
SARDINA END-USER LICENSE

1. Interpretation

A. The following words and phrases, when capitalized herein, have the meanings ascribed to them below:

1. "Agreement" means the contract between the Parties, comprising the Terms, the Purchase Order, the Maintenance and Support Agreement (if any) and such other terms as the Parties may further incorporate into their contract by explicit agreement (to be executed in writing or electronically or at least in a manner that allows repeated reproduction of the transaction document);
2. "Commencement Date" means the date when the License Term commences;
3. "Core" means a physical microprocessor core (the term refers to physical, not virtual/logical processing units);
4. "Customer" means the person or entity identified in the Purchase Order as the Customer;
5. "Effective Date" means the date when the Agreement enters in force and the Term commences;
6. "Hardware" means the hardware equipment as specified in the Purchase Order;
7. "Intellectual Property" means any and all trademarks, service marks, domain names and business names, brands, rights pertaining to inventions, designs, databases and proprietary information (including, without limitation, trade secrets and know-how), patents, copyrights (including both economic as well as moral rights) and any and all other items, including rights and other benefits, considered to be items of intellectual property under the applicable law;
8. "License" means the Software license and Open source component license, if any, granted to the Customer hereunder as further defined in Annex 1;
9. "License Term" means the term of the License, as specified in the Purchase Order;
10. "Licensor" means the person or entity identified in the Purchase Order as the Licensor;
11. "Open source component" means the open source software or cloud computing platform(s) (virtualized data centre operating system) developed by OpenStack, Ceph, Kubernetes or other open source providers;
12. "Party" means each of the Customer and the Licensor (collectively, the "Parties");
13. "Personal Data" means any information relating to an identified or identifiable natural person, regardless of the state and form of such information;
14. "Purchase Order" means a transaction document in accordance with the format set out in Annex A whose purpose is to provide the Customer with the License, subscribe the Customer to Support Services or otherwise define the Parties' relationship concerning the Software and/or the Support Services and which:
 - A. attaches the Sardina End User License and support terms or refers to them as applicable;
 - B. identifies the Customer;

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- C. identifies the Service Partner;
 - D. specifies the Software and/or the Support Services to be provided to the Customer and states the price thereof (either directly or by reference);
 - E. specifies the Open source components, if any;
 - F. may include information about the System as well as other details; and
 - G. has been executed by the Parties in writing or electronically by DocuSign;

Any purchase order issued by the Customer which is not based on the format set out in Annex A shall not be legally binding on Sardina.

- 15. "Representative" means any person who executes a Purchase Order on the Customer's behalf or otherwise represents the Customer upon its entry into the Agreement or in any transaction related hereto (including any amendment or termination hereof);
- 16. "Sardina" means Sardina Systems BV, a private limited company incorporated under the laws of England and Wales, company (KVK) number 94913641, its subsidiaries or holding companies from time to time and any subsidiary of any holding company from time to time;
- 17. "Service Partner" means a person or entity authorized by Sardina to provide Support Services;
- 18. "Maintenance and Support Agreement" means if the Purchase Order includes the purchase of maintenance and support services, then the document(s) specified in such agreement;
- 19. "Software" means the computer program(s) specified in the Purchase Order and/or such other computer program(s) as the Licensor may license to the Customer hereunder, in either case: (a) including such fixes, patches, updates, enhancements, upgrades, other modifications and replacements thereof as the Licensor (or, where applicable, Sardina) may from time to time provide to the Customer; and (b) excluding all Third-Party Software;
- 20. "Subscription" means the collection of rights and other benefits granted to the Customer hereunder in connection with the Software and the Support Services (including the Customer's rights under the License and the Maintenance and Support Agreement);
- 21. "Support Period" means the period for which the Customer has purchased Support Services (if any);
- 22. "Support Services" means such Software-related maintenance and support services as purchased by the Customer hereunder. The services purchased are specified in the Purchase Order and may be further described in the Maintenance and Support Agreement;
- 23. "System" means the computer system on which the Software is to be used (as specified in the Purchase Order or as the Parties may otherwise agree);
- 24. "Term" means the period for which the Agreement is valid (term of contract);
- 25. "Terms" means these end-user license and support terms defined in the Purchase Order or other agreement between the Parties;
- 26. "Third-Party Software" means (a) software not created by Sardina, which, for the purposes hereof, means any and all software not explicitly identified herein as forming part of the Software (including, where applicable, the computer programs specified in the Purchase Order as "third-

party software"); and (b) any software that, whether created by Sardina or not, and even if provided in conjunction with Sardina software, is subject to a license other than this Agreement;

27. "VM" means virtual machine.

- B. The words "herein", "hereto", "hereof", "hereunder", "hereby" and "herewith" refer to the Agreement. Words denoting a gender or genders are to be construed as referring to all genders appropriate in the context.
- C. The Agreement constitutes the entire contract between the Parties relating to the subject matter hereof, superseding all their prior agreements and understandings concerning that matter.

2. Term

- A. The Effective Date and the Commencement Date are as specified in the Purchase Order.
- B. Unless otherwise stated in the Purchase Order:
 - 1. the Term spans from the Effective Date to the expiry of one year from the Commencement Date;
 - 2. on each expiry, the Term will extend for an additional one-year period unless either Party cancels the extension at least one month prior thereto (thus terminating the Agreement, effective on the forthcoming expiry of the Term). If notice of cancellation is provided late, the cancellation will still be valid unless withdrawn by the cancelling Party within two weeks thereof, but its effect will be postponed to the next extension of the Term (the one following that which the Party sought to prevent);
 - 3. on each extension of the Term the License Term shall renew, continuing for another year;
 - 4. the Support Period (if applicable) shall be aligned with the License Term, beginning on the Commencement Date and renewing as the License Term renews unless the Support Period's forthcoming renewal (and with it, the Customer's subscription to Support Services) is cancelled by either Party at least one month prior thereto.
- C. If the License and the Support Services are purchased at different times (including where subscription to Support Services is reinstated after lapsing), the initial Support Period may: (a) under Clause 2.B, be shorter than the License Term, renewing for the latter's duration; (b) under Clause 2.C, be shorter than, or exceed, one year, renewing (for a year's period) at a time other than the first anniversary of its commencement.
- D. Late cancellation under Clause 2.B.2 has effect with respect to the next renewal.

3. Delivery

- A. The Software is delivered to the Customer by:
 - 1. making it available for downloading from Sardina's website or such other site as the Licensor or its relevant reseller may refer to the Customer, or, upon specific agreement, supplying the Customer with a physical storage medium (such as an optical disc or a USB flash drive) containing the Software; and
 - 2. providing the Customer the license key required for activating the Software.

B. Delivery under Clause 3.A shall be deemed to have occurred regardless of whether the Customer actually downloads, installs or uses the Software.

C. Unless otherwise specifically agreed:

1. it shall be the Customer's own duty to install the Software on the System as permitted hereunder;
2. Software installation services, should the Customer require such, may be purchased from Sardina or a Service Partner and will be provided on a time-and-materials basis at the provider's then-current rates.

