

**End User License and Maintenance Agreement (EULA)**  
(hereinafter referred to as the: Agreement)

**Article 1 Definitions**

Any capitalized terms are defined herein unless the Agreement indicates different meaning of the term.

**Act** - Act of 10 May 2018 on the protection of personal data (Journal of Laws of 2018, item 1000, as amended).

**Agreement** - (1) Agreement with all appendices incorporated thereto on the day of signing thereof and all written amendments thereto and (2) Order Form. In the case of a conflict between this Agreement or Order Form, the hierarchy is as following: the Order Form, the Agreement. **Customer** - .....

**Documentation** - standard Software specifications, instructions for Customers, technical descriptions and any materials and documents which may be used by the Customer in connection with the Software, made available to the Customer by the Licensor. **GDPR** - Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). **License Term** - term for which the Customer was granted license for the Software under the License Conditions specified in Article 2. **Licensor** – **Beta Systems Software Sp. z o. o.** with its registered office in Warsaw, Prosta 32, 00-838 Warsaw, entered into the register of entrepreneurs of the National Court Register by District Court for the Capital City of Warsaw in Warsaw, XII Commercial Division of the National Court Register under KRS no. 0000368781, NIP (Tax Identification Number) 5272640265, share capital 5,000 PLN. **Parties** - parties of the Agreement: the Licensor and the Customer. **Software** - publicly available and previously written computer programs for which the Customer is granted license based on and on terms and conditions specified in the Order Form or which are provided to the Customer in connection with the Services, amendments, updates, improvements etc., to which the Customer has right or acquired license under the Agreement. **Tasks** - else task, job. Definition of an atomic, basic activity planned or scheduled for performance by the Software on the End Point. **End Point** - else a specific connection to a physical or virtual server, service, database, operation system, third party software, or a configuration of an external network location where the Scheduled Tasks defined in the Software may be executed. **Software Code Change** – a change made in the source code of the Licensor’s Software, performed by the Licensor, resulting in the change of the binary code of the Software. **Software Problem or Problem** - incompatibility of the Licensor Software with valid Documentation. **Reaction Time** - time which passed from notification by an authorized representative of the Customer of the Problem with the Software by means of set notification channels until the moment of accepting the notification by an engineer from the support team at Licensor. **Subscription** - right of the Customer to receive upgrades and new versions of the Licensor Software in accordance with the Terms and Conditions of Providing Beta Systems Support and Subscription Services specified in the Agreement. **Working Days** - days from Monday till

Friday, except for statutory holidays in the country of Customer.

**Article 2 Subject of the Agreement and terms and conditions of granting license to the benefit of the Customer**

1. The subject of the Agreement is:
  - 1.1. granting the Customer by the Licensor license for the use of the Software specified in the Order Form on terms and conditions determined in the Agreement.
  - 1.2. providing by the Licensor to the benefit of the Customer the Support services on the level and in accordance with the principles determined in the Order Form.
2. Type of license shall be defined in the Order Form from the following:
  - 2.1. **Commitment Based License** – license for the Software is granted for definite time – 12, 24 or 36 months. Remuneration for Support services is included in the remuneration for granting the license. Licenses are granted limited to the declared monthly usage limit, understood as the number of task executions. After particular period of time (12, 24 or 36 months) the Customer shall lose the right to use the Software and Support services. In case of the will to continue using the Software and Support services the Customer shall place a new Order Form.
  - 2.2. **Consumption Based License** – the Customer is granted license for the Software for definite time – 12, 24 or 36 months. Remuneration for Support services is included in the remuneration for granting the license. License is granted without limitation of use and is billed monthly according to: the actual state of use, understood as the number of task executions. After specified period of time (12, 24 or 36 months) the Customer shall lose the right to use the Software and Support services. In case of the will to continue using the Software and Support services the Customer shall place a new Order Form.
3. Upon signing the Agreement the Licensor grants the Customer non-exclusive, non-transferable, non-assignable and non-sublicensable right to use the Software in accordance with the Documentation on terms and conditions set out below (license) which can be used only for internal use related to running a Customer's business activity. The term and territory are specified in the Order Form.
4. The Customer shall be entitled to use the Software and Documentation on the following fields of exploitation:
  - 4.1. installing and using the Software in order to run business activity, only for the Customer’s internal use on the territory specified in the Order Form, solely on servers used by the Customer, in accordance with the scope and subject to limitations set out in this Agreement and only to the extent necessary for the use thereof in line with the Agreement. In particular the scope of the entitlement to use the Software

shall include defining the End Points as well as defining and executing the Scheduled Tasks on the End Points;

