal data are eliminated, the parties; in any case, ex officio or upon the request of the other party, to destroy the personal data in question and any data that may be a trace or extension of this data, in a way that cannot be recovered, and to take all necessary technical and administrative measures to ensure that the deleted personal data is inaccessible and cannot be reused.

## **7. INTELLECTUAL PROPERTY RIGHTS**

- a. Licensee retains all right, title and interest in and to its proprietary data used by Licensee in connection with the Licensor Products (“Licensee Data”). Licensor retains all right, title and interest in and to the Licensor Products and if applicable, all deliverables resulting from performance of Consulting Services, including all know how, methodologies, designs and improvements to the Licensor Products, but excluding any Licensee Data incorporated into any such deliverable. Licensor hereby grants Licensee a non-exclusive license to use any deliverables or work product that are the result of any Consulting Services in connection with Licensee’s authorized use of the Licensor Products.
- b. In cases where Licensee offers Licensor new features related to functionality and performance of Software and Licensor accepts such offers and applies, all these features and modifications made in this respect and intellectual property rights thereon shall be deemed to be transferred to Licensor free of charge and shall solely and exclusively belong to Licensor. In case an additional agreement or document is necessary for the affectivity of such transfer, Licensee shall sign such documents and agreements, Licensor shall submit at that time.
- c. Licensor grants Licensee herewith a non-exclusive, non-transferable and limited license subscription right.
- d. Nothing contained in this Agreement will constitute or be construed as a transfer of ownership of any of the Intellectual Property Rights of Licensor or its Affiliates or to otherwise give Licensee any proprietary rights to the Products or any of the Intellectual Property Rights of Licensor or its Affiliates. Licensee shall have no right, title or interest in the Products except as

expressly set forth in this Agreement.

- e. Licensee shall not: (a) copy or manufacture the Products or Software or any portion thereof; (b) translate, modify, adapt, enhance, extend, decompile, disassemble, reverse engineer or otherwise attempt to derive the source code of the software by any means whatsoever.
- f. Licensee shall promptly notify Licensor of any actual, threatened or suspected infringement of Software or Licensor's Intellectual Property Rights, as well as any claims or allegations that the Software or Licensor's Intellectual Property infringe the rights of any third party.
- g. Licensor's noncompliance with the rules set forth in this article hereof, shall be a material breach of the Agreement.

## **8. LICENSEE'S WARRANTY**

Licensee represents, warrants and undertakes that:

- it has full capacity and authority and all necessary consents to enter into and to perform this Agreement and to undertake the obligations set forth in the Agreement,
- this Agreement is executed by its duly authorized representative and represents a binding commitment on it,
- it has not entered into and will not enter into any agreements that would render it incapable of satisfactorily performing its obligations hereunder or that would be inconsistent or in conflict with its obligations hereunder.

## **9. LIMITATION OF LIABILITY**

a. Limitation of Liability. Except for (i) each Party's indemnification obligations under this Agreement, (ii) death or bodily injury caused by a Party's negligence; (iii) breach of Section 8.8; and (iv) Licensee's violation of Licensor's intellectual property rights, each Party's maximum, cumulative liability for any claims, losses, costs (including attorney's fees) and other damages arising under or related to this Agreement, regardless of the form of action, whether in contract, tort (including negligence or strict liability) or otherwise, will be limited to actual damages incurred, which will in no event exceed the greater of the amount of fees paid or payable by Licensee for the twelve (12) month period preceding the loss or damages giving rise to the claim and attributable to the specific products or services giving rise to such damages, or one thousand dollars (USD \$1,000).

b. IN NO EVENT WILL LICENSOR, ITS AFFILIATES, OR THEIR RESPECTIVE DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS, ASSIGNS SUPPLIERS OR LICENSORS, BE LIABLE FOR ANY LOSS OF SAVINGS, PROFITS OR REVENUES, LOSS OR CORRUPTION OF DATA, GOODWILL, OR REPUTATION, INACCURACY OF ANY DATA, THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR SOFTWARE, OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, HOWSOEVER ARISING AND REGARDLESS OF THE THEORY OF LIABILITY

(INCLUDING NEGLIGENCE OR STRICT LIABILITY), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS. LICENSOR PRODUCTS ARE NOT INTENDED FOR HIGH RISK ACTIVITIES AND LICENSOR WILL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM INHERENTLY DANGEROUS USE OF THE LICENSOR PRODUCTS.

