

SOFTWARE SUPPORT POLICY

Updated: May 1, 2020

Overview

This Descartes Software Support Policy (the "Software Support Policy") shall apply to any Software License Agreement, Order Form, or other similar such ordering document (each, an "Agreement") between The Descartes Systems Group Inc. or one of its' subsidiaries or affiliates ("Descartes") and Customer (as such term is defined in the Agreement) that references this Software Support Policy and incorporates it by reference. By entering into the Agreement with Descartes that incorporates the Software Support Policy, Customer acknowledges that this Software Support Policy shall apply to the provision of Descartes Software under that Agreement. In the event of any inconsistency between the Software Support Policy and the terms and conditions of any Agreement, the terms and conditions of the Agreement shall govern to the extent of that inconsistency. The Software Support Policy is subject to change at Descartes' discretion. Capitalized terms that are not otherwise defined in the Software Support Policy shall have the meaning ascribed to such terms in the Agreement or Master Terms, as applicable.

1. Descartes Software Licensing Models.

Descartes licenses the Descartes Software in one of two ways – either on a perpetual or term basis – as set out in the Agreement under which the Descartes Software is licensed. A perpetual license to Descartes Software grants to Customer the right to use the Descartes Software for as long the Customer continues to comply with the Agreement under which the Descartes Software is provided. A term based license to Descartes Software grants to Customer the right to use Descartes Software for the specific term of the Agreement provided that Customer continues to comply with the Agreement under which the Descartes Software is provided. The model in which Descartes Software is licensed is at Descartes' sole discretion and Descartes has no obligation to license Descartes Software on a perpetual or term basis.

2. Perpetual Descartes Software Licenses.

For Descartes Software that is licensed to the Customer on a perpetual basis, maintenance and support services are provided under the Descartes Software Maintenance Program ("SMP"), which is subject to the payment of the Maintenance Fees as set out in the Agreement.

2.1 Maintenance Fees and Software Maintenance Program Period.

- 2.1.1 Subject to payment of the Maintenance Fees, for each twelve (12) month period of the initial term of the Agreement commencing on the Effective Date of the Agreement (the "Initial SMP Period") Descartes shall provide Customer with the SMP services included and described in this Software Support Policy for the Descartes Software licensed by Descartes to Customer under the Agreement.
- 2.1.2 Customer shall be automatically re-enrolled in the SMP for consecutive twelve (12) month periods (each, a "Renewal SMP Period") on each anniversary date of the date of commencement of the Initial SMP Period at Descartes' then applicable fees (the "Renewal Fees"), unless either Descartes or Customer delivers to the other written notice of cancellation of the SMP no later than thirty (30) days prior to the commencement of such Renewal SMP Period.
- 2.1.3 Prior to the commencement of a Renewal SMP Period, Descartes shall advise Customer of the fee payable for the next Renewal SMP Period, which Fee shall be due and payable in accordance with the Agreement. Failing such notice by Descartes, the fee for the next Renewal SMP Period shall be the same amount as the Fee for the then current SMP period.
- 2.1.4 In the event that Customer is licensing Descartes Software on a perpetual basis and has allowed its SMP to lapse or has cancelled its SMP under the Agreement, and Customer then wants to renew its SMP under that Agreement, Customer shall be required to pay all Renewal Fees applicable to such lapse period plus an administrative charge equal to thirty-five percent (35%) of the then current Renewal Fees.
- 2.1.5 For clarity, cancellation of the SMP for Descartes Software where the Descartes Software is licensed on a perpetual basis under the Agreement shall not in any way act as a termination of the Agreement.

3. Term Based Descartes Software Licenses.

For Descartes Software that is licensed to Customer on a term basis, maintenance and support services are also provided under the SMP; however, the SMP is included as a part of the Fees for the term based license to the Descartes Software during the term of the Agreement and consequently there are no additional SMP Fees and no requirement to enroll in or ability to cancel the SMP.