- 4.2. duplicating the Software only to the extent necessary in order to load, display, start, transfer or save the Software, to the extent necessary for the use thereof in accordance with the Agreement.
- 4.3. making copies of the Software solely for backup purposes and only to replace the Software copy if such copy is lost, destroyed or becomes unusable on objective grounds. Such backup copy shall not be used for other purposes and shall be destroyed when the Customer loses the right to use the Software or when the Agreement expires or is terminated for any reason.
5. The Customer in particular shall not: take any action that might infringe copyrights of the Licensor to the Software or Documentation; remove or edit labels, instructions and trademarks contained in the Software or Documentation; take any action (e.g. disassemble, decompile, reverse engineer or take other similar measures) to reach the source code of the Software, products or parts thereof; change or modify the main functionality or the Software source code, or otherwise create derivative work of any part of the Software; allow that the main functionality or source code of the Software or the product are combined or integrated into other programs; allow that the Software is subject to any charges, lien or encumbrance; sell, license, sublicense, distribute, assign or otherwise transfer the Software to third parties, in whole or in part, without prior consent of the Licensor in writing under pain of nullity.
6. Unless otherwise specified, Licensor expressly reserves all rights to the Software. In any case the Licensor retains the right to use the know-how, experience and methodology used to provide the Software and Services excluding Confidential Information of the Customer.
7. Terms of the license for the Software shall apply to all repair versions, patches, derivatives, updates and upgrades of the Software to which the Customer is entitled under the Agreement or which the Licensor otherwise provides to the Customer. The right to use them the Customer shall receive when the Customer is covered by the Support and Subscription services specified in the Order Form.
8. Third-party software which the Licensor purchases from third parties are subject to all terms and conditions set by these suppliers.
9. Type of the Software and level and scope of the Support and Subscription are defined in the Order Form with date which shall be deemed as the date of placing the order.

### Article 3 Intellectual property and safeguard

The Customer acknowledges that the Licensor or its suppliers are entitled to all intellectual property rights to the Software and Documentation and the Customer confirms that it has no intellectual property rights to the Software and Documentation, except for the right of usage as provided for in this Agreement. the Licensor shall not be liable for any claims arising from infringement of third party intellectual property rights where such infringement results from the use of the Software by the Customer or

entities authorized thereby in a manner inconsistent with the terms and conditions of this, Agreement or Documentation or the extent to which the alleged violation of the rights of third parties was caused by the use of the Software in connection with goods or services not provided by the Licensor. In the event described in the preceding sentence, the Customer shall defend the Licensor at its own expense against any and all claims made towards the Licensor by third parties.

### Article 4 Reporting and audit of the use of licenses

1. At request of the Licensor, the Customer shall provide the Licensor with a signed declaration that the Software is used in accordance with the provisions of the Agreement, along with a 12-month histogram of use understood as the number of task executions of each instance of the Software.
2. If the Customer refuses to submit the signed confirmation referred in p. 1, the Licensor will be entitled to audit the use of the license in the form and date agreed with the Licensor, and the Customer is obliged to submit to this audit and cooperate with the Licensor in this extent.
3. In case of persistent violations of copyrights to the Software the Licensor or using it against this Agreement, or refusal to provide usage reports, understood as a 12-month histogram of the number of task executions of each Software instance, after prior request to cease the violations and setting for this purpose additional term not shorter than 30 days, may within further 14 days revoke the license referred to in Art. 2 of the Agreement with effect from the moment of delivery of the revocation statement. In such case the remuneration for granting license shall not be reduced.

