

## **Maintenance Services Terms**

This document provides details of Tech Soft 3D's Software maintenance and support terms ("Maintenance Services").

**To receive the following Maintenance Services, a Tech Soft 3D customer ("Customer") must have purchased them for the licensed Tech Soft 3D Software product. Maintenance Services are sold annually and renewed annually for a renewal fee. Purchase and/or timely payment of renewal fees keeps the Customer's account current.**

- 1 **Maintenance Services.** Tech Soft 3D shall provide the following Maintenance Services to Customers with current Maintenance Services accounts:
  - 1.1 Tech Soft 3D will provide Customer technical support to a maximum of four (4) named Customer technical support contacts ("Customer's Technical Maintenance Contacts").
  - 1.2 Tech Soft 3D will provide prioritized, web-based maintenance services for the Software to be accessed by Customer's Technical Maintenance Contacts via Tech Soft 3D's Customer portal at <http://www.tetra4d.com>. "Software" means any Tech Soft 3D software for which Customer has obtained a license from Tech Soft 3D. (For the avoidance of doubt, Software does not include Adobe Acrobat. Maintenance for Acrobat can be purchased separately. If Customer purchases maintenance support for Acrobat from Tech Soft 3D, Tech Soft 3D will make the most current update to Acrobat available to Customer and Adobe's then current standard support terms will apply.)
  - 1.3 Tech Soft 3D will provide code corrections, as may be required to correct Software malfunctions, in order to bring the most current version of the Software into substantial conformity with applicable documentation in all material respects. If Customer encounters a problem in the usage of the Software, Customer will provide Tech Soft 3D with sufficient detail to permit Tech Soft 3D to understand and reproduce the problem. Tech Soft 3D will use commercially reasonable efforts to diagnose the problem and if it is mutually determined by Customer and Tech Soft 3D that the problem represents an error in the Software that causes it to not operate in substantial conformity with applicable documentation in any material respect, Tech Soft 3D will use commercially reasonable efforts to provide a fix release to Customer. In addition, Tech Soft 3D may, at its sole discretion and from time to time, make fix releases available to Customers with current Maintenance Services accounts.
  - 1.4 Tech Soft 3D shall make available to Customer, at no additional charge, all upgrades for the Software that Tech Soft 3D makes generally available to its customers at no additional charge to make the Software current. If Customer's Maintenance Services account has lapsed, late renewal fees apply as of the first (1st) day of the month following the expiration date of that service period. Customers must renew lapsed Maintenance Services and pay applicable late fees prior to receiving any additional Maintenance Services, including upgrades. Maintenance Services renewed with late fees start on the day of the renewal purchase and run for 12 months. If the Customer's Maintenance Services have lapsed for more than four (4) years, Customer must purchase a new product license including first year's Maintenance Services fee. Customers with current Maintenance Services accounts are entitled to continue receiving and installing all new releases of the Software. This includes all products within any bundled software "Package" or "Suite," including Adobe Acrobat, for which Customer's Maintenance Services account is current.

