

## Special Part

### Conditions for Software Maintenance

#### 1. Scope

- 1.1 The software maintenance services are provided for Software manufactured by Beta Systems only, unless agreed otherwise. Maintenance services are not provided for Open Source Software.
- 1.2 Maintenance of the Software is limited to the current Product Release made generally available. Beta Systems shall inform Customer of the general availability of a Product Release with reasonable notice. The end of life for the preceding Product Release shall be determined by Beta Systems at the time of the announcement of the new Product Release. During the transitional period between general availability of a new Product Release and the end of life of the preceding Product Release, maintenance services shall be limited to rectification of defects as specified in section 2.2 of these terms. Beta Systems has no obligation to provide new functionalities or to support new system releases by third parties.
- 1.3 Maintenance is only provided if the Software is installed on a platform which has been approved by Beta Systems and which is still under general maintenance by the manufacturer of the platform at the time Beta Systems is notified of the defect. The foregoing even applies if Customer and manufacturer have concluded an individual extended maintenance agreement. Beta Systems is not obligated to provide maintenance if Customer or a third party made changes to the contractual Software, unless these changes have been approved by Beta Systems in advance.

#### 2. Maintenance Services

- 2.1 Maintenance services include:
- Remedy of defects as specified in section 2.2 below,
  - competent contact persons,
  - hotline from Monday - Friday 8:00 to 18:00 CET (not on public holidays in Germany), and
  - Prompt delivery of current Product Releases made generally available, with the number and date of publication being at the sole discretion of Beta Systems.
- 2.2 Irrespective of the rights of Customer stipulated in the General Part of General Terms and Conditions of Beta Systems Group or the Special Part "Software License for Temporary Use", Version 05/2021, Beta Systems shall remedy all defects which nullify the agreed usability of the Software or which impair the agreed usability not only insubstantially. Beta Systems, at its choice, will remedy the defects by either eliminating the defects or replacing the Software or – unless it would be unreasonable to require Customer to accept this – by providing a workaround (e.g. Fix), a Value Pack or a new Product Release with the same functionality.
- 2.3 Beta Systems shall only be obliged to remedy defects if the defect is reproducible or if it can be verified by written or mechanically generated records.
- 2.4 The Customer agrees that new releases/versions of the Software may contain other or additional Open Source Software and/or that the Open Source Software licence conditions may change and will also comply with amended obligations in this respect. However, such a change is only permissible provided that the functionality of the Software is essentially maintained and provided that these changes are reasonable for the Customer. Beta Systems will inform the Customer of such changes.
- 2.5 Beta Systems is entitled to replace Third-Party Software with similar products, provided that the functionality of the Software is

essentially maintained and provided that it is not unreasonable for the Customer to accept such replacement.

- 2.6 Maintenance services not mentioned in 2.1 and 2.2 are not included, e.g.
- 24-hour hotline (including contact persons at any time day or night),
  - Assisting Customer in installing the Software,
  - Maintenance of customer-specific customisation,
  - Training,
  - Adapting the Software to new Customer requirements,
  - Delivery of new modules,
  - Delivery of new Product Generations,
  - Data migration from old to new versions and into other formats and
  - On-site support.

The aforementioned additional services require a separate agreement (for an additional fee) between the parties.

- 2.7 In case a notified defect cannot be verified, for example, if it can be attributed to an operating error, or if Beta Systems provided services not covered by the maintenance agreement, Beta Systems may invoice Customer on the basis of the then current hourly rates.
- 2.8 For Software developed or provided under the maintenance agreement Customer is granted license rights to the same extent and for the same time-period as granted for the contractual Software.

#### 3. Customer's Duties

- 3.1 Customer shall ensure that Customer provides all necessary collaboration duties in good time and for free.
- 3.2 Customer is obliged to cooperate to the best of its ability in the defect analysis. Customer will describe the defect as accurately as possible and in a comprehensible format. Defects must be reported promptly and in writing. Contact details to report defects can be found at [www.betasystems.com/support](http://www.betasystems.com/support).
- 3.3 If, for the remedy of defects, a workaround, Fix, Service Pack or Product Release has to be installed, Beta Systems shall provide it to Customer on a suitable data carrier or online for download and shall inform Customer of its availability. Customer shall install the Software itself. Customer is obliged to install such Software unless it would be unreasonable to require Customer to do so. Any necessary tests have to be run by competent personnel of Customer. If deemed necessary at Beta Systems' sole discretion, Customer shall grant one or more staff members of Beta Systems access to test runs. If necessary, other work with Customer's IT-systems shall be suspended during the maintenance services.
- 3.4 Insofar as necessary for the provision of maintenance services, Customer must grant Beta Systems access to the contractual Software and IT-systems, provide the necessary equipment and provide any relevant information.
- 3.5 In case additional collaborative duties are necessary, Customer shall perform these duties unless it would be unreasonable to require Customer to do so.
- 3.6 Customer's collaborative duties are essential contractual obligations under the Individual Agreement. If Customer fails to perform these duties or fails to perform them in due time or adequately, Beta Systems is released from its obligation to provide the specifically requested maintenance service.

#### 4. Payment Terms

- 4.1 Customer shall pay the maintenance fees per calendar year in advance.

- 4.2 Beta Systems may refuse to perform services, if and as long as Customer is in default with the payment of the maintenance fees.
- 4.3 If Customer allows maintenance services to lapse, Beta Systems is entitled to reinstate the maintenance services only after Customer pays all maintenance fees that would have been due during the period of the lapse. Furthermore, Beta Systems is entitled to reinstate maintenance services only under the condition that Customer obtains a hardware or software update against an additional fee insofar as this is necessary to reinstate maintenance services.

**5. Warranty**

- 5.1 Beta Systems will start eliminating the defect within a reasonable time frame upon receipt of a written plausible defect report by Customer.
- 5.2 If Beta Systems does not remedy the defect within a reasonable time frame, and does not succeed in remedying the defect in a reasonable way within a further reasonable period by Customer, Customer may, at its discretion, reduce the maintenance fee or terminate the maintenance agreement. These rights apply accordingly if Beta Systems refuses to remedy the defect.
- 5.3 Unless stated otherwise hereunder, section 6.4 to 6.11 of the General Part of the General Terms and Conditions of Beta Systems Group (DCI (version 05/2021) shall apply accordingly with regard to warranty claims.

**6. Duration**

Unless agreed otherwise in the Individual Agreement, the following shall apply:

The maintenance agreement has an initial minimum term of 24 months, during which it cannot be terminated without a cause. After the initial term the maintenance agreement shall be automatically extended for another year, unless it is terminated in writing by either party in accordance with the following periods of notice: Customer may terminate the maintenance agreement by giving 3 months' notice to the end of a contractual year. Beta Systems may terminate the maintenance agreement by giving 9 months' notice to the end of a contractual year.

**7. Provision of services by third parties**

Beta Systems shall be entitled to transfer the provision of services to third parties without Customer's consent unless it would be unreasonable to require Customer to accept such a transfer.

**8. Final provisions**

In addition, the provisions of the General Part of the General Terms and Conditions of Beta Systems Group (DCI) version 05/2021 shall apply.