4. License

- A. Subject to the terms set forth herein, the Licensor hereby grants to the Customer and the latter accepts a limited, non-exclusive and non-transferable (save as provided under Clause 17) license to install, store and use the Software on the System during the License Term for the Customer's own internal purposes.
- B. The Customer may only use the Software in accordance with the technical documentation, specifications and instructions as Sardina or the relevant Service Partner may issue and update from time to time.
- C. The Customer may reproduce the Software for its own installation and backup purposes only, and only to the extent such reproduction is necessary for the Customer's use of the Software in accordance with this Agreement.
- D. Subject to Clause 4.E: (a) the Software is distributed in object code only; (b) no source code is intended or expected to be made available to the Customer as a part of or in connection with the Software or the Support Services.
- E. The Software may include open source components and the materials provided with the Software may include or refer to open source components. Further information on open source components (if any) and licenses (if applicable) can be found on Sardina's website and can also be obtained directly from Sardina. The open source component shall be licensed under the respective open source license, as applicable. If the Software does include an open source component and the terms of the open source license applicable to that component conflict with the terms of this Agreement, the respective open source terms shall control with respect to that particular component to the extent that they conflict with the Agreement.
- F. The Customer acknowledges that a mere Software license does not entitle it to any Software modifications or services. Software fixes, patches, updates, service packs, enhancements and upgrades, if released, will not be available to the Customer except where this is required to remedy a defect or where the Customer has purchased support services for the Software. Sardina may in its sole discretion decide that a certain fix, patch, update or other modification will be available to the Customer, and should be applied, without the Customer having purchased support services but in no event may such Customer rely on similar modifications or any other modification being provided to it on any future occasion.
- G. If source code of the Software is made available to the Customer, by its nature being interpreted code, the Customer acknowledges that all changes, including but not limited to any extensions or integrations, to the Software made by (a) the Customer; (b) any third parties appointed by the Customer; (c) any third party for the benefit of the Customer; shall immediately be properties of

Sardina. The Customer must obtain consent Sardina for any third party to access and/or make changes, including but not limited to development of any extensions or integrations; such consent may be exclusively and unreasonably withheld by Sardina.

5. Services

- A. Support Services (if purchased) will be available to the Customer during the Support Period the Customer has paid for, and are provided by Sardina or a Service Partner in accordance with this Agreement.
- B. Unless otherwise specifically agreed, Support Services:
 - 1. can only be purchased in the form of a standard support package (one of several for which different prices are usually charged);
 - 2. include, but may not be limited to, Software fixes, patches, updates and service packs, Hardware fixes, firmware updates, that Sardina generally provides to its paying support customers;
 - 3. do not include: (i) any software development or implementation, System configuration or maintenance, or any custom services; (ii) providing solutions to Software errors, failures or other problems caused by (A) improper implementation of the Software, save where such implementation has been carried out by Sardina or a Service Partner, (B) any Software modification or customization not performed by Sardina or a Service Partner, (C) use of the Software in a manner inconsistent with its pertaining documentation, this Agreement or any legal requirement applicable to Software use or handling (including any use other than normal end use), (D) using the Software in conjunction with items not provided or approved by Sardina or a Service Partner (which approval may be apparent from the documentation pertaining to the Software or be granted specifically to the Customer), (E) use of third-party items in conjunction with the Software not in accordance with the respective manufacturers' specifications, (F) using any release of the Software other than the most current major release generally available to Sardina's paying support customers, (G) Third-Party Software, other third-party items, or the Customer's own items and hardware support (Hardware as specified in the Purchase Order excepted);
 - 4. if and to the extent they are reliant on third-party support (as, for instance, may largely be the case where Support Services include providing support for third-party items), will not have a scope wider, or a level of service or customization higher, than what the underlying third-party support, as available under the applicable support agreement, reasonably permits.
- C. Any services that Sardina or a Service Partner may provide beyond the scope of Support Services will be charged to the Customer on a time-and-materials basis at Sardina's or the respective Service Partner's then-current rates unless otherwise expressly agreed.

6. Software Modifications

- A. Sardina may implement such fixes, patches, updates, service packs, enhancements, upgrades and other modifications to the Software as it reasonably deems appropriate, provided that the respective modifications do not materially diminish the functionality of the Software compared to what it would have been without such modifications. Where Sardina, the Licensor, or the relevant Service Partner considers it practical to do so, it will discuss the respective modification(s) with the Customer and/or give the Customer advance notice of the modification(s).

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- B. Unless otherwise specifically agreed, the Customer's use of any fixes, patches, updates, service packs, enhancements, upgrades, other modifications and replacements that Sardina may provide for the Software will be subject to this Agreement. The Customer's continued use of the Software after any such modification or replacement shall be deemed to constitute its consent to the respective modification or replacement.

7. Fees

- A. The Customer shall pay the Licensor such remuneration as provided hereunder. The amounts payable are usually stated or referenced in the Purchase Order but the Customer acknowledges that financial obligations may also arise from other parts of the Agreement.
- B. If any part of the Subscription is obtained from a supplier other than the Licensor (e.g., a third-party Service Partner, Sardina reseller or, where applicable, Sardina), the amounts payable therefor may be invoiced by the respective supplier.
- C. Unless otherwise specified in the Purchase Order:
1. the Customer's billing cycle for the Subscription is yearly, starting on the Commencement Date;
 2. payment for the Subscription is due in advance by the first day of the relevant billing period;
 3. the License Term and the Support Period will renew at the Licensor's then-current price for the Subscription, with all applicable fees being invoiced during the month leading up to the renewal.
- D. If the Subscription is modified and the resulting Subscription is more expensive than what the Customer previously had (as is usually the case if the authorized number of VMs or, as applicable, the number of Cores covered by the License, is increased or a higher level of service is applied to Support Services), the amounts payable for the respective upgrade shall be due in advance by the time for which the upgrade is scheduled unless otherwise expressly agreed.
- E. Any amount owed to the Licensor hereunder whose terms of payment have not been otherwise specified shall be due within ten (10) days of invoice delivery or, where no invoice is required, ten (10) days of receipt of claim. If an invoice or a claim is sent to the Customer by means of electronic communication, it shall be deemed to have been delivered on the day it was sent, unless proven otherwise.
- F. Where a specific timeframe has been agreed for the Licensor (or the supplier referenced in Clause 7.B) to raise an invoice or a claim, its failure to do so within such timeframe shall not result in it forfeiting the respective amounts or prevent it from invoicing or claiming these amounts at a later stage (unless barred by mandatory law).
- G. All fees referenced herein or otherwise applicable hereunder shall be deemed to have been quoted exclusive of value added tax, sales tax, export/import duties and other public burdens, except where the Licensor has otherwise explicitly stated. The Customer shall be solely responsible for all taxes, duties and burdens that may be levied on its purchase, acquisition, possession, import, export, use or disposal of any right, item, service or other benefit under, due to or in connection with this Agreement. No such tax, duty or burden shall be withheld or deducted from any amount owed to the Licensor and the Licensor shall not be required to pay or reimburse any such tax, duty or burden. For the avoidance of doubt, this Clause shall not be construed to require the Customer to incur any of the Licensor's corporate or other income tax.

H. All sums owed by the Customer hereunder must be paid in full, without deducting any currency conversion or payment-related charges.

I. Interest will be charged on overdue amounts at the rate of fifteen per cent (15%) per annum.

8. Refunds

A. Subject to Clause 8.B, Clause 8.C, Clause 8.D, in no event will any modification or termination of this Agreement or the Subscription or any event or circumstance leading to such modification or termination, or any consequence thereof, entitle the Customer to any refund of, or other compensation for, any fee or other remuneration that the Customer may have paid or provided hereunder, regardless of whether such remuneration relates to the then-current or any past or future billing period.

B. If

1. the Agreement or the License is terminated early due to the Licensor having committed a material breach of Agreement, or
2. the Customer is lawfully enjoined from using the Software as authorized under the License due to the Software infringing on third-party Intellectual Property,

the Customer will be entitled to a (proportionate) refund of its License fee as provided in Clause 8.C.

C. The Customer's rights under Clause 8.B, Clause 8.C, Clause 8.D, whether exercised or not, are in lieu of any and all rights concerning damages, compensation, reimbursement and/or restitution that may vest in the Customer, or which it can obtain, as a result of or connection with any of the events or circumstances described in Clause 8.B except for any indemnity for infringement of third-party rights as defined under Clause 11.F.:

1. the refund will be confined to the License fee attributable to the remaining (unused) part of the billing period during which the Agreement or the License terminated or the Customer was actually prevented from using the Software.;
2. if the infringement referenced in Clause 8.B.2 only concerns a particular component of the Software and the respective component is removed or modified without substantially reducing Software utility, the base amount from which the refund is calculated under Clause 8.C.1 and Clause 8.C.2 shall be that portion of the License fee, or, as applicable, the relevant billing period's License fee, which is attributable to the said component (that is, the refund will consist in an appropriate portion of the relevant License fee portion);
3. notwithstanding the above, the refund must not: (i) result in the Customer being placed in a more favorable position than the one it would enjoy if the event(s) or circumstance(s) underlying the refund had not occurred or if the Customer had not paid the respective License fee portion; or (ii) otherwise unjustly enrich the Customer at anyone's expense.

