

**Novacura AB – General Terms for Maintenance**

**1. Background and definitions**

1.1 These General Terms for Maintenance (in this document; the “General Terms”) describes the Customer’s rights to, and the conditions for, Novacura’s provision of Maintenance services.

1.2 Unless the context clearly specifies or requires otherwise, the following terms and expressions used in these General Terms shall have the meanings assigned to them as defined below.

”**Agreement**” means the main document signed by the Parties and all appendices, including these General Terms.

”**Base Application**” means the standard applications (based on existing workflows) offered by Novacura.

”**Blocker Defect**” means any defect making the Software unavailable or otherwise preventing the Customer to use the Software.

”**Connector**” means the Novacura AB created interface between Novacura Flow and the Customer’s underlying systems, including business systems, active directory, printer systems etc.

”**Customer**” means the customer specified in the Agreement.

”**Customer Application**” means an application based on workflows that are customized for the Customer.

”**Defect**” means any defect in the Software, Base Application or Customer Application, preventing its intended use.

”**Maintenance**” means any services to be performed by Novacura under these General Terms.

”**Maintenance Fee**” means the fees for the Maintenance set forth in section 7 below (as applicable).

”**Novacura**” means the supplier specified in the Agreement.

”**Novacura Flow**” means the platform Novacura Flow, designed and developed by Novacura AB.

”**Purchase Order**” means a written document entered into by Customer and Novacura which specifies the commercial terms for the licensing of Software, Base Applications and any related services to be provided to the Customer.

”**Software**” means Novacura Flow and the Connector.

1.3 Other capitalized words and expressions not defined in these General Terms have the meaning ascribed to them in the main document of the Agreement.

**2. Maintenance of the Software and Base Applications**

2.1 Novacura undertakes to provide Maintenance in accordance with a valid Purchase Order for i) the Software versions which are not older than twenty-four (24) months, and ii) Base Applications.

**2.2 Novacura’s Maintenance undertaking include**

a) in the event of a Blocker Defect: To correct the Blocker Defect as quickly as possible, but in any event within forty-eight (48) hours from Novacura’s receipt of the Customer’s notice submitted via Novacura’s internet support center at <http://support.novacura.se>. If

- Novacura is unable to correct a Blocker Defect within this time frame, Novacura will credit the Customer an amount equal to 1/365<sup>th</sup> of the annual Maintenance Fee for each day the Blocker Defect is not corrected;
- b) in the event of a Defect in the Software that insignificantly affects the Customer's use of the Software: To correct such Defect when providing new versions of the Software; and
- c) in the event of all other Defects: To provide reasonable efforts to correct such Defects as soon as the circumstances require.

2.3 Novacura undertakes to support the Customer on how to continue to use the Software in the most efficient way while corrective actions are carried out by Novacura.

**3. Customer Applications**

Novacura will continue to offer Maintenance for Base Applications, which are modified into Customer Applications, provided that all modifications of the Base Application are made by Novacura.

**4. New versions**

- 4.1 As part of Maintenance, the Customer will be granted access to any new major version of the Software made commercially available.
- 4.2 All new versions of the Software made available to the Customer under these General Terms shall be considered Software and be subject to Novacura's General Terms for License.

**5. Maintenance limitations**

- 5.1 Novacura's Maintenance undertaking set forth in these General Terms does not cover an obligation to remedy Defects caused by (i) the Customer's use of the Software or Applications in violation of the applicable license terms or recommendations from Novacura, (ii) virus or other external attacks, or (iii) an upgrade of a third party software.
- 5.2 Unless otherwise agreed the Customer shall be responsible for installation of corrections or new versions of the Software or Base Applications. Such assistance may be agreed as support or consultancy services.
- 5.3 Unless otherwise agreed Novacura's undertakings do not cover restoration of data. Such assistance may be agreed as support or consultancy services.
- 5.4 Novacura is entitled to compensation on a time and materials basis in accordance with its applicable pricelist for any time spent in order to correct a Defect caused due to circumstances stated under this section 5.

