Evaluation System Agreement

between

EXASOL Europa Vertriebs GmbH

("EXASOL")

Neumeyerstr. 22-26

90411 Nuremberg

and

zzz_test_admin

("XYZ" or "Customer")

Status	Entwurf
Contract No	00015197.1
Valid until	4/6/2016
Contact person	Gunther Schweer
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1 Preamble

1.1 EXASOL develops, markets and supports the EXASOL database a high-performance relational database management system and associated tools and drivers ("Software").

For evaluating the Software, EXASOL provides two alternative test scenarios, (i) deployment of a Mobile Trial Cluster ("MTC"), which can be set up and operated at customer's premises, or (ii) access to the EXASOL Trial Centre ("ETC"). In both cases a potential customer may load data into the evaluation system, use the Software subject to this Agreement and run queries for evaluation purposes ("Proof of Concept" or "PoC").

To ensure an efficient and successful PoC process, EXASOL will guide Customer through the process and support Customer with services such as consulting, etc.

1.2 Contract partner description

1.3 Purpose of contract

2 Subject

2.1 EXASOL provides the following products and services during the evaluation period:

Service description

2.2 The mere provision of the evaluation system is free of charge. For the expenses associated with the provision of the evaluation system, in particular the service of guidance through the PoC, and - where applicable - further agreed services, Customer has to pay fees as stated in the Annex(es).

2.3 Special Terms

3 Further Provisions

3.1 The PoC will be supported by the "EXASOL Presales Consulting" department. After the PoC, Customer and EXASOL will hold a final meeting (in person or online) to discuss the process and results of the PoC and the next steps.

3.2 Prerequisites for an efficient execution of the POC are adequate preparation and planning with a definition of test data sets including transfer data formats, objectives and test scenarios. EXASOL Presales Consulting will already support Customer in this regard.

3.3 All rights to data loaded into the Evaluation system shall remain with the Customer.

3.4 Unless expressly otherwise agreed between the parties, this Agreement shall be governed by EXASOL's General Contract Terms and Conditions (Annex 1).

4 Final Provision

4.1 Amendments and additions to this Agreement must be made in writing, including amendments to or a waiver of this written form requirement shall be made in writing.

4.2 In the event that one or more provisions of this Agreement should be or become invalid or unenforceable, the validity of the remaining provisions shall not be affected thereby. The invalid or unenforceable provision shall be deemed to be replaced with such legally permissible provision which comes as close as possible to the economic purpose of the invalid or unenforceable provision.

Date: _____   Date   _____

zzz_test_admin   EXASOL Europa Vertriebs GmbH

Signature: _____   Signature: _____

Name: _____   Name: _____

Annex 1. General Contract Terms and Conditions „Evaluation systems" of EXASOL Europa Vertriebs GmbH

1 Definitions

"Software" means the EXASOL database and other related proprietary software, e.g. drivers, clients and any patch, update, upgrade, modification or enhancement to the EXASOL software made available to the Customer in whatsoever form;

"Evaluation system" is the Software in connection with the Server Cluster as Mobile Trial Cluster ("MTC") or as EXASOL Trial Centre ("ETC");

"License Server" is the dedicated hardware (server), configured by EXASOL, which controls the License and whose function is necessary to administrate the proper use of the Evaluation system, e.g. rebooting, installing updates and upgrades, etc.;

"Server Cluster" means two or more Customer servers including a License Server upon which the Software is installed and which are dedicated solely for the use of the Software;

"License" means the authorised use of the Evaluation system in accordance with the agreed parameters as set out in Annex(es);

"Documentation" means the documentation that describes how to use the Software, which is available for download by Customer on the homepage of EXASOL in English language;

"MTC" means several servers belonging to EXASOL, switched in parallel in a rack, a License Server and installed Software, which is made available to the Customer for evaluation purposes;

"ETC" means the Server Cluster located at EXASOL's premises, which can be accessed by the Customer via the customer portal and a VPN-connection for evaluation purposes;

"Evaluation Period" shall be four weeks starting with placing the evaluation system at Customer's disposal unless otherwise provided in the Annex(es);

"PoC" (Proof of Concept) means testing the Software for evaluation purposes.

2 License Grant

2.1 EXASOL grants to Customer the non-exclusive and non-transferable right, limited by time and place, to use the Evaluation system either at Customer's premises (MTC) or via a remote connection (ETC) in accordance with the agreed terms and conditions. The License is in particular limited to the agreed RAM-usage. Customer is responsible for the establishment and security of the remote connection (VPN).

2.2 During the Evaluation Period, the Customer gets appropriate access to EXASOL's customer portal, where drivers, clients and updates can be downloaded. The Customer shall observe at all times the correct use of the aforementioned portal.

2.3 Customer may not: (i) use Evaluation system in a way not intended by EXASOL or otherwise agreed, or (ii) use Evaluation system for productive purposes or lend, rent, lease or otherwise place Evaluation system at the disposal of third parties, or (iii) copy or change, reverse engineer, decompile, integrate into another software programme or otherwise change the Software other than foreseen in the documentation except as permitted by law.

2.4 Customer shall take all reasonable and adequate precautions against the unauthorised use of the Evaluation system or interference with the Evaluation system by third parties. Customer shall ensure that his employees, representatives, agents, etc., who are authorised to use Evaluation system will strictly observe the terms and conditions in this Agreement. Customer is responsible for the legal harmlessness of the data inserted into the evaluation system and may not insert any data violating data protection laws or criminal law.

2.5 Customer acknowledges that (i) he may only use the Evaluation system as MTC in conjunction with a License Server configured by EXASOL, (ii) any change or manipulation of License Server will be deemed a violation of EXASOL's intellectual property rights, and (iii) without the prior written approval by EXASOL he is not entitled to separate License Server from the MTC and use Software without the License Server.