- 1.5 Customers purchasing directly from Tech Soft 3D shall have unlimited access to Tech Soft 3D's Customer portal on Tech Soft 3D's web site at <http://www.tetra4d.com>. The Customer portal is provided for all Tech Soft 3D Software product customers who have a license to use the Software. License keys are available to each such Customer via Tech Soft 3D's Customer portal. Support is provided by logging into the Customer portal and only available to those Customers with a current Maintenance Services Account. Customers purchasing through a Tech Soft 3D reseller may obtain license keys and support through the reseller.
- 1.6 Should Customer choose to provide Tech Soft 3D with remote access to Customer's systems, Customer hereby grants permission to Tech Soft 3D to remotely access the Software from an external computer controlled by Tech Soft 3D, including any and all of Customer's systems on which the Software resides, for the sole purpose of providing Maintenance Services to Customer. **CUSTOMER ACKNOWLEDGES THAT IT MAY CONTROL ALL TECH SOFT 3D ACCESS TO THE SOFTWARE AND TO CUSTOMER'S SYSTEMS BY SELECTING A "HIGH" SECURITY SETTING AND MONITORING ALL SUCH ACCESS.**
- 1.7 Tech Soft 3D shall undertake commercially reasonable efforts to: a) acknowledge receipt of a service request from a Customer Technical Maintenance Contact (a "Service Request") within the time allotted ("Response Time"). This will generally be via the same medium of communication by which the Service Request was reported; b) provide a short status report to Customer within a reasonable time; and c) resolve the Service Request by providing a remedy that could take the form of eliminating the defect, providing updates, or demonstrating how to avoid the effects of the defect with reasonable commercial effort. The remedy may include error corrections, patches, bug fixes, workarounds (i.e. temporary solutions used to complete a task that would not otherwise be possible due to a problem or limitation in the affected Software products), replacement deliveries or any other type of software or documentation corrections or modifications. Each party acknowledges that despite a party's commercially reasonable efforts, not all problems may be resolvable. Processing time for Tech Soft 3D starts from the date and time when Tech Soft 3D's Software products support team acknowledges receipt of a Service Request. If the Service Request cannot be resolved within a commercially reasonable timeframe, the Service Request may be escalated within the Tech Soft 3D products support organization or to those companies from which Tech Soft 3D licenses component technology.
- 2 **Initial Term and Renewals.** The initial term for Maintenance Services is one (1) year following the date of purchase. Tech Soft 3D or Customer's reseller will provide Customer with a renewal reminder in advance of expiration of the then-current term for Maintenance Services. Tech Soft 3D and resellers, each in its own discretion, may adjust the Maintenance Service yearly fees after the first year term.
- 3 **Right to Discontinue or Modify Maintenance Services.** Customer acknowledges that Tech Soft 3D has the right to discontinue the manufacture and development of any of the Software and Maintenance Services for that Software, including the distribution of older Software versions, at any time in its sole discretion, provided that Tech Soft 3D agrees not to discontinue Maintenance Services for the then current version of the Software during the current annual term for which Customer has paid fees, subject to the termination provisions herein. Notwithstanding the foregoing, if Tech Soft 3D discontinues the manufacture and maintenance for a particular piece of Software, Maintenance Services for any remaining Software shall not be adversely affected. Tech Soft 3D reserves the right to alter these Terms, from time to time, by posting the changes on Tech Soft 3D's website, but they will not be operative until Customer's next

succeeding renewal term.

- 4 Limitation of Liability.** TECH SOFT 3D DOES NOT GUARANTEE, REPRESENT OR WARRANT ITS CONSULTATION RESULTS, ITS CORRECT AND COMPLETE IDENTIFICATION OF ALL VIRUSES, OR THAT ALL ERRORS AND BUGS WILL BE CORRECTED. IN NO EVENT SHALL TECH SOFT 3D'S OR TECH SOFT 3D'S LICENSORS' TOTAL CUMULATIVE LIABILITY TO CUSTOMER (FROM ALL CAUSES OF ACTION OF ANY KIND, INCLUDING CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATED TO THE MAINTENANCE SERVICES PROVIDED EXCEED THE AMOUNT ACTUALLY RECEIVED BY TECH SOFT 3D FOR THE ACCOUNT OF CUSTOMER FOR THE MAINTENANCE SERVICES IN THE ANNUAL MAINTENANCE TERM IN WHICH SUCH LIABILITY AROSE.
- 5 Termination or Expiration.** Maintenance Services may be terminated by Tech Soft 3D for any of the following reasons: (a) failure to receive payment for the annual Maintenance Services for the account of Customer; (b) abusive or fraudulent use of Maintenance Services by Customer; (c) Customer's breach of the EULA; or (d) force majeure. Maintenance Services will expire at the end of each 12 month period unless renewed by Customer. The Parties acknowledge that their obligations under sections 4, 5, 6, and 7 shall survive any expiration or termination of Maintenance Services.
- 6 No Assignment or Transfer.** Customer may not assign or transfer its account to receive Maintenance Services to any other party or to any other device not supported by these Maintenance Services.
- 7 General Provisions.** No other terms apply to the provision of Maintenance Services and by its acceptance of Maintenance Services Customer agrees to these Terms. They are governed by the laws of the State of Oregon, without giving effect to conflict of laws provisions thereof, and any disputes must be resolved in the state or federal courts of that State.

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