**6. Responsibilities of the Customer**

- 6.1 The Customer shall procure that its IT-environment allows Novacura to perform Maintenance by remote control.
- 6.2 To the extent the Software needs new versions of software from third parties, or upgraded hardware, in order to function as intended the Customer is responsible for making sure that such extra resources are available (excluding any software embedded in the

- Software, for which Novacura is responsible).
- 6.3 Novacura is entitled to compensation on a time and materials basis in accordance with its applicable pricelist for any extra time that Novacura may have to perform if the Customer fails to meet any of its undertaking listed in this section 6.
- 7. Fees and payment terms**
- 7.1 Maintenance Fee for perpetual licenses
- If the Customer has purchased a perpetual license to the Software the Customer shall pay an annual Maintenance Fee equal to 20 % of the accumulated License Fee (as defined in Novacura's General Terms for License) relating to the Software.
- If the Customer has purchased a perpetual license to Base Applications, the Customer shall pay an annual Maintenance Fee equal to 20 % of the accumulated fee payable for the licenses to all Base Applications.
- 7.2 The Maintenance Fee shall be established in advance during the fourth quarter each year.
- 7.3 If Novacura's Maintenance undertaking starts during a running calendar year, the Maintenance Fee to be paid by the Customer for that calendar year, shall be set down proportionally with regard to that the annual Maintenance Fee is based on a full calendar year (example: if Novacura's Maintenance undertaking starts on 1 July, the Maintenance Fee for that period shall be fifty (50) % of the annual Maintenance Fee). Such initial
- Maintenance Fee shall be paid in advance by the Customer.
- 7.4 To the extent the number of users or other license conditions that have an increasing impact on the Maintenance Fee is changing during a, calendar year Novacura is entitled to modify the Maintenance Fee proportionally to reflect such increased impact and immediately invoice the difference between the Maintenance Fee already paid by the Customer and the increased Maintenance Fee.
- 7.5 Novacura is entitled to adjust the Maintenance Fee once a year. Such adjustment shall not exceed the [Swedish preliminary Labor Cost Index](#) ("LCI") for non-manual workers within industry J ("information and communication services").
- 7.6 Maintenance Fee for subscription licenses
- If the Customer has purchased a subscription license to the Software subject to Novacura's General Terms for Subscription License, the Maintenance Fee is included in the License Fee (as defined in Novacura's General Terms for Subscription License).
- If the Customer has been granted a subscription license to a Base Application subject to Novacura's General Terms for Subscription License, the Maintenance Fee is included in License Fee (as defined in Novacura's General Terms for Subscription License).

7.7 Maintenance Fee for Customer Applications

Maintenance Fee for Maintenance of Customer Applications shall be agreed by the Parties in an applicable Purchase Order.

7.8 Payment terms

Novacura will invoice the Maintenance Fee for the upcoming calendar year in advance during the fourth quarter each year. Invoices issued by Novacura shall be paid within thirty (30) days from date of issue. Novacura is entitled to add VAT or sales tax (as applicable under local law) on all invoices. Statutory interest rate will be charged from the due date in case of late payment. Where applicable, if the Customer is based or operating in the United States, the Customer is responsible to self-assess any applicable use tax.

7.9 Delayed payment

Payment delayed more than sixty (60) days is considered a material breach of contract, which entitles Novacura to terminate the Agreement with immediate effect unless Customer pays the full amount due within ten (10) days of a written notice from Novacura.

**8. Liability and limitation of liability**

8.1 If Novacura fails to fulfill its obligations under these General Terms, the Customer shall give Novacura prompt written notice of such non-compliance. If Novacura, following a written notice of a Blocker Defect, fails to (i) provide a temporary workaround, that meets the Customer’s current business process,

within fifteen (15) business days, or (ii) remedy the Blocker Defect within thirty (30) business days from receipt of such written notice, the Customer is entitled to terminate the Maintenance in whole or in part.

8.2 If, after thirty (30) business days from receipt of notice of any other non-compliance than a Blocker Defect, Novacura still has not resolved the problem, and the failure is of a substantial nature, then Customer shall be entitled to terminate the Maintenance in whole or in part.

8.3 The Parties’ liability under any cause of action arising under these General Terms, shall in no event exceed an amount corresponding to five (5) times the Maintenance Fee paid or payable during the calendar year that the underlying event giving rise to the claim occurred.

8.4 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES AND THEIR AFFILIATES AND PARTNERS SHALL IN NO EVENT BE LIABLE FOR INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF USE, LOSS OF DATA OR BUSINESS INTERRUPTION.

**9. Subcontractors**

Novacura is entitled to use subcontractors to perform Maintenance. Novacura shall be responsible towards the Customer for any service performed by a subcontractor.

**10. Term and termination**

Notice of termination shall be made not later than ninety (90) days prior to the end of each calendar year. If no termination is made, the Maintenance is automatically extended for the next coming calendar year.