D. A refund under this Clause 8 will:

1. only be made on the Customer's request; and
2. terminate the License (unless the same has already been terminated) or, in the case of Clause 8.C.2, the application of the License to the affected Software component (unless the same has already been terminated).

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- E. The Customer's rights under Clause 8.B, Clause 8.C, Clause 8.D, whether exercised or not, are in lieu of any and all rights concerning damages, compensation, reimbursement and/or restitution that may vest in the Customer, or which it can obtain, as a result of or connection with any of the events or circumstances described in Clause 8.B except for any indemnity for infringement of third-party rights as defined under Clause 11.F.

9. Rights and Restrictions

- A. The Software and its pertaining documentation are proprietary to Sardina and it fully retains all rights thereto.
- B. The Customer acknowledges that Software structure, organization and source code (except its publicly available Open source components, if any) and the ideas, insights, principles, concepts and methods embodied in or underlying the Software constitute Sardina's valuable trade secrets.
- C. All Intellectual Property embodied in or otherwise pertaining to the Software, and, unless otherwise expressly agreed, any Intellectual Property that may be created in the course of Sardina, the Licensor or any Service Partner performing any services or other activities hereunder, shall belong to Sardina. The Customer shall not acquire any right thereto or in connection therewith, except for the limited rights of use expressly set forth in this Agreement.
- D. With respect to any product of intellectual activity, including any object of Intellectual Property, that the Customer or anyone acting on its behalf submits, contributes or otherwise knowingly makes available for inclusion in the Software or the Support Services Sardina shall be deemed to have been granted a non-exclusive, royalty-free, worldwide, perpetual (save as limited by law), irrevocable, freely transferable and fully sub-licensable right to use, distribute, reproduce, modify, adapt, publish, translate, transmit, publicly perform, display and make available the same (in whole or in part) and to incorporate it into other items, including works and inventions, in any form or medium now known or later developed. The Customer warrants that any person making such a contribution on its behalf is authorized to do so, that the Customer is entitled to make the contribution and that neither the Customer nor the person acting for it (the immediate contributor) will claim any compensation or reimbursement therefor.
- E. Without derogating from any of the Customer's statutory obligations, the Parties have agreed that the Customer must not:
1. distribute or redistribute, including sell, rent, lease, lend or otherwise make available, the Software (neither the original Software nor any copy thereof) or any of the Support Services;
 2. reproduce the Software, except as expressly permitted herein;
 3. translate, adapt, arrange or otherwise alter the Software or reproduce the results of any such activity;
 4. decompile, disassemble or otherwise reverse engineer the Software;
 5. remove, alter, hide or obscure any copyright notice, trademark or other proprietary rights notice embedded in, appearing on or otherwise pertaining to the Software;
 6. publicly demonstrate the operation of the Software or the provision or receipt of Support Services or publish or disseminate any images, videos or other records thereof;

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7. publish any Software evaluation results, disclose such results to any third party or cause any third party to gain access thereto;
 8. create or attempt to create any product or service that is substantially similar to, or performs the same or substantially similar functions as, or otherwise competes with the Software or any of the Support Services or purports to be created, provided or approved by Sardina or a Service Partner;
 9. permit or cause any third party to do any of the foregoing.
- F. Clause 9.E applies to the Software (each of its constituent computer programs) as a whole as well as any part thereof, with the restrictions set forth in that clause having the maximum ambit and effect permitted.

10. Usage Verification

A. The Customer acknowledges that:

1. the Software may include certain functions that allow Sardina or a Service Partner to, or which automatically, (i) monitor Software usage, (ii) prevent unauthorized use of the Software, (iii) limit or disable access to the Software upon the Customer's breach of this Agreement, (iv) make the Software unusable or inaccessible if the Agreement or the License is terminated;
2. the Software may not operate unless these functions are enabled;
3. it may not be possible for the Customer to disable such functions. The Customer agrees not to tamper with, and shall not attempt to circumvent the operation of, any such function.

B. Upon the Licensor's or Sardina's request, but no more than once every six (6) months, the Customer must provide the Licensor (or, respectively, Sardina) with a statement confirming that the Software is being used in accordance with this Agreement and specifying the locations where the Software has been deployed. Additionally, at the Licensor's or Sardina's request, but no more than once every twelve (12) months, the Customer must permit the Licensor (or Sardina) or, where applicable, a person or persons appointed by the Licensor (or Sardina) to audit the Customer's use of the Software (including, inter alia, to enter the premises where the Software is deployed and/or operated from) to ensure that the Customer's installation and use of the Software complies with this Agreement. Any such audit will be conducted during normal business hours (or such other hours as may be agreed). The Customer must furnish the person(s) conducting the audit such information, documents and access as reasonably may be required, however, the audit shall not extend to any confidential information of third parties or the Customer to the extent that this is not related to the Agreement. If an audit reveals an underpayment of fees, the respective amounts will be invoiced to the Customer and must be paid as per the terms hereof. If the underpayment exceeds five per cent (5%) of the Subscription price for the relevant billing period, the Customer must also, upon the Licensor's or Sardina's request, pay the costs of the audit.

11. Representations and Warranties

A. Each Party represents and warrants that:

1. none of the rules governing its powers, purposes or status have been infringed by its entry into this Agreement and such rules do not prevent it from performing its obligations hereunder;

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2. it will comply in all material respects with all laws, rules and regulations applicable to it in the performance of its duties hereunder;
 3. there is no outstanding litigation, arbitrated matter or other dispute to which it is a party or other participant and which, if decided unfavorably to it, would reasonably be expected to have a material adverse effect on its ability to fulfill its obligations under this Agreement;
- B. The Licensor represents and warrants that during the License term and where applicable the Support term:
1. its employees and contractors possess the skills and experience required for the performance of its duties hereunder;
 2. the Software shall comply with the specification or technical documentation provided by Sardina in respect of the Software;
 3. if the Purchase Order explicitly states any specific purpose(s) for which the Software is intended, then the Software is reasonably fit for such purpose(s);
 4. the Software shall not contain any malware when delivered hereunder ("malware" meaning computer programs with illegal malicious intent);
 5. to the best of its knowledge, the Software does not infringe on any Intellectual Property of any third party;
 6. unless otherwise provided in the Maintenance and Support Agreement, Support Services will be executed with no less than a reasonable degree of care and in accordance with the standards generally associated with organizations comparable to Sardina (or, as applicable, the relevant Service Partner) providing services similar to Support Services;
 7. if Sardina is not the Licensor, the Licensor has been duly authorized by Sardina to license the Software.
- C. The Customer represents and warrants that:
1. it is a person (natural or legal) or an entity with legal capacity, and fully capable of entering into contracts;
 2. the information it provides with regard to the System, its requirements concerning the Software and the Support Services and the purposes for which the Customer intends to use or actually uses these items and services is true and accurate;
 3. the System does not fall within the ambit of, and does not incorporate any items controlled under, section 5A002 of Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (The corresponding, though not entirely equivalent, section in the List of Dual-Use Goods and Technologies under the Wassenaar Arrangement is 5.A.2.);
 4. it will comply and will cause each person it permits or causes to have access to the Software or any of the Support Services to comply with all laws, rules and regulations applicable to the use thereof;
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5. any person whom the Customer permits or causes to have access to the Software, any of the Support Services or any tangible medium containing the Software will use and handle the same in accordance with this Agreement.

