

Bugfender Software License Terms and Conditions

These License Terms and Conditions sets forth the terms and conditions under which Beenario licenses the Software specified on the Purchase Order to the designated Customer and govern the provision of related Services by Beenario to the Customer.

1. Definitions. Unless otherwise defined, capitalized terms shall have the meanings ascribed below:

- a. **"Application Data"** or **"Data"** means all data, regardless of format or owner, incorporated or provided by Customer to Beenario or identified to be incorporated to the Software, or in any other manner sent or transferred by Customer or on its behalf to Beenario or processed by Customer.
- b. **"Documentation"** means any technical and other user written information prepared and owned by Beenario that accompanies computer software or is embedded in the source code explaining the software operates or how to use it.
- c. **"Private Instance"** (Bugfender On-Premise Private Cloud service) means a private cloud infrastructure services contracted by Beenario for installing and running the Software for Customer, and made available to Customer through remote access in a separated instance.
- d. **"Server"** means the computer system that hosts the Software, that will be generally referred to the Customer's own computer systems.
- e. **"Services"** means support and maintenance services on the Software.
- f. **"Purchase Order"**: document accepted by both parties, attached hereto or via web form or otherwise exchanged between the Parties, setting out the scope, price and other particulars of the Agreement.
- g. **"Software"** Beenario's proprietary Bugfender technology platform identified in the Purchase Order licensed to the Customer for installation and use on-premise or in Private Instance.

2. License and Scope. Subject to Customer's compliance with the terms of this Agreement, Beenario grants to Customer, during each Purchase Order term, a worldwide a non-exclusive, non-transferable license, without a right of sublicense, to install and use the, only in machine readable object format, and to access and use the Documentation and any associated data and information listed on the Purchase Order, solely for the Customer's own internal business purposes, including the purpose of debugging, monitoring, developing and operating the Customer App, and to include features of the Software in Customer Apps and distribute these Apps to End Users, and for the term provided for on the Purchase Order.

Customer may not (and may not permit any third party to): (i) modify, incorporate or use in any other works, translate, reverse engineer (except to the limited extent applicable statutory law expressly prohibits reverse engineering restrictions), decompile, disassemble, otherwise attempt to derive source code from or create derivative works based on the Software or Documentation; (ii) make unauthorized copies of the Software or Documentation; (iii) disclose, distribute, transfer or market the Software or Documentation to third parties; (iv) remove or modify any proprietary notices, labels or marks on or in any copy of the Products; (v) distribute, sell, sublicense, rent, lease or use the Software or Documentation (or any portion thereof) for time sharing, hosting, service provider or other computer services to third parties or otherwise make the functionality of the Software available to third parties; (vi) use the Software or Documentation or reports generated by the Software for providing services to

third parties; or (vii) otherwise use the Software or Documentation other than as permitted herein. Notwithstanding anything to the contrary in this Agreement, Customer may allow a third party to use the Software or Documentation for Customer's own internal business purposes, provided that such party is subject to the license terms and restrictions on use of the Software or Documentation and the confidentiality provisions set forth in this Agreement. Customer shall be responsible for the acts or omissions of such party as if such acts or omissions were committed by the Customer.

- 3. Private Instance.** Bugfender On-Premise Private Cloud service consists of a managed installation of the software on the data center chosen by the Customer and keeping data on a separate instance exclusively for Customer. This service includes installation of a Bugfender cluster of Customer's own, software updates and system administration for installation of software updates, operating system security patches, backups and monitoring. The provision of Private Instance hosting service is included in the price jointly with software license, unless otherwise determined in the Purchase Order. Customer may migrate at any time to full On-Premise. For the Private Instance license, parties must sign a data processing agreement to regulate the accessing.
- 4. Provisioning.** Upon acceptance of this Agreement, the Software will be provisioned by Beenario within 2 business days of the date of the Purchase Order. Upon execution of this Agreement, Beenario shall furnish Customer one (1) full set of Documentation. Customer may duplicate the Documentation associated with the Software for internal use only, provided all proprietary markings and legends are retained on the duplicated copies. The Documentation and all copies thereof shall remain the sole property of Beenario. Customer will be responsible for obtaining and installing all proper hardware and support software (including operating systems) and for proper installation of Software.
- 5. Customer's Obligations.** Customer is responsible for all and any activity carried out through use of Software and Services and all Data introduced and otherwise processed in the Service, and must comply with the provision of these Agreement, all third-party rights, and all applicable local, state-wide, national or international laws, treaties and regulations related to the use of the Service, including without limitation uses related with data privacy, international communications and transmission of technical or personal data.
- 6. Services.** Beenario will provide Customer with the enhancements, improvements and updates to the Software published during the term of the license. Beenario will attempt to correct any material errors or malfunctions or other nonconformities in the Software for the maintenance term and in accordance with the level of technical support on an 8x5 basis, unless otherwise indicated in the proposal. If Customer notifies Beenario of an error or malfunction which, after investigation by Beenario or Customer, is determined to have been caused by computer malfunction, or by a change not made by Beenario, or by incorrect data or procedures used by the Customer, Beenario may charge Customer, at rates to be agreed between the parties, for all services rendered by Beenario in remedying such non conformity. Customer agrees to provide details sufficient to diagnose or reproduce said failure in its requests for support.
- 7. Term.** Each Purchase Order is effective as of its Effective Date and will remain in effect for the period set out in the Purchase Order unless terminated early in accordance with clause 8. To renew the Purchase Order a new proposal and confirmation will be required.
- 8. Termination.** Customer may terminate this Agreement and stop using the Software at any time and for any or no reason. Upon such termination, Customer will not be entitled to receive (and Beenario has no obligation to provide) any refund of or credit for any fees paid prior to such termination. Either party may also immediately terminate this Agreement if the other party is in material, persistent or continuing