- c. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS CONTAINED IN THIS AGREEMENT ARE INDEPENDENT OF ANY AGREED REMEDY SPECIFIED IN THIS AGREEMENT AND WILL APPLY TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY AGREED REMEDY IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.
- d.
- e. TO THE EXTENT THAT LICENSOR MAY NOT, AS A MATTER OF LAW, DISCLAIM ANY WARRANTY OR LIMIT ITS LIABILITIES, THE SCOPE OR DURATION OF SUCH WARRANTY AND THE EXTENT OF LICENSOR 'S LIABILITY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW. IF A WAIVER, RIGHT, OR REMEDY IS EXERCISED PURSUANT TO MANDATORY LAW, IT SHALL BE EXERCISED SOLELY FOR THE PURPOSE PROVIDED AND IN CONFORMANCE WITH THE PROCEDURES AND LIMITATIONS EXPRESSLY PROVIDED FOR BY SUCH LAW.
- f. No Third-Party Beneficiaries. The warranties and other obligations of Licensor under this Agreement run only to, and for the sole benefit of Licensee, notwithstanding any rights of Authorized Third Parties to access or use the Licensor Products. Except as otherwise mandated by applicable law, no person or entity will be considered a third-party beneficiary of this Agreement or otherwise entitled to receive or enforce any rights or remedies in relation to this Agreement.

#### **FORCE MAJEURE**

- g. In case of any force majeure events meaning any event unavoidable or unexpected at the signing date of this Agreement and making the performance of some or all obligations impossible, including but not limited to fire, flood, earthquake, land-slide, epidemics, war, widespread violent actions, sabotage, strike, lock-out, riots, any decision by courts, laws or regulations or similar, which hinder the fulfilment of or delay the obligations arising out of this Agreement- in full or in part; obligations of Parties shall be suspended until the force majeure event ceases provided that the force majeure event has been declared by the authorized governmental bodied and the effecting party has informed immediately and in writing other party of the force majeure event and negative effects of relevant force majeure event on its own obligations. Parties shall negotiate on the future and destiny of the Agreement and have the right to adapt the Agreement in full or in part for the new situation arising from force majeure

event.

- h. In any case, if force majeure event exceeds 3 (three) months, the consequence of the Agreement shall be discussed and decided by both parties. Further, they shall decide whether to terminate the Agreement or wait for the end of force majeure or come to an end. In case a consensus cannot be reached, each of the Parties is entitled to terminate the Agreement unilaterally without paying any compensation.
- i. In no way, Licensee may abstain from its obligation to pay of the License Fee or any other fees and expenses on ground of Force Majeure.

## **10. TERMINATION AND ITS EFFECTS**

- a. This agreement shall remain in effect as long as the Licensee makes subscription renewals. With the non-renewal, the contractual relationship between the parties shall be terminated automatically.
- b. If Licensee breaches the Agreement and fails to cure such breach for a period of ten (10) days following written notice thereof, the Company may terminate the Agreement immediately without compensation.
- c. In case of material breach of the Agreement by Licensee, the Company may terminate the Agreement immediately upon such breach.
- d. If the Agreement is terminated due to the breach of the Agreement by Licensee, Licensee shall compensate all the damages and losses of Licensor in cash and at once upon the request thereof.
- e. The present Agreement may be terminated by either Party, effective immediately upon notice and without compensation, in the following events:
  - i. the other Party makes a general assignment for the benefit of creditors or becomes insolvent,
  - ii. the other Party files a petition in bankruptcy,
  - iii. the other Party has any provisional administrator, receiver or trustee appointed, or
  - iv. the other Party becomes party to any proceeding or action involving its insolvency, bankruptcy, adjustment of debt, dissolution, liquidation or any other similar proceeding for the release of.
- f. The Reseller shall defend, indemnify and hold the Company, its officers, directors, employees and agents harmless from and against, any and all claims, damages, liabilities, losses, costs or expenses, including without limitation reasonable attorneys' fees, arising out of the Reseller's breach of any of its obligations or warranties under this Agreement.

