



SOFTWARE LICENCE AND SERVICES AGREEMENT

Between

zzz_test_admin ("Customer")

and

EXASOL, Inc.

("EXASOL")

625 Second Street

San Francisco, California 94107

Status	Entwurf
Contract No	00015197.1
Valid to	4/6/2016
Contact person	Gunther Schweer
	Sales Manager
	+49 172 8376719
	gunther.schweer@exasol.com

1 Preamble

This Software Licensing and Services Agreement is dated 30th June 2015 and is concluded by and between EXASOL, Inc., a corporation duly organized under the laws of Delaware (“EXASOL”) and Complete Innovations, a company duly organized under the laws of California (“Customer”).

EXASOL develops, markets and supports EXASolution®, a high-performance relational database management system, and associated tools and drivers.

Complete Innovations (“The Customer”) is the leading global provider of mission critical fleet, assets, and mobile workforce management solutions, to over 5,000 customers worldwide.

The Customer wishes to deploy EXASolution for the Fleet Complete product, and EXASOL wishes to supply EXASolution software for this purpose.

In view of the aforesaid, the Parties now agree as follows:

2 Scope of the Agreement; Definitions

2.1 This document defines the agreement between EXASOL and Customer (hereinafter “Agreement”) for the licensing of Products and supply of services by EXASOL, as listed in the Annexes 1 to 2, and in accordance with the general terms and conditions specified in Annex 3.

2.2 Under this Agreement the following definitions shall apply:

a) “Affiliate” or “Subsidiary” means any legal entity in which the Customer, directly or indirectly, holds more than fifty percent (50%) of the shares or voting rights. Affiliates and Subsidiaries are not considered to be third parties for the purposes of this Agreement;

b) “Confirmed Environment” means a server cluster setup (e.g. physical hardware, virtual machine setting or public hosting setup), which has been confirmed by EXASOL for compatibility with the EXASOL software. The details on such environments are published regularly on the EXASOL website;

c) “Documentation” means the documentation that describes the Software and how to use it and is provided by EXASOL in electronic and/or hardcopy form in English, specifically the EXASolution User Manual, the EXAClusterOS-Reference and the EXAoperation User Manual;

d) “Effective Date” is 30th June 2015;

- e) "License" means the authorized use of the Software in accordance with the agreed parameters for using the Software, such parameters being set out in Annex 1 to this Agreement;
- f) "License Server" is the dedicated host (physical hardware or virtual machine) which controls the License and whose function is necessary to administrate the proper use of the Software in a Server Cluster, e.g. rebooting, installing updates and upgrades, etc.;
- g) "Party" means EXASOL or Customer;
- h) "Parties" means EXASOL and Customer;
- i) "Product" or "Products" is the EXASOL Relational Database Management System, EXASolution®, consisting of Software and Documentation, as modified or adapted by EXASOL from time to time;
- j) "Server Cluster" means two or more Customer servers (physical hardware or virtual machine) including a License Server upon which the Software is installed, and all of which are dedicated solely for the use of the Software;
- k) "Site" is a physical location, e.g. data center, where the "Server Cluster" is located;
- l) "Software" means the EXASOL software, comprising EXASolution®, EXACluster OS, EXAOperation and other related proprietary software, including 3rd-party software, e.g. drivers, clients and any patch, update, upgrade, modification or enhancement;
- m) "Working Hours" has the same meaning as Service Hours defined in Annex 3, Section 2.6.
- n) "Processing Time" is how long an EXASol engineer is given to diagnose and communicate via email and/or telephone what the problem is and how long it will take to fix the issue. The time required to fix the issue cannot exceed the "Correction Time". If incident management (optional) is not purchased then the fix only pertains to the EXASolution software.
- o) "Correction Time" is how long an EXASol engineer is given to fix the problem with the EXASolution cluster(s). If incident management (optional) is not purchased then the fix only pertains to the EXASolution software.

3 EXASolution License Grant

Under this Agreement, and in consideration of the payment of Fees by Customer set out in the Annexes 1 to 2, EXASOL grants to Customer and its Affiliates a non-exclusive perpetual right to use and operate the Product (as further described and limited in the Annexes 1 to 2 and Annex 2, Part 1 at the Site on a Server Cluster that includes a License Server).

4 Services

EXASOL will provide maintenance and support for the Product as listed in the Annexes 1 to 2 and defined in Part 2 of Annex 2 to this Agreement.

5 Payment Terms

5.1 Fees due are as specified in the Annexes 1 to 2.

5.2 Unless otherwise specified in the Annexes 1 to 2, Fees are due in full immediately after delivery of Software and Customer's receipt of invoice, and are payable by Customer within fourteen (14) days of the invoice date. The annual maintenance fee is payable in advance at the beginning of each contractual year.

5.3 Any amount not paid when due shall bear interest from the due date at the rate of 1,5% per month, but not to exceed the maximum amount as allowed by law.

5.4 Customer agrees to pay any sales, value-added or other similar taxes imposed by applicable law that EXASOL must pay based on the Products or services ordered by the Customer, except for taxes based on EXASOL's income. Customer agrees to indemnify EXASOL as to all such taxes.