- D. Any warranty of the Licensor not expressly stated herein shall be deemed withheld. The Licensor disclaims, to the fullest extent permitted under the applicable law, all statutory warranties and course of performance, course of dealing and usage related licensees', buyers', lessees' and users' expectations. For the avoidance of doubt, no warranties for Open source components are provided and are hereby expressly excluded.
- E. In case of a breach of warranty under Clause 11.B. (except 11.B.5) the Licensor shall remedy the breach within a reasonable period of time taking into account the circumstances. Where the Customer has purchased Support Services, the response times of the SLA shall apply. If the defect is not or cannot be remedied by the Licensor, the Customer shall be entitled to a reduction of the Fees or, if the Customer is prevented from using the Software in a reasonable manner, the refund of the Fees in accordance with Clause 8.
- F. In case the Software infringes third party Intellectual Property rights (as set out in 11.B. 5) that the Licensor should have been aware of, the Licensor shall indemnify the Customer for all reasonable costs and fees, provided that Customer (a) immediately notifies the Licensor of any claim, (b) allows the Licensor to conduct any proceedings or accept any settlement with the third party and (c) assists the Licensor in defending such claims if required. If the Software infringes third party Intellectual Property rights, the Licensor shall, at its own cost and at its sole discretion, either (i) modify the Software so that it no longer infringes the respective third party Intellectual Property right, (ii) supply to the Customer a replacement solution essentially fulfilling the same functional specifications, (iii) obtain at its own cost the authorization for Customer to use the respective third party Intellectual Property right or (iv) reimburse to Customer the reduction in value of the infringing parts of the Software.
- G. Save as otherwise explicitly set forth in this Agreement, the Licensor makes no representation or warranty: (a) that the Software, its pertaining documentation or the Support Services will meet the Customer's expectations; (b) that the availability, operation or use of, or access to, the Software or any of the Support Services will be uninterrupted, timely or error-free; (c) that any defects in the Software or its documentation will be corrected; (d) that any item the Customer uses in conjunction with the Software or the Support Services is free of malware or other harmful components; or (e) with respect to any Third-Party Software, or any other third-party items, activities or matters.
- H. The remedies set out in this clause are the sole and exclusive remedies for the Customer in respect of a breach of warranty.

12. Representative's undertaking

- A. The Representative personally warrants that:
1. the Customer conforms to the description provided in Clause 11.C.1;
 2. s/he has the authority to act on the Customer's behalf;
 3. this Agreement and all transactions that the Representative makes on the Customer's behalf in connection with the Agreement are binding on the Customer.
- B. The Representative agrees that if the Customer does not conform to the description of Clause 11.C.1 or if the Agreement proves to be void due to the Representative's lack of authority, s/he shall, should the Licensor (in its absolute discretion) so elect and respectively inform the Representative, be deemed

to have entered into the Agreement on his/her own behalf (in place of the Customer whom s/he represented or attempted to represent).

13. Limitation of liability

- A. In no event shall the Licensor be liable to the Customer for the loss of profits, loss of data, or any special, consequential, incidental, indirect loss or damages, punitive or non-patrimonial loss or damages, even if advised of the danger thereof (the Licensor may only be held liable for direct financial loss). This does not apply in case of Licensor's gross negligence or willful misconduct or in case of mandatory liability at law.
- B. The Licensor is not liable for any harm, including any loss or damage, resulting from or mainly attributable to:
 - 1. any installation, implementation, upgrade, downgrade, modification or customization of the Software not carried out by Sardina or a Service Partner;
 - 2. failure to use the Software in accordance with its pertaining documentation, this Agreement or any legal requirement applicable to Software use or handling;
 - 3. using the Software in conjunction with items not provided or approved by Sardina or a Service Partner;
 - 4. using third-party items in conjunction with the Software not in accordance with the respective manufacturers' specifications;
 - 5. inherently dangerous use of the Software, any of the Support Services or any other item or benefit provided hereunder; or
 - 6. failure to apply an available fix, patch, update, service pack or upgrade that would have avoided the harmful event.
- C. Neither Party shall be liable for breaching its obligations due to a circumstance that is beyond its control and which it reasonably could not have foreseen or avoided (force majeure). Force majeure shall include, without limitation, exceptional weather conditions, conduct of public authorities, war, civil unrest, act of terror, power outage, internet failure or any other circumstance qualifying as force majeure under the applicable law — to the extent that the respective circumstance prevented or hindered the Party's performance. For the avoidance of doubt, this clause:
 - 1. is not intended to limit the application of any statutory limitation or exclusion of liability;
 - 2. shall not be construed to limit the amount of, or excuse the Customer from paying, any fee or other sum that it owes hereunder.
- D. In no event shall the Licensor's or Sardina's respectively total cumulative liability arising out of, related to, or in connection with the Agreement, the Software, the Support Services, the processing of Personal Data, or anything else, exceed the total financial remuneration (exclusive of value added taxes and other public burdens) received by the Licensor or Sardina respectively hereunder during the twelve (12) months immediately preceding the month in which the liability event (the event(s) or circumstance(s) underlying the Licensor's or Sardina's respectively liability) occurred.
- E. The Licensor shall hold an appropriate liability insurance policy with indemnity for an amount at least equal to the Licensor's total cumulative liability in Clause 13.D.

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- F. The protection afforded to the Licensor and Sardina respectively hereunder, and any statutory protection that the Licensor or Sardina may enjoy, extends to anyone who acts on the Licensor's or Sardina's respective behalf, exercises its rights or performs its duties or assists the Licensor or Sardina in doing the same.
 - H. The limitations of liability set forth herein apply to the fullest extent permitted in the relevant jurisdiction and shall not prevent the protected party from invoking, or otherwise prejudice such party's recourse to, any statutory defense, remedy or exclusion or limitation of liability.

14. Amendment

- A. The Customer acknowledges that, from time to time, circumstances may arise which make it necessary to modify certain provisions of this Agreement. Such circumstances include:
 - 1. the launch of a new version of the Software or a significant modification to the Software;
 - 2. a significant change in Sardina's legal environment;
 - 3. an order or a judgment being entered against or in favor of Sardina or the Licensor, if not Sardina;
 - 4. a significant corporate event, including but not limited to, the Licensor's, or, if Sardina is not the Licensor, then Sardina's or the Licensor's, merger, division or change of legal form;
 - 5. the Licensor's transfer of the enterprise or a part of the enterprise to which this Agreement pertains;
 - 6. the invalidity, voidability or unenforceability of a provision herein;
 - 7. any other event whose occurrence in the Licensor's reasonable judgment necessitates an amendment hereto.
- B. The Customer agrees that:
 - 1. upon the occurrence of any of the circumstances referenced in Clause 14.A the Licensor shall be entitled to make such changes to the Agreement as it reasonably deems necessary, provided that the respective changes do not materially alter, to the Customer's detriment, the balance of the Parties' obligations as established hereunder;
 - 2. the Licensor may amend the Agreement by providing the Customer notice thereof or posting a revised version of the Agreement or its relevant part(s) on a website and sending the Customer a link thereto;
 - 3. if the revised version includes an amendment that reduces the Customer's rights or increases its responsibilities, the Licensor shall give the Customer at least a month's notice of the amendment's entry into force.
- C. If the Customer does not agree with the Licensor's amendments (or any particular amendment), it may cancel the Agreement by providing the Licensor reasonable notice thereof.

15. Suspension

- A. The Licensor may suspend performance under the Agreement in whole or in part with immediate effect if:

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1. it is legally required to do so;
 2. the Customer's use of the Software or any of the Support Services conflicts with this Agreement;
or
 3. any amount owed to the Licensor hereunder is more than fourteen (14) days overdue.