- g. Upon the termination or expiration of the Agreement
- i. Licenses granted to Licensee pursuant to this Agreement shall automatically terminate;
  - ii. all sums accruing due not yet paid to Licensor shall become immediately due and payable;
  - iii. Licensee shall cease and discontinue to use the Software, Documentation and Confidential Information provided by Licensor under this Agreement;
  - iv. Licensee shall delete and/or destroy irreversibly the Software and Documentation with its all copies including all backups or return all these to Licensor, which is in Licensor's discretion and inform Licensor of the destruction and or return of the Software and Documentation in compliance with this article in writing within 10 (ten) days following the affectivity of the termination of the Agreement.

## **11. WARRANTY**

a. During the subscription period for the SaaS Services, the SaaS Services will perform materially in accordance with the applicable Documentation. Provided that Licensee notifies Licensor of a claim under this warranty within 30 days of the date on which the condition giving rise to the claim first appears, Licensee's exclusive remedy and Licensor's sole liability with regard to any breach of this warranty will be, at Licensor's option and expense, to either: (i) repair or replace the nonconforming SaaS Services or (ii) terminate the Order Form for the affected SaaS Services and refund Licensee, on a pro rata basis, any unused, prepaid fees as of the termination effective date. but in no event less than one thousand dollars (USD \$1,000).

b. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SAAS SERVICES ARE PROVIDED WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE OR USAGE OF TRADE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. LICENSOR AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS, PARTNERS, SERVICE PROVIDERS AND LICENSORS DO NOT WARRANT THAT: (I) THE SAAS SERVICES OR THE SITE WILL BE UNINTERRUPTED OR ERROR FREE , (II) THE SAAS SERVICES AND/OR THE SITE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; OR (IV) THE RESULTS OF USING THE SAAS SERVICES AND/OR THE SITE WILL MEET LICENSEE'S OR AUTHORIZED USERS'REQUIREMENTS.

## **12. MISCELLANEOUS**

**Governing Law and Jurisdiction:** Agreement (and any Action arising out of or related to this Agreement) is to be governed by, and construed and enforced in accordance with, the Laws of the Switzerland, without giving effect to any choice or conflict of law provision or rule that would cause the application of the Laws of any other jurisdiction. Switzerland Courts and Execution Offices are authorized for any disputes arising from this Agreement.

**Annexes:** Annexes attached to this Agreement, constitute an inseparable and integral part of this Agreement and a single document.

**Parties' Relationship:** Nothing contained in this Agreement shall be construed as constituting a joint venture, team, partnership or similar commercial partnership or an agency arrangement.

**Partial Invalidity:** If any term or provision herein is held to be void, unenforceable, illegal or inapplicable, all other terms and provisions of this contract shall not be affected or impaired thereby. In such case, the Parties shall negotiate in good faith a lawful substitute provision to replace the void, unenforceable, illegal or inapplicable provision or term that shall be consistent with the intent and object of the original provision.

**Entirety:** This Agreement and its annexes supersede all other prior written and oral agreements made in relation to confidentiality. Agreement changes shall be done with mutual commitment of Parties in written form.

**Assignment:** No party shall have the right to assign or transfer its contractual rights or liabilities to third parties without prior written consent of other party.

