

Novacura's General Terms for Software Support & Maintenance

1. Background

These General Terms for Software Support & Maintenance (in this document; the "**General Terms**") describes the Customer's rights to and the conditions for Novacura's Maintenance Services ordered by the Customer under a Sales Order.

2. New Feature Releases and Service Packs

2.1 As part of Maintenance, the Customer will be either automatically upgraded or shall manually upgrade to new feature releases of the Software. Feature releases may be released up to one (1) time per month. In addition to feature releases, Novacura may make service packs available as required to make corrections (e.g. bug fixes) and amendments to existing Software.

2.2 Upgrades must be made to the latest available feature release. This applies also in case Customer has neglected to implement several feature releases. It is not possible to upgrade to an earlier feature release. Software which is not upgraded by the Customer may lose its existing functionalities and not work as specified in the Sales Order after twelve (12) months.

2.3 All feature releases and all services packs made available to the Customer under these General Terms shall be considered Software and be subject to Novacura's General Terms for License.

3. Maintenance of the Software, Base Applications and Customized Applications

3.1 Novacura undertakes to provide Maintenance in accordance with a valid Sales Order for i) the latest feature release of the Software, and ii) Base Applications and Customized Applications.

3.2 Novacura will have limited possibilities to offer support for Software feature releases which are older than the latest feature release of the Software. Any such support will be separately agreed between the Parties as support or consultancy services.

3.3 Maintenance requests shall be made to the Support Center at <http://support.novacura.com>.

3.4 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, provided that the Customer's systems and technical environment allows Novacura to provide correction, within forty-eight (48) hours from Novacura's receipt of the Customer's notice submitted via Novacura's Support Center. If Novacura is unable to correct a Blocker Defect within this time frame, Novacura will credit the Customer an amount equal to 1/365 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 releases 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.

4. Maintenance Limitations

4.1 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.

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- 4.2 Unless otherwise agreed the Customer shall be responsible for installation of service packs, corrections or new feature releases of the Software, Base Applications or Customized Applications. Such assistance may be agreed as support or consultancy services.
- 4.3 Unless otherwise agreed Novacura's undertakings do not cover restoration of data. Such assistance may be agreed as support or consultancy services.
- 4.4 Novacura is entitled to compensation on a time and materials basis in accordance with its applicable price list for any time spent in order to correct a Defect caused due to circumstances stated under this section 4.

5. Responsibilities of the Customer

- 5.1 The Customer shall procure that its systems and technical environment allows Novacura to perform Maintenance by remote control.
- 5.2 To the extent the Software needs new releases 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).
- 5.3 Novacura is entitled to compensation on a time and materials basis in accordance with it's at the time 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 5.

6. Fees and payment terms

6.1 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 twenty (20) % of the accumulated License Fee (as defined in Novacura's General Terms for Perpetual Software 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 twenty (20) % of the accumulated fee payable for the licenses to all Base Applications.

- 6.2 The Maintenance Fee shall be established in advance during the fourth quarter each year.
- 6.3 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). The Customer shall pay such initial Maintenance Fee in advance.
- 6.4 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.
- 6.5 Unless otherwise agreed, Novacura is entitled to adjust the Maintenance Fee on an annual basis. If the increase exceeds the Swedish preliminary Labor Cost Index (LCI) for non-manual workers within industry J ("information and communication services"), Customer shall have the right to terminate the Maintenance with a thirty (30) days' notice period.

6.6 Maintenance Fee for subscription licenses

If the Customer has purchased a subscription license to the Software subject to Novacura's General Terms for Subscription Software License, the Maintenance Fee is included in the Fee (as defined in Novacura's General Terms for Subscription Software License).

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If the Customer has been granted a subscription license to a Base Application subject to Novacura's General Terms for Software Subscription License, the Maintenance Fee is included in the Fee (as defined in Novacura's General Terms for Software Subscription License).

6.7 Maintenance Fee for Customized Applications

The Parties shall in an applicable Sales Order agree upon the Maintenance Fee for Maintenance of Customized Applications.

6.8 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.

6.9 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.

7. **Limitation of liability**

7.1 NOVACURA DISCLAIMS ALL WARRANTIES NOT SPECIFICALLY SET FORTH IN THESE GENERAL TERMS, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES AS TO QUALITY, MERCHANTABILITY, OPERABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE.

7.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THESE GENERAL TERMS, IN NO EVENT WILL THE AGGREGATE LIABILITY OF NOVACURA TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO THE PRODUCTS OR SERVICES PROVIDED UNDER THESE GENERAL TERMS, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL AMOUNT OF FEES PAID TO NOVACURA FOR MAINTENANCE PURSUANT TO THESE GENERAL TERMS IN THE ONE (1) YEAR PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO THE LIABILITY. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF CUSTOMER'S REMEDIES UNDER THESE GENERAL TERMS FAIL OF THEIR ESSENTIAL PURPOSE.

7.3 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.

8. **Subcontractors**

Novacura may at its own discretion use or engage subcontractors to perform Maintenance. Novacura shall be responsible for the performance and acts of such subcontractors unless the subcontractor has been appointed by the Customer.

9. **Definitions**

9.1 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.

“**Blocker Defect**” means any defect making the Software unavailable or otherwise preventing the Customer to use the Software. For the avoidance of doubt, Defects caused by an update in any third party software used

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by the Customer (including updates in Customer's ERP-system making it incompatible with the current release of the Software) shall not be considered "Blocker Defects".

"**Defect**" means a material deviation from the specification describing the features and functionality of the Software, Base Application or Customized Application.

"**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 6 (as applicable).

"**Support Center**" means Novacura's online support center available at <http://support.novacura.com> as further described in the Service Description.

9.2 Other capitalized words and expressions not defined in these General Terms have the meaning ascribed to them in the Agreement.