16. Termination

A. This Agreement may be terminated:

1. at any time by the Parties' agreement;
2. where Clause 2.B.2 applies;
3. where Clause 2.B.3 applies, by either Party's cancellation of the Agreement on a month's notice, provided, however, that
 - A. the right to cancel the Agreement under this sub-clause vests on the fourth anniversary of the Commencement Date (thus cannot be exercised during the fixed-term phase of the Term), and
 - B. if the Customer has a valid subscription to Support Services, the Agreement may only be cancelled with effect from the end of a Support Period;
4. upon a Party's material breach of Agreement, by the other Party without prior notice.

B. Without prejudice to any statutory provision as to what constitutes a material breach, a material breach of Agreement shall, inter alia, be deemed to have occurred if a Party, having breached any of its principal obligations hereunder, fails to discontinue or remedy such breach within thirty (30) days (or, where a 30-day period is unreasonably short, such longer period as reasonably required) after notice from the other Party specifying the breach and requiring it to be discontinued or remedied.

C. Upon any termination of this Agreement:

1. the Subscription terminates instantly;
2. the Customer must cease all activities authorized by the Agreement;
3. all amounts that the Licensor is entitled to be paid hereunder become due (save for amounts that already are);
4. the Customer must permanently erase all copies of the Software from the System, its other equipment, media and repositories;
5. those provisions hereof that either by express language or reasonable construction are intended to survive the termination of the Agreement shall so survive and will be enforceable notwithstanding the termination.

17. Assignment, other disposals

With regard to assignment, sub-licensing and other disposals, the Parties have agreed that:

A. The Customer shall not, without the Licensor's prior explicit consent, sublicense, assign, encumber or otherwise dispose of any of its rights or obligations hereunder, except that the Customer may, without seeking the Licensor's consent:

1. dispose of its financial claims, whose sole object is the payment of money to the Customer; and
2. assign the entire Agreement, all its rights and obligations hereunder, or cause the same to be transferred, as part of the Customer's general succession (including merger, acquisition and transformation), division, transfer of the enterprise (or a substantial, coherent part of the enterprise) to which the Agreement pertains or divestiture of all or substantially all of its assets as a whole;

B. The Licensor may:

1. sublicense, assign, encumber and otherwise dispose of any and all of its rights hereunder; and
2. assign this Agreement, all its rights and obligations hereunder, or cause the same to be transferred:
 - A. to its parent, any of its wholly- or majority-owned subsidiaries or a wholly- or majority-owned subsidiary of its parent; or
 - B. as part of the Licensor's general succession (including merger, acquisition and transformation), division, transfer of the enterprise or a part of the enterprise (e.g., a line of business or a part thereof) to which the Agreement pertains or divestiture of all or substantially all of its assets as a whole; or
 - C. where the Licensor is a person or entity other than Sardina, due to the Licensor ceasing to be a Sardina reseller (in which event the Agreement may be assigned to the appropriate successor, as appointed by Sardina or its relevant affiliate);

C. Where a Party's consent is required, it shall not be unreasonably withheld or delayed.

18. Notice

A. All notices hereunder shall be either personally delivered to the Party concerned or must be sent to the appropriate address or email address specified in the Purchase Order or to such other address or email address as the addressee Party may have designated by notice pursuant to this Agreement. For the avoidance of doubt, it shall be each Party's own responsibility to keep its contact information current.

19. Form

- A. This Agreement does not require a signature to be binding. By proceeding with a transaction (e.g., placing an order, using the Software, or making payment), the Customer acknowledges and agrees to the terms of this Agreement and the Seller's General Terms and Conditions (GTC), which is available upon request.
- B. Any transaction amending or terminating this Agreement must be made in writing or electronically (e.g. DocuSign) (the latter form shall suffice even if the Agreement itself has been executed in writing). The Parties acknowledge that in order for a transaction to be considered electronically made it must comply with the requirements of the applicable law.

C. The Parties have agreed that:

1. digital signature is equal to signature by handwriting, provided a legally compliant electronic signature is being used (e.g. DocuSign);

D. This Agreement and any transaction relating hereto, including any amendment or termination hereof, may be executed in counterparts.

E. Sardina's General Terms and Conditions govern the Customer's use of the Software and any related services. The Customer confirms acceptance of the General Terms and Conditions by engaging in any transaction relating to the Software or related services.

20. Law and jurisdiction

General provisions Miscellaneous

A. This Agreement and all matters relating hereto shall be governed by the laws of England and Wales. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

B. All disputes arising from or otherwise concerning this Agreement (including disputes concerning the formation or validity hereof) shall be resolved by the courts of England and Wales.

Sardina-specific provisions

C. All relations between Sardina and the Customer (regardless of the Licensor's identity) shall be governed by the laws of England and Wales. The United Nations Convention on Contracts for the International Sale of Goods does not apply to such relations.

D. All disputes between Sardina and the Customer shall be resolved by the courts of England and Wales. The Customer hereby irrevocably submits to the said jurisdiction and waives any and all objections it may have thereto.

E. Notwithstanding the foregoing:

1. Sardina shall be entitled to assert and seek protection of its Intellectual Property and rights concerning confidential information or data processing in any forum anywhere in the world (including by way of injunction and other preventive measures);
2. where Sardina is not the Licensor, it may, in its sole discretion, join any dispute between the Parties, regardless of venue and forum. For the avoidance of doubt, this Clause shall not be construed to enable the Customer or anyone else to bring any proceeding against Sardina outside the jurisdiction specified in Clause 20.D, nor does it constitute Sardina's consent to having any matter tried, arbitrated, mediated or otherwise resolved by any authority other than as specified in Clause 20.D. Miscellaneous

21. Miscellaneous

A. Each Party enters into this Agreement on its own behalf.

B. The Customer acknowledges that neither the Software nor the Support Services have been designed specifically for the Customer and that none of its specific needs or expectations may have been considered when developing the Software and the Support Services.

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- C. The Customer must comply with all laws and regulations, including all relevant export control provisions, that may apply to the handling of the Software, related information and/or any tangible medium containing the same, and, inter alia, must not export or re-export any of the foregoing, or permit such to be exported or re-exported, without the required authorizations and licenses.
- D. If the Customer is issued or creates any username or password in connection with the Software or the Support Services, it shall be responsible for:
1. maintaining the confidentiality of such username and password;
 2. any and all acts that may be performed by using such username or password; and
 3. any and all consequences of use or misuse of such username or password.
- E. The Customer agrees that Sardina may from time to time identify the Customer — with its name(s), logo(s) and/or trademark(s) — as a Sardina customer on Sardina's website, in its marketing materials, press releases and similar communications (all within reason). Sardina will not use any of the Customer's names, logos or trademarks for any other purpose without the Customer's prior consent.
- F. If any provision of this Agreement proves to be void by reason of it violating mandatory law, such provision shall be deemed to have been amended to one which is valid, achieves the purpose of the original provision as nearly as possible and maximally preserves the balance of obligations between those affected (the balance originally intended). The amendment shall be effective automatically as of the invalidity of the original provision (ex tunc, if applicable).