2.6 Unless otherwise agreed between the parties, the data loaded on the hard disks of the Evaluation system will be stored unencrypted.

3 Third-Party Software and Intellectual Property Rights

3.1 Certain Software components are subject to the GNU General Public License (short "GPL components"). These and comparable license terms are in each case listed in the EXASuite software part concerned (Software + Driver + Clients etc.). At Customer's request, EXASOL will send such list in digital form to the Customer prior to the conclusion of the contract.

3.2 Software is protected by copyright law and international treaties. Identification marks, copyright and ownership notices, logos, marks, serial numbers and other attributes in or on Evaluation system may not be modified or removed.

4 Liability

4.1 EXASOL is only liable for compensation and reimbursement for expenses (including, without limitation, lost profits, lost expenses, etc.) irrespective of the legal basis (e.g., pre-contractual, contractual and similar obligations, product liability, violation of duty or tort) to the following extent:
a) Liability based on intent or guarantees given by EXASOL shall be without limitation.
b) In the event of gross negligence, EXASOL shall be liable for typical, and upon the conclusion of the contract foreseeable damage.
c) In case of a breach of cardinal duties (such as default) that endangers the purpose of the contract and which does not constitute gross negligence, EXASOL shall be held liable only for such damage which is typical for this kind of business and was foreseeable upon the execution of this Agreement, but to the maximum amount of 50% of the agreed fee per claim and 100% of the agreed fee for all claims from and in connection with the contract overall.

4.2 EXASOL is entitled to claim contributory negligence of Partner. In particular, Partner has the responsibility for data protection and blocking of malware in accordance with the latest technical standards.

4.3 In case of injuries to life, body and health and for claims under the German Product Liability Act, the statutory provisions shall apply.

5 Error Correction, Communication

5.1 Customer shall report any errors in Evaluation system as quickly as possible and, if necessary and possible, support EXASOL in correcting the reported error.

5.2 EXASOL will correct reported errors in Evaluation system at its discretion within reasonable time. As the mere provision of the Evaluation system is free of charge, there is no entitlement of Customer for any error correction or maintenance of the Software.

5.3 The PoC, including the possible correction of any errors, will be supported by the EXASOL Presales Consulting department. The aforementioned department will be exclusively responsible regarding any communication related to the PoC including error reports, support queries etc.

6 Evaluation Period

6.1 Except as otherwise agreed, the Evaluation Period is limited to a maximum of 4 weeks after placing Evaluation system at Customer's disposal. The Evaluation Period can only be extended by mutual agreement.

6.2 Upon termination of the test Customer shall be responsible for an orderly removal or deletion of the test data. If Customer fails to remove or delete the data, EXASOL will send Customer one reminder. If Customer does not react to the reminder within 5 working days, EXASOL shall be entitled to continue to use the evaluation data for internal test purposes. However, by no means shall EXASOL be entitled to use such data commercially, to make the data accessible to or place it at third party's disposal.

7 Confidentiality

7.1 The parties hereby agree to treat all information, including but not limited to software, documents, presentations, etc. as confidential, of which they became aware or received from the other party prior to the conclusion of or during the term of the contract which are protected by law, or which evidently contain business or company secrets or are marked as confidential, notwithstanding the expiration of the contract, unless such information is publicly known in the absence of a breach of this confidentiality obligation ("Confidential Information"). Parties hereby agree to store and secure all Confidential Information in a manner so as to prevent any misuse by third parties or the parties themselves.

7.2 Parties will make Confidential Information available only to those employees (including employees of parties' affiliates) who require access to them in the performance of their job-related duties ("need to know"). Parties shall instruct these persons regarding the confidentiality of the objects and documents in question and have written agreements in place which ensure the observance of this confidentiality obligation. Access to third parties shall not be permitted except with the express written consent of the other party.

7.3 Customer may not disclose or publish any benchmarking or results of the PoC without EXASOL's prior written consent.

8 Shipment of MTC

Unless otherwise provided in the Agreement or service description, the MTC will be shipped at the expense of Customer. In addition, Customer bears the cost of any customs duties, taxes and other governmental charges. The risk will be transferred to the Customer as soon as the Evaluation system is handed over to the person in charge of its transportation.

9 Expenses, Fees, Payment

9.1 Unless otherwise agreed between the parties, all kind of payment obligations are due in full immediately after Customer's receipt of invoice. If Customer delays acceptance without cause, the expenses and fees are still due and payable. Unless otherwise agreed between the parties, expenses and fees have to be paid up front.

9.2 Prices quoted by EXASOL are to be understood as exclusive of any relevant taxes or duties applicable at the time of shipping and/or delivery.

9.3 Only claims which are undisputed by EXASOL or have become final and legally binding may be offset by Customer. Except for claims in connection with § 354a HGB (German Commercial Code), Customer may not assign, delegate or otherwise transfer any of its rights or obligations under this contract without the prior written consent of EXASOL. Customer shall only have a right of retention or the right to claim non-performance of the contract within this contractual relationship.

10 General Provisions

10.1 For the provision of the Evaluation system, for further agreed services and for pre-contractual obligations, these General Terms and Conditions of EXASOL shall apply exclusively. Customer's general terms and conditions shall not apply, even if they are attached to requests for an offer, orders, declarations of acceptance, etc., and regardless of whether or not EXASOL expressly objects to them in any individual case.

10.2 The laws of the Federal Republic of Germany shall apply without regard to the Convention on the International Sale of Goods (CISG). The place of performance and legal venue for any dispute in connection with this contract is Nuremberg, Germany.

Stand 3/24/2016