**Amendment and Waiver:** No terms of this Agreement may be altered, modified, amended or supplemented or terminated except by an instrument in writing duly signed by all Parties. A waiver of any term, provision or condition of, or consent granted under this Agreement shall be effective only if given in writing and signed by the waiving or consenting Party. Failure or delay of the part of any Party in exercising any right under this Agreement in full or in part shall not be deemed as a waiver thereof partially or fully.

**Notification:** Notifications related to this Agreement shall be made to the addresses listed below by hand against signature or via registered letter or via notary public as well as by e-mail confirmed by a receipt report or confirmed to be received by the addressee party. Both Parties shall notify the other party in written in case of any address change during the term of the Agreement. Otherwise, notifications and notices made to the addresses in this Agreement shall be deemed duly made.

To Licensor

To the Attention of	
Address:	
E-mail:	

To Licensee

To the Attention of	
Address:	
E-mail:	

IN WITNESS WHEREOF, this Agreement composed of 9 (nine) articles and 8 pages including signatory page has been signed by the duly authorized representatives of the Parties.

**SIGNATORY PAGE IS NEXT PAGE AND THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK**

**SIGNATORY PAGE**

<b>LICENS OR VAT ID:</b>	<b>LICENS EE VAT ID:</b>
Name:	Name:
Title:	Title:
Date:	Date:
Signature :	Signature :

## ANNEX-A

### LICENSE USING RIGHTS

Licensor grants Licensee herewith a non-exclusive, non-transferable and limited license subscription right. Products taken as an order by subscription licensing model and delivered may only be used by Licensee during the term of its subscription . Licensee is obliged to guarantee and ensure that the limited persons, whose number is mentioned in order form, have the right to use the Products. Subscription term shall commence at the license key delivery date.

Save for the termination provisions in the Agreement, the non-exclusive, non-transferable and limited license subscription shall be provided to Licensee by Licensor, provided that all the payments subject to the License fee as well as this subscription has been paid and all the obligations have been performed by the Licensee in compliance with the Agreement. If all these conditions have been met, Licensee is obliged to adhere to the following conditions and obligations:

- Licensee has the right to use the Products/Software by complying and being consistent with limitations set forth or referred to under this Annex and only for the internal business operations
- Licensee shall maintain the copy numbers and locations of Software, on which it has the subscription license rights, up-to-date and submit these records to Licensor upon Licensor's request.

In relation to license subscription , Licensee shall be subject to the limitations below:

- Licensee is prohibited to
  - use the Software for the intended purpose, which is beyond the purpose set forth herewith and the Agreement; copy, save, market, distribute, sell, lease, sublease, correct and repair the same
  - disassemble, decompile, reverse engineer or derive the source code the Software in any form
  - modify and change the Software, merge the Software and the Documentation with other software and documentation dependent on the conversion of the Software and Documentation
  - Use the Software for commercial purposes, by acting as subcontractor, make the Software available to or provide the Software as a Service (“SAAS”) to third persons, lease and sublease the Software, misuse as well as take the advantage of the Software for revenue-generating purposes
  - Share the Software on other PCs or servers
  - share the security instrument with, transfer as well as transmit the same to another user of the Software or any other third parties and

- permit the authorized users to share or transfer the security instrument with, transfer as well as transmit the same to another user of the Software or any other third parties

**Licensor:**

**Licensee:**

Signature: \_\_\_\_\_

Signature \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## ANNEX-B

### SCOPE OF LICENSE MAINTENANCE AND SUPPORT SERVICES

Annex-B; It is an integral part of the agreement between Licensor and Licensee.

Maintenance service is an integral part of the license to be provided to the Licensee. Maintenance service cannot be obtained independently of the license. This Maintenance Policy describes Licensor's current policy regarding maintenance procurement. Unless defined otherwise in this Maintenance Policy, capitalized terms in this Maintenance Policy have the meanings specified in the Agreement.

#### 1. Definitions

##### **Contract**

It means, written software license and maintenance agreement or other written agreement on the license and use of the Software between Licensor and Licensee

##### **Designated Support Contact**

It means a member of Licensor technical support team with the ability to manage Licensee's Support Cases. Licensor may, at its sole discretion, appoint a different Designated Support Contact to the Licensee at any time.

