

## Software Maintenance Agreement Clavister CorePlus

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### 1. Preamble

This legal document is a Software Maintenance Agreement (hereinafter "**SMA**") between you as an end user and Clavister AB (hereinafter "**Clavister**"). By retrieving a Clavister CorePlus license file with the Software Maintenance service enabled, or by any other means get access to the service provided by this SMA, you agree to be bound by the terms of this SMA.

### 2. Service Content

Subject to the terms and conditions contained herein, Clavister shall, for a specific license of the Clavister CorePlus software and related documentation (hereinafter "**Software**"), provide:

- a) error (hereinafter "**Defect**", as defined below) corrections in the form of Updates, as defined below.
- b) enhanced or new functionality in the form of Upgrades, as defined below.

All the above mentioned services are hereinafter referred to as the "Services".

The Services are restricted to be used only with the specific license of the Software for which you have entered into the End User's License Agreement ("**EULA**") and this SMA.

### 3. Versioning, Upgrades and Updates

Versions are denoted using a version string formed as a triplet of digits: "A.BC.DE".

A **Major Release** of the Software is represented by the first three digits in the version string. An **Upgrade** is defined as a modified Major Release of the Software that includes new functionality or contains major design changes.

An **Update** is represented by the final two digits in the version string, and is defined as a corrected version of a Major Release with essentially retained functionality, performance and capacity.

Clavister will add new functionality to, or make enhancements to existing functionality in, the Software on a non-committed basis.

The enhancements and new functionality are made available in Upgrades, which are made available for you to retrieve and use by paying an annual service fee in advance as specified in section 7. All Upgrades are covered by the terms of the EULA for the Software as well as this SMA.

### 4. Error Corrections

A **Defect** is defined as a failure of the Software to substantially achieve the functionality described in the product specification. In the event of a Defect, you shall

inform Clavister promptly as to the nature, severity and extent of the Defect. The Defect shall be reported using Clavister's regular interface for technical support cases.

The following information shall be provided by you to Clavister with respect to a Defect: a) Customer number, b) Version number of the Software and operating system used, c) Detailed description of the Defects, d) Debug logs and/or configuration files, if applicable, e) Instructions on how to reduce the Defects, if applicable, f) Any other necessary and/or useful information relating to locating the reported Defects, and g) your view on the severity level of the reported Defects in accordance with Clavister's severity levels which can be found on Clavister's website at <http://www.clavister.com>. The website shows the detailed and updated specification of the severity levels.

Clavister may, after analyzing the reported Defect, reclassify the Defect to another severity level, should Clavister consider the reported severity level not be in line with the impact the Defect has on your network.

Defects are prioritized, analyzed and resolved by Clavister in order of their severity. Clavister will use commercially reasonable efforts to initiate Defect resolution as soon as possible. Clavister makes no warranties however that a reported Defect will be corrected eventually. Should a Defect not be corrected Clavister may, at its own option, during the warranty period of the Software instead replace the Software or provide a price reduction corresponding to the Defect.

Defects shall primarily be solved remotely. If Clavister deems an on-site visit necessary to correct the reported Defect, and you approve the on-site visit, Clavister's incurred cost for on-site visits shall be covered by you if it is determined that the reported Defect is not a Defect in the Software.

Clavister shall have the ability and capability, and you shall ensure the possibility for Clavister to use remote access to the Software in order to analyze the reported Defect.

Clavister shall inform you about available workarounds and how to implement them. Defect corrections not covered by the above are made available in a regular Update, which is made available for you to retrieve and use with no additional license fee. All Updates are covered by the terms of the EULA for the Software as well as this SMA.

### 5. Limitations on Error Corrections

Clavister will provide support and maintenance hereunder only to the current version of the Software and the two (2) previous versions.

Clavister shall not be obligated to repair any and all Defects or provide any support should any or all Defects be arising out of or in connection with a) unauthorized or improper use of the Software, b) any modification made to the Software by you or any other third party other than Clavister, c) operator failure, d) malfunction of Software that has not been supplied by Clavister, e) problems caused by the installation of the Software on an unsupported platform, f) any functionality failure not directly related to the Software, g) problems caused by

third party products, or h) an incident outside Clavister's control.

Clavister may, at its own option and at your expense, resolve the foregoing Defects upon your request.

## **6. Other Restrictions**

You may not transfer this SMA or your rights granted under this SMA to a third party without the prior written consent of Clavister. Any transfer without Clavister's prior written consent shall be interpreted as termination of this SMA and take immediate effect from the date upon which you conduct the unauthorized transfer. You shall take the full responsibility with respect to any and all consequences occurred due to aforementioned action.

## **7. Service fee and payment**

The Services is subject to the payment of an annual service fee, to be paid in advance, as agreed between you and the distributor.

Unless otherwise agreed, the fees under this SMA shall be paid within thirty (30) days of the invoice date. Clavister and/or the distributor are entitled to charge you an interest on overdue payment in accordance with the Swedish Interest Act (*Sw: räntelagen (1975:635)*).

## **8. Audit right**

Upon request, you shall, without undue delay, furnish to Clavister such documentation and access to your facilities and records as Clavister may reasonably request from time to time in order to verify your compliance with this SMA.

## **9. Limited Liability**

CLAVISTER HEREBY EXCLUDES ANY LIABILITY WITH RESPECT TO INDIRECT DAMAGES OR LOSSES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFIT, LOSS OF DATA OR BUSINESS INTERRUPTION RELATED TO THE USE OR INABILITY TO USE THE SOFTWARE EVEN IF CLAVISTER OR ANY SUPPLIER HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.

CLAVISTER WILL IN NO EVENT BE LIABLE FOR ANY DIRECT DAMAGES IN EXCESS OF TWENTY PERCENT OF THE ANNUAL SERVICE FEE.

## **10. Term and Termination**

This SMA will remain in effect until further notice. Either party may terminate the SMA by giving six (6) months written notice.

Either party may terminate this SMA with immediate effect if the other party is in material breach of any of its obligations hereunder and such breach is not cured within thirty (30) days after written notice. Your failure to make any payment when due shall always be regarded as a material breach of agreement.

Upon termination, you are no longer entitled to make use of the Services.

This SMA will automatically terminate upon termination of the EULA.

Any termination of this SMA shall not affect any accrued rights or liabilities of either party.

## **11. Entire Agreement**

Each of the parties to this SMA confirms that this SMA represents the entire understanding and constitutes the whole agreement between the parties relating to the subject matter hereof and supersedes all prior agreements, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, agent, employee or representative of either of the parties.

The Swedish Sale of Goods Act shall be explicitly excluded.

## **12. Disputes and governing law**

This SMA shall be governed by Swedish law, without regard to its conflict of law provisions.

Any dispute, controversy or claim arising out of or in connection with this SMA shall be finally settled by arbitration in accordance with the Rules for Expedited Arbitration of the Arbitration Institute of the Stockholm Chamber of Commerce ("the Institute") unless the Institute, taking into account the complexity of the case, the amount in dispute and other circumstances, determines that the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce shall apply.

The arbitration proceedings shall, unless otherwise agreed, be conducted in the English language and shall take place in Stockholm, Sweden.