Annex 1. Software and Open source components

1. Software Package, including:
 1. Software Package, including:
 2. FishOS Deployer
 3. FishOS Workload Manager
 4. FishOS Health Manager
 5. FishOS Monitoring and Conditional Engine
 6. FishOS Move It
 7. FishOS Metrics Store
 8. FishOS Log Store
 9. FishOS Billing
 10. FishOS Cannery
 11. FishOS Upgrader
 12. AGREP
 13. Ansible
 14. OpenStack Aodh
 15. BIND
 16. CAdvisor
 17. CSync2
 18. Ceph
 19. DNSmasq
 20. Docker
 21. EDK2OVMF
 22. Galera
 23. OpenStack Grafana
 24. Grafana Tempo
 25. Grafana gnocchi datasource
 26. Grafana image renderer
 27. Grafana piechart panel
 28. Grafana reporter
 29. Grafana sensu datasource

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30. HAProxy
 31. OpenStack Horizon
 32. IPMI exporter
 33. Jaeger
 34. Keepalived
 35. Kubernetes
 36. LibVirt
 37. Loki
 38. MariaDB
 39. Memcached
 40. MinIO
 41. Nagios
 42. Nginx
 43. Node exporter
 44. OpenStack
 45. OpenTelemetry Collector
 46. OpenStack exporter
 47. Pacemaker
 48. Corosync
 49. Prometheus
 50. Promtail
 51. Promxy
 52. RabbitMQ
 53. Ranger
 54. Redis
 55. SENSU
 56. Systemd exporter
 57. UWSGI
 58. VictoriaMetrics
 59. etcd

SARDINA SOFTWARE MAINTENANCE AND SUPPORT

AGREEMENT

1. Interpretation

- A. All capitalized terms used in this document and not otherwise defined herein have the meanings ascribed to them in Sardina's end-user license and support terms (the Terms).
- B. The following words and phrases, when capitalized, have the meanings assigned to them below:
 - 1. "Company" means Sardina, or, if the Maintenance and Support Agreement is between the Customer and a Service Partner, then the respective Service Partner;
 - 2. "Documentation" means the current Product documentation (such as technical data sheets, product specifications and user guides) as published or provided by Sardina or the relevant Service Partner and, to the extent that a Product includes third-party items, the relevant third party;
 - 3. "Error" means a defect in the Product or a failure of the Product to operate as described in, or as reasonably can be expected based on, the Documentation. Software or Product peculiarities and matters which it would be appropriate to address by Software or Product development are not considered to be Errors;
 - 4. "GDPR" means, as applicable: a) Regulation (EU) 2016/679 (EU General Data Protection Regulation); or b) the UK General Data Protection Regulation as implemented by the UK Data Protection Act 2018.
 - 5. "Party" means each of the Customer and the Company (collectively, the "Parties");
 - 6. "Personal Data" means any data that qualifies as personal data as defined under the GDPR.
 - 7. "Product" means the Software in conjunction with OpenStack, as implemented for the Customer, or whose respective implementation on the System has been approved, by Sardina or a Service Partner;
 - 8. "Regular Maintenance" means the provision of such fixes, patches, updates, service packs and enhancements for Product components as Sardina generally makes available to its paying support customers;
 - 9. "Response Time" means the amount of time that elapses during Service Hours between the Customer's submission to the Company of a Support Request that allows the Company to start working on a Solution and the moment when the Company actually commences work on the Solution;
 - 10. "Service Hours" means the time during which Technical Support is made available to the Customer, as specified in the Purchase Order (either by reference to the applicable service level or by specifying the relevant hours);

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11. "Severity" means a measure of the impact that an Error has on the Customer's operations. There are four levels of Severity, from Severity 1 to Severity 4 (from the gravest impact to the lightest), as defined below;
12. "Severity 1" means the Customer's mission-critical system is down or substantially not functioning and (a) a considerable portion of the Customer's mission-critical data is at a significant risk of loss or corruption, or (b) the Customer's primary operations have been severely disrupted;
13. "Severity 2" means a major functionality of the Customer's production system is severely impaired, substantially affecting the Customer's primary operations;
14. "Severity 3" means a partial, non-critical loss of functionality in the Customer's system that has no major effect on the Customer's primary operations;
15. "Severity 4" means the Customer's operations are affected to a lesser extent than described under Severities 1 – 3;
16. "SLA" means the Service Level Agreement as defined in Annex A;
17. "Solution" means a solution to an Error, such as a workaround, technical assistance or data, repairing of software code or other appropriate Product maintenance;
18. "Support" means the Support Services referenced in the Terms, with the definition of "Support Services" amended to the following: "Product-related maintenance and support services that the Customer has purchased under the Agreement, as specified in the Purchase Order", and those provisions of the Terms that refer to Support Services being construed accordingly. Support comprises Regular Maintenance, Technical Support and access to such Product-related materials and communications as Sardina generally makes available to its paying support customers (e.g., Product FAQ pages, knowledge base articles, discussion forums and Support announcements), and is provided at the service level purchased. The level of service to which the Customer is entitled is specified in the Purchase Order, with service level particulars being provided in Annex A hereto;
19. "Support Request" means the Customer's request for a Solution;
20. "Technical Contact" means a qualified individual appointed by the Customer to serve as its technical contact person with regard to all matters concerning Support;
21. "Technical Support" means the provision of Solutions and basic Product-related consulting (such as assistance in understanding the functions and features of the Product, clarifications to the Documentation and reasonable guidance on how to use, install or uninstall the Product).
- C. In this document: (a) the words "herein", "hereto", "hereof", "hereunder", "hereby" and "herewith" refer to the Maintenance and Support Agreement; (b) words denoting a gender or genders are to be construed as referring to all genders appropriate in the context.
- D. To the extent that the Parties' relations concerning Support, the Software or other matters relevant hereto are not addressed by this Maintenance and Support Agreement the Terms shall apply respectively.

2. Support undertaking

- A. The Company undertakes that, during the Support Period, the Customer will be provided with Support at the service level purchased and further defined in Annex A.

3. Scope

- A. Support is only provided for the following releases of Product components:
1. the most current generally available release of the Software, being the most current major release generally available to Sardina's paying support customers (major releases being designated by the first digit in the product's version number, such as '3' in '3.1.1'); and
 2. (i) the last two releases of the relevant Open source component, or (ii) if the Product is built on a third-party distribution whose support lifecycle for production support is shorter than 12 months or covers fewer Open source component releases than specified in point (i), then such release(s) of the respective distribution as the relevant third party usually (under a standard support arrangement) supports in production.
- B. Earlier releases may be supported on a custom services basis (for an additional fee).
- C. Support does not include services or tools for upgrading any Product component to a more recent release or downgrading it to an earlier one. Upgrades and downgrades of Product components, where required or desirable, are additional to Support and will be charged to the Customer pursuant to Clause 7.A.2 herein.
- D. Third-Party software other than the Product's Open source component(s) is not the object of Support. Where the Product is provided in conjunction with third-party items, support for such items may be available from other parties, or under a separate agreement.
- E. If, in order to provide the Support, the Company processes Personal Data on behalf of the Customer and therefore qualifies as a processor pursuant to the GDPR, the Parties shall enter into a data processing agreement as set out in Annex B.

4. Exclusions

- A. Support does not cover, and the Company is not required to deal with, nor shall it be responsible for, any Error, problem or other matter caused by events, actions or circumstances not attributable to the Product or the Company, such as, for example:
1. improper implementation of a Product component (unless carried out by Sardina or a Service Partner);
 2. any modification or customization of a Product component not performed or approved by Sardina or a Service Partner;
 3. use of the Product in a manner inconsistent with the Documentation, the Agreement or any legal requirement applicable to Product use or handling, including any use other than normal end use;
 4. using the Product in conjunction with items not provided or approved by Sardina or a Service Partner (which approval may be apparent from the Documentation or be granted specifically to the Customer);