##### **Bug**

Means any reproducible malfunction of the software that does not conform to the documentation.

##### **Bug Fix**

Means any modification or addition to the Software, delivered in an Update, which brings the Software into material compliance with the Documentation.

##### **Fix**

It means a hot-fix designed to fix a Bug, or temporary run-around, bypass or patch provided by Licensor to reduce or prevent the practical adverse effect of a bug, or an operating procedure or routine implemented by the Licensee.

##### **Response Time**

As provided in Section 3,1, it means the period that begins when a Support Cases is reported by the Technical Contact of the Licensee and ends when the Licensor technical support team records the report and responds to the Technical Contact via phone or call center.

##### **Severity 1 Support Cases**

It means a Support Cases that renders the software completely inoperable.

##### **Severity 2 Support Cases**

a) materially reducing the overall performance of the software; or

b) means a Support Cases that disrupts important functions in the Software specified in the Documentation but does not have a Grade 1 Support Cases.

##### **Severity 3 Support Cases**

It means a Support Cases that impairs the performance of the software but is not 1st Degree Support Cases or 2nd Degree Support Cases.

##### **Support Cases**

Means a single, reproducible issue or problem with the operation of the Software. Examples for Support Cases include, but are not limited to, errors and problems caused by incorrect installation, configuration, or operation of the Software.

**Technical Contact / s**

Means the staff of Licensee and the person (s) trained by Licensor or a third party authorized by Licensor to provide training to Licensees within ninety (90) days following the License Delivery Date.

**2. Scope of Support**

Maintenance shall be provided to Licensees, who have purchased the subscription and have made the payments related to the applicable annualfees for the current annual maintenance period, as follows;

Licensees, as stated on Licensor’s website, receive out-of-site problem solving and other technical assistance and support regarding the installation and operation of the Software, during Licensor's normal business hours, Monday through Friday (between 09.00-18.00, except public holidays), by the dedicated phone number or call. In addition, Support Cases can be reported by the Licensee Technical Contact via phone number or call center assigned to Licensor. Licensor shall respond to the Licensee Technical Contact via phone or call center. At the same time, Licensor shall provide the Error Corrections for Errors reported to be in the Software, if these Error Corrections are available in Updates, to the Licensee.

**3. Response Times and Escalation**

**3.1. Reporting Support Cases:**

Support Cases must be reported to Licensor via the dedicated Licensor support phone number or call center specified on the Licensor website. Only Technical Contacts can report Support Cases.

**3.2. Response Times:**

Licensor, shall respond to any Support Cases reported by the Technical Contact in accordance with Section 3.1 within the Maximum Initial Response Times set out in the table below. Licensor shall determine the level of any Support Case at its reasonable discretion.

Maintenance Level	Maximum First Response Time
1st Degree Support Cases	Within four (4) hours
2nd Degree Support Cases	Within eight (8) hours
3rd Degree Support Cases	Within one (1) business day

**3.3. Escalation:**

Licensor shall make all reasonable efforts to resolve Support Cases reported by the Technical Contact in accordance with Section 3.1 as soon as practically possible. In addition, depending on the level of the Reported Support Case and the length of time the Support Case remains unresolved following Licensor initial response, as indicated in the table below, Licensor shall escalate the issue to its departments, the support and response after this escalation shall be as follows:

Level	Notification to Senior Support Analyst	Notification to Support Director	Notification to R&D	Notification to R&D Director

1st Degree Support Cases	Eight hours (8)	Twenty four (24) hours	Forty eight (48) hours	Seventy two (72) hours
2nd Degree Support Cases	One business day	Forty eight (48) hours	Seventy-two (72) hours	Five (5) business days
3rd Degree Support Cases	Seventy two (72) hours	At Licensor's discretion	At Licensor's discretion	At Licensor's discretion

A Support Cases is resolved in the order of;

1. The issue or problem is solved,
2. If the issue or problem is caused by a Bug, Fix - Repair or Bug Fix is provided,
3. Licensor can provide a reasonable and acceptable alternative solution,
4. Licensor confirms that the problem is not caused by any Bug or omissions in the Software,
5. Licensor confirms that the problem or issue is actually caused by the multi-vendor issue, and the Licensee agrees to transfer the problem to the third party vendor for solution,
6. Requests from Licensor to close the Technical Contact Support Cases of the Licensee, or
7. Support Cases remained open for five (5) following business days, during which Licensor did not receive a response from the Technical Contact.