### Article 5 Terms and Conditions of Providing the Support and Subscription Services

1. **Scope of the Services.** Within the scope of the Support and Subscription the Customer shall have the right to: **a)** Subscription, that is the right to receive and use new versions of the Software that the Licensor makes generally available to its other customers, **b)** Support, that is the right to receive the services described in this Article. These services include solution of problems and faults reported by the Customer concerning operation of the Software and executing the Scheduled Tasks defined by the Customer by means of the Software. **c)** Support services shall not include problems related to the course of the Scheduled Tasks on the End Points after proper executing thereof by the Software.
2. **Services.** The Licensor undertakes to: develop and deliver amendments correcting the Problems with the Software to be implemented by the Customer, and deliver existing amendments correcting the Problems with the Software to the Customer for implementation, provide the Problem workaround with the Software or provide assistance by remote installation of the Software, which the Customer may install itself ("**Support**"). The term "**Services**" shall in this Agreement mean the Support Services. The Licensor may determine in advance which Software or part thereof will have EOL status (End-of-Life).

3. **Ordering the Services.** The Customer may order the Services for the Licensor Software during the Customer Service Hours defined in p. 4. The Customer may report the Problems with the Software 24 hours/7 days a week through the tool **Customer Service Desk** available after login from the website <http://infinitedata.zendesk.com/>. The communication language is English only. The Customer shall determine the initial priority of the Problem with the Software, according to the definition of the "priority" set out in Appendix no. 1. If the Customer chooses the Priority 1, the Customer shall be ready to provide the Licensor with immediate unrestricted access to Software and control (steering) of Licensor Software and the system in which the Problem was demonstrated, as well as provide assistance of appropriate staff of the Customer by the Problem solution during the Customer Service Hours. Shall this not take place, the Licensor may change the category of the Problem to the Priority 2. All requests for the Services shall be made by the Authorized Customer's Specialists for Ordering Services ("ASR"). "Specialist for Ordering Services" or "ASR" is a designated professional within the scope of support, properly qualified to understand and solve technical problems, authorized by the Customer to act as a contact person (contact point) for all communication between the Parties related to the services covered by this Article. The Customer may designate in the support plan the Authorized Specialists for Ordering Services. Such persons shall receive accounts at Beta Systems Customer Service Desk. The Customer may change the ASR in writing, by e-mail or at a meeting concerning the service.
4. **Customer Service Hours.** Customer Service hours are the time in which the Licensor shall make available staff to work by attending the Problem with the Software reported by the Customer from the moment of reporting the Problem by the Customer. "Regular Customer Service Hours" are defined in the Order Form and concern 1 leading location in Working Days. "Extended Service Hours" are 24 hours/7 days a week, from Sunday to Saturday, excluding statutory holidays. Irrespective of the time of the Customer's orders for the Services (which may be placed in the mode 24 hours/7 days), the Licensor shall perform the Services during the Regular Customer Service Hours or Extended Service Hours, depending on the level of services agreed in the Agreement. The Licensor shall work on the Problems with the Software of the Priority 1 reported by the Customer remotely during the Extended Service Hours. The Problems of the Priority other than 1 shall be addressed during the Regular Customer Service Hours.
5. **Services outside the scope of the Agreement.** Services that not specified in p. 2., including, but not limited to the installation at the Customer's of all versions or patches, performance tuning of the Software, consulting as to operation or any questions regarding current usage/service, not related to the Problem with the Software shall not fall within the scope of the Agreement. Services for the Licensor Software whose logical system was modified by persons other than the Licensor Customer Service or engineers shall also fall outside the scope of the Agreement. Remuneration for Services outside the scope of the Agreement are defined in the Order Form.
6. **Obligations of the Customer:**
  - 6.1. **Software Service.** The Customer shall be responsible for full service of the Licensor Software, including (i) obtaining adequate training on handling the Licensor Software, (ii) ensuring that all installations of updates and amendments were carried out in accordance with the Licensor's specifications, (iii) providing backup copy and a copy to restore the system, processes and services in order to restore the system after a breakdown of the Licensor Software, (iv) making backup copies in accordance with the procedures applicable at the Customer's, (v) separating and documenting the Problems with the Software before contacting the Licensor in order to obtain the Support or Maintenance services, (vi) installing without undue delay amendments to the reported Problems, provided by the Licensor. The Customer shall operate the Licensor Software in accordance with the documentation thereof, which shall be previously provided to the Customer. The Customer shall not make or subcontract to third parties making any Amendments, repairs or changes and shall not conduct or commission conducting maintenance of the Licensor Software, unless otherwise accepted by the Licensor.
  - 6.2. **Remote Access.** The Customer agrees to provide, according to the Licensor's requirements, the possibility of fast remote electronic connection providing access to all locations covered by the Services resulting from this Article. The Customer shall be responsible for installation and current costs of installing and maintaining the equipment and any remote communication devices in each such location.
  - 6.3. **Test System.** The Licensor Software requires the "Test System". The Customer shall install and operate the Test System for Licensor Software, of technical parameters sufficient to implement all functions of the Customer's production system. The Test System shall be separated from the Customer's production system, but it needs to be a mirror copy of the production system in order to test all changes to relevant the Licensor Software before introducing these changes to the Customer's production system.
7. **Priorities** are specified in Appendix no 1 to the Agreement.
8. **Specification of the Support Services** shall be specified in the Order Form.