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5. use of third-party items in conjunction with the Product not in accordance with the respective manufacturers' specifications;
 6. using any release of a Product component other than those referenced in Clause 3.1 of this Maintenance and Support Agreement;
 7. anything attributable to hardware, Third-Party Software other than the Product's OpenStack component, other third-party items, or the Customer's own items.
- B. Matters excluded from the scope of Support may be addressed on a custom services basis (for an additional fee).
- C. Customized Product components may be subject to custom Support and certain provisions of this Maintenance and Support Agreement may not apply thereto.
5. Error handling
- A. All Support Requests should be submitted by a Technical Contact using such means of communication as specified in annex A.
- B. A Technical Contact must assign an appropriate Severity level to each Error and amend the same where the circumstances so warrant. An Error may also be reclassified by the Company, except that the Company may not downgrade an Error to a lower level of Severity unless a Technical Contact has consented thereto or has not responded to the Company's request for such consent within reasonable time.
- C. The Company will acknowledge its receipt of a Support Request, and, if additional information or clarifications are necessary, request the same, without delay.
- D. The Company shall comply with Response Times, as specified in annex A, and:
1. upon Severity 1 and Severity 2 Errors — provide the Customer with a Solution as soon as the circumstances reasonably permit;
 2. in the case of Severity 3 Errors — provide the Customer with a Solution within reasonable time;
 3. in the case of Severity 4 Errors — endeavor to provide the Customer with a Solution within reasonable time, or, at the Company's discretion, address the Error by Regular Maintenance in due course.
- E. If the Response Times as defined in Annex A are not met by the Company due to the Company's fault, the Customer shall be entitled to a reduction of Fee according the below schedule:
1. Amount calculated based on the formula $((\text{Number of hours of delay by the Company}) / 8766) \times (\text{Annual Support fee paid by the Customer})$
- F. The Customer acknowledges that the Company's duty to provide Solutions is an "obligation of means", not "of results". The Company will use all appropriate means and commercially reasonable efforts to provide the Customer with a Solution to each Error but it does not warrant that Solutions entirely neutralize Errors or are provided within the time desired.
- G. The Company's obligation to deal with Support Requests and provide Technical Support only applies during Service Hours.

6. Customer's responsibilities

- A. The Customer will ensure that its personnel and any third party whom it permits or causes to have access to the Product, Support or any item deployed in conjunction with the Product are properly trained in the use thereof, and is responsible for such persons' (as well as its own) use of the said items and benefits.
- B. The Customer is advised to: (a) maintain the System and its operating environment in good repair and, where the Documentation provides for system requirements or similar guidance, ensure that the same are complied with; (b) keep its Product up-to-date, implementing all relevant fixes, patches, updates, service packs, enhancements and upgrades in a timely manner; (c) register all its Software copies (where such service is available) and retain information evidencing its purchase of the License and Support.
- C. The Customer agrees to: (a) document all Errors it encounters in using the Product; (b) promptly report such Errors to the Company and provide it reasonably detailed information in connection therewith; (c) cooperate with the Company in diagnosing and recreating the respective Errors; (d) implement the Company's Solutions in a timely manner; and (e) reasonably facilitate the provision of Support.
- D. The Customer shall provide the Company with such access (including remote access) to the Product and the System as reasonably necessary for the provision of Support. Access must be granted without restriction as to the nationality, citizenship, place of residence and, in the case of remote access, the location of Support personnel, but may be subject to the respective personnel complying with such safeguards and protective policies as the Customer reasonably may require by law.
- E. The Customer must designate at least two Technical Contacts, one primary and one alternate, informing the Company of the respective appointments, all relevant contact details and any change thereof.
- F. A Technical Contact should: (a) have access to the Product and the System, and be competent with regard to both; (b) be available at any reasonable time to facilitate Technical Support and implement Solutions; and (c) have the authority to make Product and Support related technical decisions for the Customer.
- G. The Customer should ensure that all data stored, processed or in any way relying on the System is properly protected and backed up, and should verify the same before contacting the Company for Technical Support. Support does not include the Company's backing up, retrieval or restoration of Customer data and the Company shall not be liable for any data loss or corruption that may result from the provision of Support.
- H. The Customer must comply with all legal requirements, including all relevant export control provisions, that may apply to its purchase, use or enjoyment of Support, handling of any work product thereof, or sharing of Support or any such work product with its employees, contractors or other associates, and, inter alia, must not export or re-export any of the foregoing or permit such to be exported or re-exported without the required authorizations.

7. Later enrollment

- A. If the Customer (a) does not purchase Support concurrently with acquiring the License, or (b) having subscribed to Support causes its subscription to be terminated or suspended (e.g., by cancelling the subscription or causing it to be cancelled or being delinquent in paying support fees), and (c) later wishes to subscribe to or reinstate Support, then the following applies:

1. if any Product component is not eligible for Support (as determined under Clause 3.A), the Customer must move to an eligible release thereof;

2. where a Product component is to be upgraded to a more recent release and

A. the upgrade is from a major release other than that immediately preceding the target release (with 'target release' meaning the major release to which the component is to be upgraded), the respective upgrade will be treated as custom services and the Company will charge the Customer an ad hoc fee therefor;

B. the upgrade is from the major release immediately preceding the target release, the matter will usually be treated as a standard upgrade and the Customer must pay an upgrade fee as per the Company's then-current rates;

C. the required upgrade is within the same major release, Clause 7.A.2.B herein applies;

D. the respective Product component has been significantly customized or the upgrade itself non-standard Clause 7.A.2.A herein applies;

Note: unless otherwise specifically agreed, (a) where a Product component is to be upgraded in circumstances other than those described in the first paragraph of this Clause, points (A) – (D) shall apply, mutatis mutandis, (b) downgrades are always treated as custom services and will be charged on an ad hoc basis;

3. the Customer must pay the applicable support fees for the desired Support Period.

B. The duration of the Support Period, renewals/extensions thereof and the Customer's payment for Support, including the relevant billing cycle, shall be as specified in the Terms.

8. Rights

A. All Intellectual Property embodied in or otherwise pertaining to the following shall belong to Sardina: (a) the Software; (b) Software documentation; (c) other Software-related materials provided to the Customer hereunder; (d) any item or benefit delivered as part of Regular Maintenance; (e) any change that is made to Software code as part of a Solution or to facilitate a Solution; (f) any other modification to the Software hereunder. For the avoidance of doubt, this Clause 8.A does not provide for any warranties and shall not be construed as an undertaking in favor of the Customer.

B. Except as otherwise provided in Clause 8.A herein, and without prejudice to Sardina's rights thereunder, as between the Parties, any Intellectual Property that may be created by the Company's provision of Technical Support shall belong to the Company.

C. To the extent that the Company's provision of Technical Support results in the creation of work products for the Customer (such as, e.g., Software settings, workarounds, data, Software-related knowledge or items containing such knowledge), and subject to the Customer having paid the applicable support fees, the Customer shall be deemed to have been granted, for the remaining License Term, a limited, non-exclusive right to use such work products for their intended purpose to the same extent that the Customer is permitted to use the Software under the License. The license granted under this Clause 8.C is: (a) non-transferable, save if and to the extent that the Terms permit the Customer to assign the entire Agreement (upon such assignment, the license will be transferred as part of the Agreement); and (b) in all respects contingent on the License.

9. Warranties

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- A. The Company warrants that: (a) its employees and contractors possess the skills and experience required for the proper execution of the Company's duties hereunder; (b) Support will be provided with no less than a reasonable degree of care and in accordance with the standards generally associated with organizations comparable to the Company providing services similar to Support; (c) it will comply in all material respects with all legal requirements applicable to the Company's execution of its duties hereunder; (d) if the Company is a person or entity other than Sardina — it is a duly authorized Service Partner.
 - B. In case of a breach of warranty pursuant to Clause 9.A, the Company shall commence the remedy within the guaranteed Response Times set out in Annex A, where applicable, and remedy the breach within a reasonable period of time taking into account the circumstances. If the defect is not or cannot be remedied by the Company, the Customer shall be entitled to a reduction of the Fees or, if the Customer is prevented from using the Software in a reasonable manner, the refund of the Fees.
 - C. Any warranty of the Company not expressly stated herein shall be deemed withheld. The Company disclaims, to the fullest extent permitted under the applicable law, all statutory warranties and course of performance, course of dealing and usage related licensees', buyers', lessees' and users' expectations.

