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SCHEDULE 3 – MAINTENANCE TERMS

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1.   Background

1.1.   These maintenance terms apply to the extent that you have purchased maintenance services from us. The maintenance terms govern the maintenance services we provide to you.

2.   Definitions

2.1.   Whenever this schedule uses the words listed below, it is a reference to the meaning defined in relation to each word irrespective of whether the word in question is used in the singular or in the plural form, together with adjective or noun words, in the main text or in definitions or the like.

2.2.   "EULA" means the end user license agreement concluded in connection with your purchase.

2.3.   "Main Software" has the meaning defined in the EULA.

2.4.   "Maintenance Purchase" means the purchase of maintenance services in accordance with these terms, for a given period and in relation to specified Software.

2.5.   "New Version" means a new version of the Main Software released after the purchase.

2.6.   "Software" has the meaning defined in the EULA.

2.7.   "Purchase" has the meaning defined in the EULA.

2.8.   "We", "us", "our" refer to [Partner].

2.9.   "You", "your" refer to the customer acting as an end user.

3.   Effects on EULA

3.1.   **Application of EULA on New Versions.** The EULA will automatically apply for any New Version of the Software that we provide you with as part of the maintenance services as of the date such New Version is made available to you.

3.2.   **Dependencies to EULA.** In case the EULA expires or is terminated for whatever reason, these terms for maintenance will likewise cease to apply between us. Each of us may consider the other's material breach of the EULA for a material breach of the terms set out in this schedule.

3.3.   **Retain legal position under EULA.** You retain your legal position under the EULA. This means that you can choose between invoking your rights under the EULA and this schedule, provided that you cannot invoke both in relation to the same matter in a manner whereby you are compensated or impose requirements on us for the same event twice.

3.4.   **Obligations according to the EULA.** Your rights and obligations under the EULA continue to apply for the duration of the term of the maintenance services. Our rights and obligations under the EULA shall continue to apply for the duration of the term of the maintenance services. This includes our obligations in relation to:

(a)   Correction of errors: We will continue to take action under the provisions regarding correction of errors; and

(b)   Infringement of third-party rights: We will continue to take action under the provisions regarding infringement of third-party rights.

3.5.   **Additional obligations as compared to the EULA.** We will for the duration of maintenance period widen the actions we take under the EULA in the following ways:

(a)   No deadlines: We will continue to take the actions stated in the EULA in relation to correction of errors even if a deadline for demanding action has expired under the EULA; and

(b)   Target service levels: We will strive to take action in relation to correction of errors in accordance with the service levels we at any given time specify on our website or other communications channel and which in any case can be specified to you upon request.

4. Maintenance services

4.1. Make New Versions available for download. Whenever a New Version of the Software is ready for release, we will make it available for download or access. We do not undertake to provide you with a certain number of New Versions during the term of maintenance but will offer New Versions as they become available.

4.2. Retain existing functionality. When the Licensor develops New Versions of the Main Software, they will substantially retain the existing functionality of the Main Software. Otherwise, we will inform you in writing about retired or changed functionality before or simultaneously with releasing the New Version of the Main Software.

4.3. Install New Versions in test environment. In case you use On-premise Software, you must install New Versions of the Software in a test environment before installing it in your production environment. You undertake to ensure that the test environment properly simulates the production environment and uses due care to test the New Version before installing it to the production environment.

4.4. Ensure backwards compatibility. If the Main Software has been developed with the purpose of working together with other software (including Licensor's other software or Third-party Software specifically mentioned as compatible with the Main Software), we ensure that New Versions of the Main Software will be compatible with the other software for as long as the other software is still a fully supported and maintained product by Licensor or in case of Third-party Software by the third party.

4.5. Disregard customized development work interacting with the software. Licensor can choose to disregard customized development work interacting with the Software when developing New Versions of it. This involves that it will not constitute a breach if a New Version causes such work to malfunction. We may consequently reject to remedy any malfunctions and reject any and all liability associated with such malfunctions. This applies irrespective of whether the work has been developed by Licensor or a third party. It also applies irrespective of whether Licensor is or becomes aware of such potential malfunctions in connection with developing New Versions.

4.6. Requirements. We will only provide product support in accordance with this schedule, if the following requirements are met:

(a) In order to be able to upgrade your products to the newest versions (new product releases with new features and bug fixes), and to enable the purchase of additional users, your products must be under maintenance; and

(b) In order to receive support for products under maintenance, you must run the supported versions of the products. This applies to all Products, including subscription and perpetual licenses.