4. Software Maintenance Program.

4.1. **Included in the SMP.** The SMP shall consist of:

- 4.1.1. **Correction of Defects.** Should any component of the Descartes Software fail to perform substantially in accordance with the Documentation, Descartes' sole obligation shall be, at Descartes' option, to use reasonable commercial efforts to: (i) correct the defect by bringing the performance of the Descartes Software into substantial conformity with the Documentation; or (ii) replace the defective component of the Descartes Software. For clarity, any installation of any replacement Descartes Software provided by Descartes shall be the responsibility of Customer unless otherwise agreed in writing between the parties. Descartes' obligation to correct defects shall not apply: (a) if the Descartes Software is not used in accordance with the Documentation and/or in conjunction with a hardware configuration not approved or required by Descartes; (b) to the extent that the defect is caused by or is contributed to by Customer; (c) if the Descartes Software has been modified by any person other than Descartes; (d) if the Descartes Software has not been strictly maintained since installation in accordance with the Documentation and Descartes' standards and specifications; or (e) if Customer does not provide access, including remote access, to the Descartes Software as reasonably required by Descartes.
- 4.1.2. **New Releases.** Descartes shall provide to Customer new releases of Descartes Software as they become available (but Descartes shall be under no obligation to develop new releases of any Descartes Software).
- 4.1.3. **Documentation.** To the extent necessary, Documentation will be updated and release notes, if applicable, will be shipped with each new release of the Descartes Software. Additional copies of Documentation are also available directly from Descartes at an additional charge.
- 4.1.4. **Customer Contacts.** The Customer's technical contacts are the liaison between the Customer and Descartes support for the SMP services. As such, the Customer's technical contacts must have reasonable knowledge about the Descartes Software in order to resolve issues and/or to assist Descartes in analyzing and resolving issues with the Descartes Software. When submitting a request for SMP services, the Customer's technical contact must have a baseline understanding of the issues in relation to the incident and the ability to reproduce the incident in order to assist Descartes in its diagnosis and potential resolution.
- 4.1.5. **Support Hours and Levels.** Descartes shall make available to Customer SMP services via the Support Portal (<https://servicedesk.descartes.com>) or by email (servicedesk@descartes.com) or, for critical incidents, by telephone (within North America +1-877-786-9339 and outside North America +800-786-3990) ("First Level Support") for the Descartes Software. First Level Support shall be the initial point of contact and response for addressing Customer incidents and will be offered in accordance with one (1) of two (2) options.
- (i) **Business Hours Support**
Excluding local statutory or civic holidays, First Level Support will be offered from Monday to Friday between the hours of 8:00 AM and 6:00 PM for the specified regions in accordance with the specified time zones: (i) North America – Eastern Standard Time; (ii) EMEA – Central European Time; and (iii) APAC – Hong Kong Time.
- (ii) **24x7 Support**
If expressly contracted for under an Agreement, and subject to the applicable fees, Customers may receive 24x7 First Level Support, 24 hours a day, 7 days a week, inclusive of local statutory or civic holidays for Priority Level 1 incidents only.
- 4.1.6. **Scope of Support.** Without limiting the generality of the foregoing, Descartes' obligation to provide the SMP services hereunder shall be limited to the use of reasonable commercial efforts to correct any errors in the Descartes Software of which Descartes has notice, or to use reasonable commercial efforts to provide "work-around" solutions with respect to any errors in the Descartes Software of which Descartes has notice, or to answer questions regarding the Descartes Software. Descartes reserves the right to reject providing SMP services for any Descartes Software which has not been on continuous support under the SMP where the Customer is licensing the Descartes Software on a perpetual basis or has been repaired, modified or altered by any party other than Descartes. Descartes is only obligated under the SMP to support the most current generally available version and the immediately preceding version of the Descartes Software. Any decision by Descartes to provide support on any other versions is solely at the discretion of Descartes and may be discontinued at any time.