#### Article 6 Remuneration

1. Remuneration shall be specified in the Order Form.
2. The amount of remuneration for the Licensor or other fees due under this Agreement do not include VAT, which shall be added in accordance with tax regulations applicable on the day of issuance of an invoice.
3. The invoice for granting license shall be issued after signing this Agreement.

4. Invoices for fees for successive periods of providing the Support services shall be issued by the Licensor on the first day of a new period.
5. The settlement period is 14 days from the date of issuing the invoice.
6. The Customer hereby agrees that the invoices issued by Licensor are delivered to the Customer only in electronic form, subject to Art. 6 p. 7., in PDF format (Portable Document Format) to the e-mail address specified in the Order Form.
7. In case of technical or formal obstacles which prevent sending an invoice in electronic form, the Customer shall accept an invoice in paper form.
8. All payments shall be made in currency specified in the Order Form to Licensor bank account indicated on the invoice.
9. The day of payment shall be the day of crediting Licensor's bank account.
10. The Licensor - once a year in each year during the term of the Agreement - shall be entitled to increase the fee rate for provision of the Support services by inflation rate in the previous year published by the Eurostat. The increase of rates shall not require amendments to the Agreement and shall be effective upon notifying the Customer thereof.
11. If the Customer is in default of payments for over 14 days, the Licensor may suspend execution of the Agreement or other service provision agreements concluded between the Parties, until receipt of the outstanding payment. In such case all terms set out in this Agreement or other service provision agreement between the Parties shall be appropriately prolonged, without the need to change it.

#### Article 7 Validity and Termination of the Agreement

1. This Agreement is concluded for a period specified in the Order Form.
2. Each Party shall have the right to terminate the Agreement in the part concerning provision by Licensor to the benefit of the Customer of the Support and Subscription services by written notice handed in at least 3 months before the end of respective period of 12 months of providing the services concerned.
3. The Licensor shall have the right to terminate this Agreement in whole or in part at any time in the event of material breach by the Customer of the provisions of this Agreement with immediate effect after prior setting 15 days period to eliminate the infringement and the expiry of this deadline or without setting additional term where elimination of the infringement is not possible. For the avoidance of doubt, as material breach of the terms and conditions of the Agreement referred to in the preceding sentence shall be deemed in particular: exceeding by the Customer the scope and limitations of using the Software as provided in this Agreement, i.e. violation of the provisions in Articles 3 - 7, lack of payment by the Customer to the benefit of Licensor of the remuneration specified in this Agreement or breach by the Customer of Non-disclosure Agreement (NDA) concluded between the Parties.
4. In case of termination or expiry of this Agreement, all rights granted to the Customer based hereon shall expire, and the Customer shall:
  - 4.1. cease to use the Software and Documentation covered by the license;

- 4.2. without undue delay remove the Software from its hardware, storage media and all files and return to the Licensor the Documentation, materials and all copies thereof, as well as submit a written statement confirming this fact.
5. In case of termination of this Agreement neither the license fee, nor the charge for provision of the Support or the Support and Subscription services is refundable in whole or in part.