breach of any of its obligations under the terms of this Agreement and, where such breach is remediable, fails to remedy such breach within thirty (30) days of written notice to do so. Except as stated, any monies due by the Customer to Beenario at the date of termination shall not be affected by termination.

Upon the termination of this Agreement, Customer shall immediately return or, if instructed by Beenario, destroy all copies of the Software in its possession or control. Customer no longer has any of the rights granted herein. The obligations of the parties under this Agreement that by their nature would continue beyond expiration or termination of this Agreement and any liabilities that have accrued prior to termination or expiration will survive any such expiration or termination, and each party will retain any and all rights that it may have under applicable law, including but not limited to the provisions regarding Intellectual Property, Limitation of Liability and Confidentiality.

- 9. Payment and pricing terms.** Customer shall pay Beenario the fees set out in the Purchase Order in the manner provided therein. All fees are non-refundable once paid and are subject to change year-to-year. Fees shall be paid in advance, prior to the Effective Date set out in the Purchase Order.

Unless otherwise provided for in the Purchase Order, that license fee includes maintenance services for one (1) year. After that, Customer may retain the Software and maintenance services may be renewed for similar annual periods. If Customer elects to cancel or not renew maintenance services, Customer will lose all rights to receive new release and support for the Software. Customer may reinstate maintenance by paying all monies that would have been due for maintenance had Customer not cancelled maintenance.

- 10. Ownership.** Except for the limited rights expressly granted herein, neither party transfers to the other party any rights or interest in any Service or Software nor any Application Data, and all right, title and interest in and to the same including any intellectual property rights therein, remains the sole property of the respective owner. The Software includes open source components, which are licensed for use and distribution by Beenario under applicable open source licenses. Use of these open source components listed below is governed by and subject to the terms and conditions of the applicable open source licenses. The terms of the open source components licenses if any prevail over these Agreement with respect to the use of those components only. See Documentation for full list.

- 11. Data Protection.** The Software allows the Customer to create its database and enter its own documents and information, which belong to and are the sole responsibility of the Customer. The Customer will be the one considered processor of the personal data incorporated in the Licensed Product.

For the Private Instance version, Beenario provides software services in cloud computing mode and has subcontracted part of the same with certain hosting service providers, with whom it has formalized the corresponding agreement regarding confidentiality and processing of data on behalf of Customer. In the event of contracting this version, the corresponding Data Processing Agreement applies to the processing of any personal data in the course of the execution of this Agreement.

The signatories and contact persons of each party are informed that their data will be processed by the other party for the management and execution of this Agreement. They may exercise their rights of access, rectification, deletion, limitation, opposition and portability by sending a request to the addresses of the respective party, as well as to file a complaint with the supervisory authority. The Parties shall not communicate these data to any third party, except with the prior authorization of the interested party or to the extent necessary for the execution of the Agreement. The parties will keep

these data of the signatories and the employees while the present Agreement is in force and, in any case, until the prescription of responsibilities generated by this relationship.

12. Confidentiality. Each Party may supply to the other confidential information, including prices, business plans, customer data, financial data and any other information, in any form or medium, that the Party designates as confidential or which reasonable party would understand to be confidential under the circumstances. The confidential information will be kept confidential by the receiving Party using the same standard of care that the receiving party uses to protect its own information of a similar nature and will not be used by the receiving party outside the scope of this Agreement. Confidential information does not include information that: (i) is known to the receiving party prior to its receipt from the disclosing Party by means that are not in violation hereof; (ii) becomes known (independently of disclosure by the disclosing party) to the receiving Party from a source other than one having an obligation of confidentiality to the disclosing party; (iii) becomes known and generally available to the public or otherwise ceases to be confidential, except through a breach of this agreement by the receiving party; (iv) is independently developed by the receiving Party without use of or reference to the Confidential Information of the disclosing party, or (v) is required to be disclosed by subpoena, law, regulation, or court order. Each Party agrees that it will not use in any way, for its own account or the account of any third-party, except as expressly permitted by, or to the limited extent required to achieve the purposes of, this agreement, nor disclose to any third-party, any Confidential Information of the other Party. The parties agree the confidential information shall remain the property of the original owner. Upon notice from the disclosing party and at termination, the receiving Party will return to the disclosing party any requested confidential information. Any information not returned will remain subject to this provision.

