

# Sustaining Software Support Certificate

2024



This document (the “**Certificate**”) is a legal agreement between the end user (the “**Customer**”) and Arctera US LLC and/or its affiliates (“**Arctera**”). This Certificate and the rights granted herein are only effective as to end users who have a valid license pursuant to a Arctera license agreement (the “**License Agreement**”) and a valid support agreement (“**Support Agreement**”) for either Basic Maintenance or Essential Support (“**Underlying Support**”) for the underlying Arctera software products (“**Software**”) for which Sustaining Software Support (as defined below) will be provided. Capitalized terms are defined in this Certificate, the License Agreement, the Support Agreement, the Technical Support Policy, or the Product Life Cycle Policy. This Certificate applies to the Software that is within the product family Customer has purchased, as identified on the front of the Certificate, and is in the Sustaining Phase of its lifecycle as detailed at <https://www.arctera.io/eosl> (“**Eligible Software**”).

If this Certificate applies to a consolidated order where there are multiple entitlement owners listed on the front of the Certificate, then the end user entity receiving this Certificate must provide this Certificate, including these Sustaining Software Support terms, to each of the entitlement owners listed on the front of the Certificate.

IF CUSTOMER DOES NOT AGREE TO THESE TERMS, THEN ARCTERA IS UNABLE TO PROVIDE THE SUPPORT DESCRIBED HEREIN TO CUSTOMER. RECEIPT OF SUCH SUPPORT INDICATES CUSTOMER’S AGREEMENT TO THESE TERMS.

**Sustaining Software Support Offering:** Arctera will provide to Customer the sustaining software support service(s) (“**SSS**”) during the period specified on the front of this Certificate for Eligible Software within the region in which the Eligible Software is licensed for use as indicated in the License Agreement. SSS is provided until the end date of the term purchased unless any or all of the Eligible Software otherwise reaches the End of Support Life. In such event, Arctera will provide no further Support of any kind for such affected Eligible Software. SSS includes the following features provided on a commercially reasonable basis:

- Continued access to technical support on a 24x7 basis (for Customers who have purchased Essential Support as the Underlying Support) or Regional Business Hours (for Customers who have purchased Basic Maintenance as the Underlying Support)
- Continued access to the Arctera technical support website
- Provision solely of known fixes, patches, workarounds, existing maintenance packs, or information from Arctera’s technical knowledge base

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## Terms and Conditions:

**Payment:** Customer's right to receive SSS is subject to payment of fees for both the required Underlying Support and such SSS. If Customer fails to pay such fees, and the amount due remains unpaid ten (10) days following written notice to Customer of non-payment, then Arctera shall have the right to suspend or terminate the provision of SSS. The requirements in this Certificate to maintain and pay for Underlying Support are separate from and do not change Customer's obligation to maintain and pay for Underlying Support under any other agreement between Arctera and Customer.

**Support Policies:** SSS will be provided in accordance with Arctera's Technical Support Policy, Product Life Cycle Policy, and other support policies that may be revised and updated by Arctera from time to time without notice to Customer. Please refer to <https://www.arctera.io/support-fundamentals> for copies of such policies.

**Privacy and Data Protection.** Customer recognizes that Arctera will require Customer to supply certain personal data (such as business contact names, business telephone numbers, business e-mail addresses), and Customer acknowledges that Arctera is a global organization, and such personal data may be accessible on a global basis to provide SSS to Customer and to keep Customer apprised of SSS and Software updates. By providing such personal data, Customer ensures that, to the extent required by applicable laws, it has informed relevant individuals of, and has obtained all necessary consents and authorizations for, Arctera's use, transfer and processing of their personal data on a global basis for the purposes described above. Where Customer's processing of the personal data provided to Arctera under this Certificate is subject to the General Data Protection Regulation (EU) 2016/679, or other applicable laws that relate to the processing of personal data and privacy, Arctera shall process such personal data in accordance with the Data Processing Terms and Conditions at <https://www.arctera.io/privacy>. All questions and requests on privacy matters may be addressed to Arctera US LLC – Privacy Program Office at Arctera's headquarters location published at [arctera.io](https://www.arctera.io) or by e-mail at [privacy@arctera.io](mailto:privacy@arctera.io).

**SSS Warranty.** Arctera warrants, for a period of thirty (30) days from the date of performance of SSS purchased under this Certificate, that such SSS will be performed in a manner consistent with generally accepted industry standards. For SSS not performed as warranted in this provision and provided Customer has reported such non-conformance to Arctera within thirty (30) days of performance of such non-conforming SSS, Arctera will, at its discretion, either correct any nonconforming SSS or refund the relevant fees paid for the nonconforming SSS. THIS IS CUSTOMER'S EXCLUSIVE REMEDY AND ARCTERA'S SOLE LIABILITY ARISING IN CONNECTION WITH THE SSS WARRANTY DESCRIBED IN THIS SECTION.

**LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE, IN NO EVENT WILL ARCTERA BE LIABLE TO CUSTOMER FOR (i) ANY COSTS OF PROCUREMENT OF SUBSTITUTE

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OR REPLACEMENT GOODS AND SERVICES, LOSS OF PROFITS, LOSS OF USE, LOSS OF OR CORRUPTION TO DATA, BUSINESS INTERRUPTION, LOSS OF PRODUCTION, LOSS OF REVENUES, LOSS OF CONTRACTS, LOSS OF GOODWILL, OR ANTICIPATED SAVINGS OR WASTED MANAGEMENT AND STAFF TIME; OR (ii) ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES WHETHER ARISING DIRECTLY OR INDIRECTLY OUT OF THE PROVISION OF SSS EVEN IF ARCTERA, ITS RESELLERS, SUPPLIERS OR ITS AGENTS HAVE BEEN TOLD SUCH DAMAGES MIGHT OCCUR. IN NO CASE SHALL ARCTERA'S LIABILITY EXCEED THE FEES PAID BY CUSTOMER IN THE PREVIOUS TWELVE MONTHS FOR THE SSS GIVING RISE TO THE CLAIM. NOTHING IN THIS CERTIFICATE SHALL EXCLUDE OR LIMIT ARCTERA'S LIABILITY FOR ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED BY LAW.

**Integration.** This Certificate, as supplemented by any relevant terms in the License Agreement or Support Agreement not otherwise defined herein, constitutes the entire agreement between the parties pertaining to the subject matter hereof, and, except as otherwise agreed upon in writing by the parties, supersedes any and all prior written or oral agreement with respect to such subject matter.