#### Article 8 Liability

Apart from the obligation to pay remuneration due under the Agreement, neither Party shall be liable to the other for any loss or damage arising from failure to comply with its obligations under this Agreement due to any reason caused by Force Majeure. This shall also apply to difficulties and delays in performance of the obligations resulting from the same cause, as well as to complete failure to complete them within the scope of services, production or deliveries carried out by third parties with respect to any goods or services. The Party which was impeded in performance of the obligations resulting from the Agreement by Force Majeure, shall immediately inform the other Party thereof and exercise due diligence in order to eliminate the effects of Force Majeure as soon as possible and take on further performance of the Agreement. For the purposes of the Agreement, **Force Majeure** shall mean event, which is extraordinary, external and impossible to prevent, on whose occurrence and duration the Party had no influence, in particular war, including civil war, civil unrest, acts of sabotage, public disturbances, natural disasters, e.g. storms, hurricanes, earthquakes, floods, which may completely or partially prevent the Party concerned from performing contractual obligations.

In respect of non-performance or improper performance of the Agreement by the Licensor, in the event of withdrawal from the Agreement by the Customer, in case of damage caused to the Customer by Licensor, it shall be liable towards the Customer for actual loss (*damnum emergens*) arising therefrom, up to the amount of: **a)** net amount of the remuneration paid to Licensor by the Customer in case of claims for losses connected with the use of the Software, Products or Documentation, **b)** net amount of the remuneration paid to the Licensor by the Customer for the Support and Subscription in the 12 months' period during which the claim for losses connected with the Support and Subscription services arose.

In no event shall the Licensor bear tort or contractual liability for any loss by the Customer of benefits or income (*lucrum caessans*), good name, suffering damage to its image, loss or damage of data, lack of expected change in the costs of running business. Liability of the Licensor under warranty is hereby excluded. In case of damage or loss of the Customer's data, Licensor shall restore damaged or lost data of the Customer necessary for the operation thereof, if its loss or damage resulted through the fault of the Licensor, provided that the backup copy of the data made available by the Customer enables restoration thereof, and this is technically possible. This shall solely determine the obligations of the Licensor in case of loss or damage of the Customer's data. Liability for defects of hardware or software produced by other manufacturers, in particular in respect of guarantee and warranty, shall be borne exclusively by the manufacturer of that hardware or software. Nothing in the Agreement nor in this Agreement shall exclude or limit the liability of the Licensor for damage caused willfully and for personal injury. The

Customer declares that the Software and Products, as well as their functionalities, are known to it and that they meet its needs and business objectives in a sufficient and complete manner, in particular the Customer declares that it does not expect that the system complies with any requirements laid down by the provisions of law, or any foreign language other than English. The Licensor shall not be responsible for problems connected with the Software caused by misuse, improper testing, unauthorized attempts of repair, modifications or adaptation to the Software by the Customer or any other causes that exceed the scope of the purpose of the Software.

#### **Article 9 Confidentiality**

The Parties undertake to keep secret and not disclose to third parties, including unauthorized employees, Confidential Information of the other Party on terms and conditions specified in Non-disclosure Agreement (NDA) concluded between the Parties.

#### **Article 10 Cooperation**

1. The Parties undertake to cooperate on a current basis by performance of the Agreement and declare that they are aware of the importance of due execution of their obligation to cooperate by performance of the Agreement for its proper realization.
2. The Parties shall inform each other of any circumstances affecting performance of the Agreement or any possible difficulties in its performance, as intended.
3. Carrying out the obligation to cooperate, the Customer shall provide the Licensor with necessary assistance by performance of the Agreement, in particular:
  - 3.1. make accessible premises, appropriate workplaces or hardware;
  - 3.2. make accessible documents and information in sufficient advance allowing their consideration in the course of performance of the Agreement;
  - 3.3. provide remote access to environments necessary to perform the Agreement, including through remote access, and if there is such need, provide direct access for the representatives of the Licensor to the places of performance of Support services;
  - 3.4. ensure that the Customer comply with recommendations of the Licensor to the extent necessary to perform the Agreement.
4. In case of delays in execution of the obligation to cooperate, in particular within the scope specified in the preceding Article, the terms of performance of the Agreement shall be subject to appropriate extension. If the total time of delays for reasons attributable to the Customer exceeds 14 days, the Licensor shall have the right to remuneration for the services rendered.
5. The Licensor undertakes to perform the Agreement using its employees and third parties with relevant experience and qualifications (subcontractors). For acts or omissions of such persons the Licensor shall be responsible as for its own acts or omissions.