13. Warranties and disclaimers. Each Party represents and warrants to the other that it has full power and authority to enter into this Agreement and the Agreement does not breach any current legal or contractual obligation of that party. Beenario warrants that during the duration of the Services, the Software will conform in all material respects to the Documentation supplied to Customer. This warranty shall not apply if (i) an item of Software was not used in accordance with Beenario's instruction; (ii) an item of Software shall have been altered, modified or converted by Customer without Beenario's written approval; or (iii) any of Customer's equipment shall malfunction causing the defect in Software. Beenario also warrants that the Software provided by it in accordance with these Agreement, provided Customer's compliance, will not violate any applicable law, rule or regulation, breach an agreement with, or infringe the copyright or other intellectual property rights of, a third party. Except as expressly indicated, the Software and Services are provided "AS IS" and Customer's use of the Software is at Customer's sole risk. EXCEPT AS EXPRESSLY SET OUT HERE, OR REQUIRED BY APPLICABLE LAW, BEENARIO DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE. BEENARIO DOES NOT WARRANT THAT USE OF THE SOFTWARE OR PROVISION OF THE SERVICES WILL BE ERROR FREE OR UNINTERRUPTED AT ALL TIMES.

14. Limitation of liability. Unless otherwise stated, to the maximum extent permitted by applicable law, neither party shall be liable or responsible to the other for any indirect or consequential damages, including, but not limited to, lost revenue, lost profits, loss of data or business information, whether arising under contract, tort (including negligence), strict liability or otherwise. Beenario is not liable for any Customer use of the Software, third party services contracted by Customer, or any other services that breach third party rights or applicable law. Nothing herein constitutes a waiver of any unpaid or past due amounts owed by Customer for purchase commitments and/or services rendered. Without

limiting the foregoing, unless otherwise stated, Beenario's liability under this Agreement shall be limited to the direct damages and shall not exceed an amount equal to the license fee paid by Customer for the Software.

- 15. Indemnification.** Customer agrees to indemnify and defend Beenario and its officers, employees and agents against any and all claims (including administrative or third-party actions), liabilities, costs, damages, reasonable costs and expenses, including reasonable attorneys' fees, relating to or arising from breach by Customer of this Agreement.

16. Miscellaneous

- a. **Independent Contractors.** Beenario and Customer are independent contractors and this agreement does not establish any relationship of partnership, joint venture, or agency between Beenario and Customer.
- b. **Assignment.** The Parties shall not, without the other party's prior written consent, assign, sublicense, or otherwise dispose of the whole or any part of this Agreement, except that the Agreement may be assigned to any member of the Parties' corporate group in the event of corporate reorganization.
- c. **No Waiver.** Neither party's waiver of the breach of any provision shall constitute a waiver of that provision in that or any other instance. This Agreement may not be modified nor any rights under it waived, in whole or in part, except in writing, signed by both Parties.
- d. **Notice.** Any notice or other formal communication required to be given hereunder ("Notice") shall be in writing, signed by or on behalf of the Party giving it and may be served by sending it by courier, delivering it by hand or sending it by first class post to the address and for the attention of the relevant party whose details are set out in the Purchase Order (or as otherwise notified from time to time).
- e. **Governing Law.** This Agreement will be governed by and in accordance with the applicable laws of Germany, without regard to any conflict of laws rules or principles.
- f. **Jurisdiction.** In the event that a dispute arises with respect to the terms of this Agreement, the Parties agree that the exclusive and sole venue for resolution shall be a court of competent jurisdiction in Amtsgericht Stuttgart, Germany; except that Beenario may take action in the courts of the domicile of Customer for recovery of payment of Fees.
- g. **Entire Agreement.** This Agreement, along with the applicable Purchase Order, and any exhibit shall constitute the complete agreement between the parties with respect to the subject matter hereof and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreements, written and oral, regarding such subject matter. Should there be any conflict between the Terms of Services and the provisions of any Purchase Order, the Purchase Order shall prevail.
- h. **Severability.** If any of these provisions is/are held invalid or unenforceable for any reason, the remainder of the provisions shall continue in full force and effect, and the Parties shall substitute a valid provision with the same intent and economic effect.
- i. **Force Majeure.** Neither party will be liable for any failure or delay due to any cause beyond its reasonable control, including but not limited to acts of war, acts of God, terrorism, earthquake, flood, riot, sabotage, labor shortage or dispute, utility outage, governmental act or failure of the Internet connectivity that in each event are not resulting from the actions or omissions of Beenario or Customer. In any such event, the delayed Party: (a) gives prompt notice of such cause, and (b) uses its commercially reasonable efforts to promptly correct such failure or delay.

- j. **No Third Parties.** This Agreement is made for the benefit of Beenario and Customer, and not for the benefit of any other third Parties.
- k. **Marketing.** Neither party may use the other party's name, logo, trade name, trademarks and icons (collectively, the "Brands") without prior written agreement. Notwithstanding the foregoing, each party may use the other party's name, trade name, trademarks and logos to refer publicly to the other, orally and in writing, as a customer/vendor of the other solely in connection with the Services provided hereunder and only for so long as this agreement remains in effect.

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END OF TERMS