### 3.4. Exceptions:

Licensor shall not be obligated to provide support in connection with Support Cases or operational disruptions resulting from:

- Use of the Software with Software or hardware not designed for use with operating systems approved by Licensor in the Documentation,
- Use of the Software with hardware that does not meet the minimum system requirements specified by Licensor in the Documentation,
- Corrections, changes, modifications to the Software that are not approved in writing by Licensor's authorized representatives,
- Documentation and use of software out of the Agreement,
- Not installing Updates prepared by Licensor,
- Negligence or wilful misconduct of the Licensee or its employees and agents or any third party.

### 4. Updates:

Upon request, Licensor shall make update files available free of charge to Licensees who purchase maintenance for the Software and pay for applicable annual maintenance fees for the current annual maintenance period.

Updates shall be made available at the discretion of Licensor in the form of an installation program on CD-ROM or other digital media, or via the Internet, in printed documentation written in English or in a language officially supported Licensor, or with an electronic form. Unless otherwise agreed in writing by Licensor, Licensee shall be responsible for the installation of all Updates.

All installation and system settings shall be evaluated within the scope of the consultancy service, except for standard Licensor installations with a single server and without customization.

Installations other than the standard installation, distributed architecture installations and updates consisting of multiple servers (cluster architecture),

the implementation of security integrations designed and created in these architectures as well as migration of these installations / updates shall be considered within consultancy services.

### 5. Previous Versions:

Licensors obligations with regard to maintenance are expressly bound by the condition of installation and use by the Licensee;

- Latest version of the software,
- Immediately previous version of the latest version of the Software

## **6. Obligations of Licensee:**

### **6.1. Licensee shall**

- Install and use all updates of the Software made available by Licensor.
- Ensure that the Software is used only in accordance with any documentation or advice provided by Licensor.
- not alter or modify the Software or the Documentation and not allow the Software not request, allow or authorize anyone outside Licensor to provide any support services related to Software or Documentation.
- Cooperate with Licensor and provide all reasonable assistance required by Licensor for Licensor to diagnose, reproduce as well as access to any Bug or reported Support Cases regarding the Software or Documentation.
- provide Licensor with a detailed description of the IT systems on which the Software runs, as well as the basic structure of that system, any operational disruptions experienced by the Licensee and the effects of disruptions in the Licensee's work, while reporting the Support Cases in the Software.

### **6.2. Technical Contacts**

The Licensee's contact with Licensor for Support Cases shall be through Technical Contacts.

Technical Contacts

- Shall serve as internal contact for the staff of the Licensee who is authorized to use the Software.
- Responsible for initiating all the requests of the Licensee regarding maintenance and keeping all records.
- Shall serve as a liaison with Licensor on all maintenance issues.
- Responsible for providing information and support as requested by Licensor to assist in the diagnosis, analysis and resolution of Support Cases.
- Regardless of the number of licenses for the software, the maximum number of Technical Contacts for each Licensee shall be three (3).
- Licensee can change their Technical Contacts by notifying Licensor in writing.

### **6.3. Remote Access**

If the Licensee requests support from Licensor via remote access, an operating system enabling Licensor to have remote access to the Licensee's technical equipment shall be set up by Licensee as well as Licensee shall ensure that satisfactory communication between the parties' computer systems, subject to the Licensee's reasonable security measures and principles.

**Licensor:**

**Licensee:**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_