10. Liability

- A. All limitations set forth in the Terms as concerns the Licensor's liability shall also apply to the liability of the Company (all respective limitations are hereby transposed into the Maintenance and Support Agreement, with the term "Licensor" being replaced by "Company" and, where the term "Party" refers to the Licensor, it being construed as referring to the Company).
- B. Notwithstanding anything in the Terms to the contrary, the Company's total cumulative liability arising out of, related to, or in connection with Support, the Maintenance and Support Agreement, or any matter governed by the Maintenance and Support Agreement, shall not exceed the aggregate of all support fees (exclusive of value added and sales taxes and other public burdens) disbursed by the Customer hereunder during the 12 months immediately preceding the month in which the event giving rise to liability occurred.
- C. For the avoidance of doubt, the Company's liability for Support-related matters or any other matter governed by or related to the Maintenance and Support Agreement is not complementary to or joint with the Licensor's liability (or the liability of Sardina) under the End User License but in place thereof.
- D. The Customer agrees that, if the Company is a person or entity other than Sardina, then: (a) Sardina has no liability hereunder; (b) Sardina's liability, however arising, regardless of jurisdiction and the law applicable, and without prejudice to any other defense available to Sardina, is limited as provided in the Terms; (c) Sardina may rely on and enforce this Clause 10 as a third-party beneficiary.

11. Termination

- A. Support is contingent on the License remaining in force. Should the Customer's rights with respect to the Product be terminated or suspended so shall its rights in connection with Support.
- B. Without prejudice to Clause 11.A herein, the Customer's subscription to Support may be terminated: (a) by terminating the Agreement; or (b) as may otherwise be provided under the Terms.

12. Miscellaneous

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- A. Where Sardina and the Company are not the same person, the Parties acknowledge that certain provisions herein are intended to protect or benefit Sardina (which purpose may not always be explicitly stated in such provisions), and agree that Sardina may rely on and enforce such provisions without any further consent of or acknowledgement by either Party.
 - B. Unless otherwise agreed, any renewal or extension of the Customer's Support subscription shall, without it requiring any further consent of or acknowledgement by either Party, cause this Maintenance and Support Agreement to be replaced by the then-current Sardina maintenance and support policy for the Product (as then provided or referenced by the Company and thenceforth deemed to be the "Maintenance and Support Agreement").
 - C. Governing law and jurisdiction are as specified in the End User License.

Annex A. Service Level

Support feature / Service level	Basic support	Premium support
Service Hours	0900 – 1700 CET, Monday – Friday, excluding any public holidays as published by the Government of Netherlands (see Note 1 below)	Outside of Basic support Service Hours (see Note 1 below)
Submission of Support Requests	Telephone / email (see Note 2 below)	Telephone / email (see Note 2 below)
Response method	Telephone / email	Telephone / email
Response Times	Severity 1 Errors: 6 hours Severity 2 Errors: 12 hours Severity 3 Errors: 24 hours Severity 4 Errors: work on a Solution will commence in due course	Severity 1 Errors: 2 hours Severity 2 Errors: 3 hours Severity 3 Errors: 4 hours Severity 4 Errors: work on a Solution will commence in due course In case where Solution may not be found within 8 hours following the ticket, it would subsequently be handled as per Basic support as may be applicable.

Note 1: Unless otherwise specified in the Purchase Order.

Note 2: Support Requests are accepted on the following telephone numbers and email addresses:

Country/region	Telephone number	Email address
Europe/Rest of World	+49 175 333 9613	support@sardinasystems.com
Americas	+1 312 224 8011	support@sardinasystems.com

PURCHASE ORDER

Dates

Effective Date
Commencement Date

Licensor/Support Entity

Name	Sardina Systems BV
Domicile	Kingdom of the Netherlands
Registration no. (KVK)	94913641
VAT/Tax ID no.	866934649
Address	Strawinskylaan 903, Tower 5, WTC, 1077XX Amsterdam, The Netherlands
Email	info@sardinasystems.com
Telephone	+491753339613
Representative	
Technical contact	Kenneth Tan, Executive Director

Customer

Name
Domicile
Registration no.
VAT/Tax ID no.
Address
Email
Telephone
Representative
Technical contact

Service Partner/Reseller

Name
Domicile

Registration no.

VAT/Tax ID no.

Address

Email

Telephone

Representative

Technical contact

Customer's System

Description

Location

Software and Services Ordered (Provided by Licensor/Support Entity)

Software

Sardina FishOS

Third-party software

No. of VMs permitted

Licensed no of Cores

License term

[Insert license term, eg: [1 year from the commencement date (specified above)]] [An initial 5 years from the commencement date (specified above), yearly beyond the initial 5-year term]]

Support services

Basic support as per the Maintenance and Support Agreement (service level: Basic support)

Support period

Aligned with the license term

Service hours

As specified in Annex A to the Maintenance and Support Agreement (under "Basic support")

Other information

Hardware support according to warranty terms

Additional Software and Services Ordered (Provided by Service Partner/Reseller)

Services

Other information

Hardware

Hardware	[insert info on Controller (Short description)]
Hardware	[insert info on Compute (Short description)]
Hardware	[insert info on Storage (Short description)]
Hardware	[insert info on Deployer (Short description)]
Hardware	[insert info on Balancer (Short description)]
Hardware	[insert info about networking equipment, cables, rack, stock of spares, etc, as may be applicable]
Total no. of servers	
Hardware warranty	[insert amount of Years and material conditions]
Hardware services	[In case of necessity of specified services]

License and Support Terms

EULA	The parties' agreement is not complete without Sardina End-User License and Support Terms, which, if not enclosed herewith, are available on request. The terms mentioned in the preceding sentence are a vital part of the contract between the parties, explaining the language used in this Purchase Order and setting forth the parties' rights and obligations with regard to the software and services ordered.
SLA	Sardina FishOS Maintenance and Support Policy. The notes under "EULA" apply.

Commercial Terms (Payable by Customer to Licensor/Support Entity or Service Partner, as may be applicable)

Integrated solution fee	[Insert amount, eg: EUR 0]
Billing cycle (Integrated solution)	[Insert billing cycle, eg: One-off upfront payment for 5-year term, inclusive of Hardware, Hardware warranty, Software, Support and Upgrade support (2x per year entitlement, without any roll-over beyond each year) for the 5-year term.]
License and Support fee	[Insert amount, eg: EUR 0]
Billing cycle (License and Support)	[Insert billing cycle, eg: Yearly]
Upgrade fee	[Insert amount, eg: EUR 0]
Billing cycle (Upgrade)	[Insert billing cycle, eg: Yearly]
Taxes	All fees are exclusive of VAT, sales tax, export/import duties and other public burdens
Payment method	Wire transfer

Other information

License and Support Terms

EULA

The parties' agreement is not complete without Sardina End-User License and Support Terms, which, if not enclosed herewith, are available on request. The terms mentioned in the preceding sentence are a vital part of the contract between the parties, explaining the language used in this Purchase Order and setting forth the parties' rights and obligations with regard to the software and services ordered.

SLA

Sardina FishOS Maintenance and Support Policy. The notes under "EULA" apply.

Signature:

Signature:

Signature:

For: Licenser

For: Support entity

For: Customer

By: above representative

By: above representative

By: above representative

Commercial Terms (Payable by Service Partner to Licensor)

Integrated solution fee	[Insert amount, eg: EUR 0]
Billing cycle (Integrated solution)	[One-off upfront payment for 5-year term, inclusive of Hardware, Hardware warranty, Software, Support and Upgrade support (2x per year entitlement, without any roll-over beyond each year) for the 5-year term.]
License fee	[Insert amount, eg: EUR 0]
Billing cycle (license)	[Insert billing cycle, eg: Yearly, beyond the initial 5-year term mentioned above.]
Support fee	[Insert amount, eg: EUR 0]
Billing cycle (support)	[Insert billing cycle, eg: Yearly, beyond the initial 5-year term mentioned above.]
Taxes	All fees are exclusive of VAT, sales tax, export/import duties and other public burdens
Payment method	Wire transfer
Other information	[Insert info, eg: Upgrade support (2x per year entitlement) charges of EUR 0]

Signature:

Signature:

For: Licensor

By: above representative

For: Service Partner/Reseller

By: above representative

Annex B. Data Processing Agreement

[If applicable]

End of the text on this Annex