5. Damages, liability, and limitations

5.1. Claim damages. If we inflict damage upon you due to our gross negligence or willful misconduct, you may claim damages subject to the following conditions and limitations:

(a) Notification deadline: You must notify us of the claim in writing no later than 3 calendar months after you did or should have become aware of the claim and in any event no later than 12 calendar months after the date of the purchase;

(b) Use in violation of the software license: You are not entitled to claim damages from us to the extent the damages have been inflicted upon you due to your use of the software in violation of this EULA;

(c) Only direct damages: You are only entitled to claim direct damages. We are not liable for consequential, indirect, incidental, special, exemplary, or punitive damages. The following types of damages are considered indirect damages:

   i) Loss of profit;
   ii) Loss of customers;
   iii) Loss of business opportunities;
   iv) Loss inflicted by disruption of a relationship to a customer, supplier, or other third party;
   v) Loss of goodwill;
   vi) Loss caused by work or production stoppage;
   vii) Loss of data.

(d) Limited damage amount: You are only entitled to claim damages for an amount equal to the price exclusive of VAT paid for the maintenance service during the preceding 12 calendar months. For the avoidance of doubt, the aggregate amount will not be adjusted in case your subscription has lasted less than 12 months. This applies irrespective of whether you during that period present one or more claims and whether multiple claims are related or not.

5.2. Sub-suppliers. You are not entitled to claim damages directly from our sub-suppliers, including Licensor, unless this is expressly permitted by mandatory law and in this case the above limitations may also be invoked by our sub-suppliers unless this is expressly prohibited by mandatory law.

5.3. **No other remedy.** You are not entitled to invoke any other remedy in case of breach by us than the remedies explicitly mentioned in this schedule or in the EULA.

6. Transfer of these terms

6.1. **No transfer of rights.** You are not entitled to transfer or assign your rights according to these terms without our prior written approval, except if a transfer is allowed by mandatory legislation.

7. Term and Termination

7.1. **Date of effect.** These terms take effect from the date of the last required signature hereof and you have pre-paid the price for maintenance for the agreed term in full, unless otherwise explicitly agreed in writing.

7.2. **Data of expiration.** These terms automatically expire on the date the period covered by your payment expires, unless otherwise explicitly agreed in writing.

7.3. **No termination for convenience.** It is not possible to terminate these terms for convenience during the pre-paid term, unless otherwise explicitly agreed in writing. However, you are free to refrain from using the services we offer to use.

7.4. **Termination for cause by you.** If we commit a material breach of these terms, you are entitled to terminate the purchase of maintenance services for cause subject to the following definitions and conditions:

(a) Definition of material breach: It shall be determined on a case-by-case basis if a breach constitutes a material breach except that the following events shall always be deemed to be a material breach:

    i) Failure to take actions in relation to error correction within reasonable time, provided that the error is material, as set out in clause 3.4.

    ii) Failure to comply with "Make New Versions available for download" as set out in clause 4.1.

    iii) Failure to continue to take action in accordance with the EULA in regard to claims of infringement from third parties, provided that an effective workaround is not made available within reasonable time.

(b) Condition of written notice: You must first notify us of the breach in writing and in the notice describe the breach and clearly state your intent to terminate for cause unless the breach is rectified within a reasonable time; and

(c) Condition of rectification period: You are obligated to give us a reasonable period to rectify the breach and such period will in any case minimally be set to 30 days.

7.5. **Termination for cause by us.** If you commit a material breach, we may terminate the maintenance purchase for cause subject to the following definitions and conditions:

(a) Definition of material breach: It shall be determined on a case-by-case basis if a breach constitutes a material breach except that the following events shall always be deemed to be a material breach:

    i) Failure to pay for the maintenance in accordance with a payment deadline.

(b) Written notice: We must first notify you of the breach in writing and in the notice describe the breach and clearly state our intent to terminate for cause unless the breach is rectified; and

(c) Rectification period: We must provide you with a 30 day period to rectify the breach, unless the breach is pertaining to your payment obligations where the rectification period shall be 7 days or alternatively the shortest period allowed by mandatory rules under the applicable law.

7.6. **Deactivate product.** If we have the right to terminate this agreement for cause, we may instead choose to first deactivate our maintenance services and any New Version. We may then terminate these terms for cause without further notice after granting you an additional grace period of minimally 3 days to rectify the breach. If you rectify the breach, we will reactivate the product.

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