4.2 Disbursements. If Descartes is required to attend at Customer's site to provide SMP services, then Customer shall pay Descartes' expenses associated with travel, accommodation and meals for such attendance. In addition, time spent by Descartes' personnel in delivering SMP services at Customer's site will be billable to

Customer if the particular problem reported by Customer proves in fact to be a problem not attributable to the Descartes Software (including hardware and operating system problem), or if, at Customer's request, Descartes corrects a defect of any software other than the Descartes Software.

4.3 Excluded From SMP. The SMP shall not include:

4.4.1 **Hardware.** Technical support for hardware items including, but not limited to, the following list:

- general hardware and related equipment;
- hand held terminals;
- network support;
- disk space related failures;
- resource (power) related failures.

4.4.2 **Third Party Software.** Third Party Software support and assistance to consult, configure or support Third Party Software or interfaces to such Third Party Software.

4.3.3 **Billing.** To the extent that Descartes in its sole discretion decides to provide technical support services not covered by the SMP such support will be progress-billed by Descartes on a time and material basis at Descartes then current hourly professional services rates.

5. System Upgrades. All costs in connection with any system upgrade required to meet the specifications of the Descartes Software or any new release shall be the sole responsibility of the Customer.

6. Support Procedures. Descartes shall follow the following procedures in the delivery of SMP services to the Customer.

6.1 **Response and Resolution Times** All communications to report an incident in the operation of the Descartes Software will be made to First Level Support and will be addressed immediately or shall receive a return email or call within thirty (30) minutes of the original communication. Descartes will gather such information from Customer as may be necessary to assess or replicate the reported incident and to determine whether the reported incident is a Priority Level 1, 2, 3 or 4. Descartes' targeted resolution times for any reported incidents arising in connection within the operation of the Descartes Software are set out below. The commitment for incident management responses is determined from the time of the initial notification to Descartes during the business hours set forth in Section 4.1.5 above, which can be accomplished through systems alerts, portal, e-mail, telephone or entry of a call into the Descartes' Incident Tracking System. For the purposes of these response times, incident priority levels are defined as follows

- **"Priority Level 1 - Urgent/Critical"** is an incident in the operation of the Descartes Software, which causes the destruction or corruption of Customer data or otherwise results in the Descartes Software being totally unavailable for use or access by a Permitted User in connection with mission-critical business processes with no immediately available workaround.
- **"Priority Level 2 - High"** is an incident in the operation of the Descartes Software, which causes performance issues which adversely affect the normal business operations of Permitted Users but for which there may be a temporary workaround.
- **"Priority Level 3 - Medium"** is an incident in the operation of the Descartes Services, which does not have an immediate adverse impact on the business operations of Permitted Users.
- **"Priority Level 4 - Low"** is a question(s) or request(s) for information in relation to the Descartes Software.

6.2 Incident Resolution Services Times.

6.2.1 **Target Resolution Time.** Descartes will target to Resolve a reported incident within the following time frames, where "Resolve" means that the reported incident has been rectified or that the cause of the incident has been identified, a workaround has been put in place and/or change request has been escalated above First Level Support to fix the incident:

- Priority Level 1 - 12 hours
- Priority Level 2 - 48 hours
- Priority Level 3 - 5 days
- Priority Level 4 - Addressed in upgrade to future release

6.2.2 Reporting. On request, Descartes will provide a report within five (5) business days setting out the number of incidents reported by Customer and the elapsed time from confirmation by Descartes of sufficient information to identify that there is an incident to the time the incident is Resolved.

7. Discontinued Support.

It may become necessary as a part of the Descartes Software product lifecycle to discontinue support on certain Descartes Software releases (including any embedded Third Party Software for which support has been retired by the manufacturer or vendor of such programs for which, in Descartes' good faith determination, it is no longer practicable for Descartes to support) and Descartes reserves such right in its sole discretion. In the event that Descartes determines to discontinue support on any Descartes Software release, Descartes will provide a minimum of 180 days prior notice to all customers then currently enrolled for support on that release with instructions for how to migrate to a supported version or other alternative solution, in each case if applicable.

[End of policy.]