#### **Article 11 Representatives of the Parties**

1. The Parties, for the purpose of proper implementation of the provisions of the Agreement, appoint their representatives specified in the Order Form.
2. Change of the above mentioned persons or their contact details shall not constitute amendment to the Agreement and shall be effective upon written notification to the other Party.

#### **Article 12 Customer's logo use and referring to the Parties' cooperation**

1. For the purpose of realising the Agreement, the Customer shall submit electronically to the Licensor the logo they use within 7 days of concluding hereof. To this extent, within the remuneration described in Article 6 p. 1 hereof, the Customer shall grant to the Licensor a non-exclusive and unrestricted concerning term and territory license for the use of the said Customer's logo in the following fields of exploitation: using the logo for Licensor's own purposes, in particular for the purpose of using the logo in developing the Licensor's portfolio and experience and presenting the logo to partners or future partners of the Licensor, including on Licensor's website.
2. The remuneration described in Art. 6 p. 1 hereof includes also the remuneration to use the logo in each separate field of exploitation.
3. The Customer agrees on referring by the Licensor to the fact of cooperation of the Parties, for which the Customer grants consent, both concerning the scope of cooperation and the detailed subject thereof. The Customer shall make all efforts to provide Licensor with references confirming the cooperation of the Parties upon each request of the Licensor. The Licensor shall make all efforts to assure that referring to the cooperation of the Parties takes place respecting to the Customer's business secrets.

#### **Article 13 Data protection**

1. The only personal data necessary to perform the Agreement are the personal data of persons implementing the Agreement from each Party (representatives etc.). Mutual transfer of such data by the Parties is their disclosure, but in this case and in the scope of these data, none of the Parties will decide about the purposes and means of the personal data disclosed to them. Therefore, each of the Parties on its own is responsible for obtaining consents from persons whose data will be disclosed as executing the Agreement or authenticating the processing of transferred personal data on another legal basis indicated by the GDPR or the Act.
2. In the remaining scope, the implementation of the Agreement by the Licensor does not generally require access to the Customer's personal data. The Customer shall not disclose such personal data to the Licensor, and the Licensor reciprocally declares ability to properly perform this Agreement without such access. If such access shall be necessary and the Licensor processes data on behalf of and for the benefit of the Customer, the Parties will conclude an appropriate agreement concerning the processing of personal data according to the template provided by the Licensor.
3. Each Party on its own is responsible for the implementation of such technical and organizational

measures taking into account the state of technical knowledge, implementation cost and nature, scope, context and purposes of processing and the risk of violating the rights or freedoms of individuals with different probability of occurrence and the severity of the threat, to ensure the security of personal data processed by each Party that reflects this risk.

**Article 14 General provisions**

1. Transfer of rights and obligations resulting from the Agreement in whole or in part to a third party may take place only after obtaining prior consent of the Licensor in writing under pain of nullity.
2. Any disputes arising in connection with performance of the Agreement shall be settled by the court competent for the seat of the Licensor.

3. If any provision of this Agreement proves invalid in whole or in part, the remaining provisions shall remain in force, while the Parties shall undertake, at request of either of them, to replace the invalid provisions with provisions whose legal validity and economic effect are most similar to the replaced provisions.
4. As far as the Agreement refers to rights and obligations concerning the Customer, in particular those specified in Article 2, they also apply to all individual Software users.
5. Any appendices enumerated herein form an integral part of the Agreement.
6. The Agreement shall be governed by the Polish law.

Date: .....

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(Customer)

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(Licensor)  
Beta Systems Software

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(Customer)

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(Licensor)  
Beta Systems Software