6 Confidential Information

6.1 Each Party shall protect against any unauthorized disclosure of the information of the other Party which is clearly designated in writing as being confidential or is by its nature evidently confidential (hereinafter referred to as "Confidential Information") by using the same degree of care as it takes to preserve and protect its own Confidential Information of a similar nature but in no event shall this be less than a reasonable degree of care. In the event of oral disclosure of Confidential Information, such information shall be treated in accordance with the terms of this clause from the time of disclosure. The obligation in this Clause 5.1 shall continue for the duration of the Agreement and, in the absence of any other agreement, for Two (2) years thereafter.

6.2 Neither Party shall be required to treat as confidential any information that prior to disclosure was already in the receiving party's possession without restriction, is already in the public domain, is independently developed by it, or is lawfully obtained from third parties without restriction on disclosure.

6.3 For the avoidance of doubt, Customer shall be entitled to disclose the Confidential Information of EXASOL to those employees, sub-contractors and agents of it or its Affiliates who need to know the information in order that the Customer and its Affiliates can properly benefit from their rights under this Agreement.

6.4 In the event of termination of this Agreement, the receiving Party shall, on the written request of the Disclosing party, destroy or return to the disclosing Party all Confidential Information received during the term of this Agreement together with all partial or complete copies thereof.

7 No Warranty, Liability

7.1 EXCEPT AS SET OUT IN THIS SECTION 6, THE WARRANTY PROVIDED BY EXASOL WITH RESPECT TO EXASOL'S PRODUCTS, THE ACCOMPANYING MANUAL FOR SERVICING AND TRAINING, AND OTHER INFORMATION FURNISHED BY EXASOL SHALL BE LIMITED TO THE SCOPE SPECIFIED IN ANNEX 2 AND NO FURTHER WARRANTY SHALL BE PROVIDED TO CUSTOMER.

7.2 UNDER NO CIRCUMSTANCES SHALL EXASOL, ITS AFFILIATES AND LICENSORS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF ANTICIPATED PROFIT OR REVENUE, AND DAMAGES CAUSED BY LOST DATA, OTHER THAN DATA LOSSES DUE TO SECURITIES BREACHES IN EXASOL'S SOFTWARE WHICH COULD HAVE BEEN AVOIDED BY USING REASONABLE EFFORTS) ARISING FROM THIS AGREEMENT AND/OR ITS EXECUTION UNLESS OTHERWISE PROVIDED FOR. IN NO EVENT THE TOTAL LIABILITY OF EXASOL, ITS AFFILIATES AND LICENSORS SHALL EXCEED THE FEES PAID BY CUSTOMER IN THE 12 MONTHS IMMEDIATELY PRIOR TO THE CLAIM BASED ON THIS AGREEMENT.

8 Term and Termination

8.1 This Agreement shall remain in full force and effect from the Effective Date and shall continue in effect thereafter unless this Agreement is terminated pursuant to this Section.

8.2 This Agreement and the License and other rights granted hereunder may be terminated by EXASOL in the event Customer breaches any of the provisions of this Agreement and does not remedy such breach within thirty (30) days of receipt of notice from EXASOL declaring and setting forth the nature of such breach.

8.3 Immediately upon any termination or cancellation of this Agreement or of any License granted hereunder

a) all rights and the License granted to Customer under this Agreement shall cease and terminate and Customer shall have no right thereafter to use and shall cease the use of, the License; and

b) Customer shall return the License (including the copies thereof) to EXASOL.

8.4 The provisions of Section 4 through 8 and Annex 3, Part 1, Section 1.4 through 1.7 shall survive the cancellation or termination of this Agreement for any reason.

8.5 Annex 2, Part 2 and the rights granted thereunder may be terminated independently of the Agreement in accordance with Section 8 of Annex 2, Part 2.

9 Reference

Customer grants EXASOL the right to refer to Customer, and display its logo, in the course of its marketing and promotional activities. Such activities may include, for example, articles in professional media, success stories in online and printed publications, references in discussions with journalists, customers and partners and the visual and content representation on EXASOL's website or at public events, such as industry fairs, etc. Before anything is communicated by EXASOL that references FleetComplete or its logos, EXASOL must have written approval by customer's marketing/legal department.

10 Final Provisions

10.1 Customer shall not assign, sub-license or transfer any rights granted hereunder to any third party without EXASOL's prior written consent.

10.2 Any modification or deletion of the provisions of this Agreement shall not be enforceable unless such modification or deletion is expressly agreed in writing and signed by both parties.

- 10.3 No failure to exercise or enforce any right or remedy hereunder shall be construed or operate as a waiver thereof. No waiver of any breach of any terms or conditions hereof shall be deemed to be a waiver of any further breach of the same or any other provisions of this Agreement.
- 10.4 No Party shall be liable for any delay or failure in performance of its obligations hereunder if such delay or failure is due to reasons beyond its reasonable control, such as acts of God, natural disasters, force majeure or other similar causes.
- 10.5 This Agreement shall constitute the entire agreement between the Parties hereto regarding the subject matter hereof and supersedes all prior correspondence, arrangements, and memoranda between the parties. This Agreement shall prevail over any additional, conflicting, or inconsistent terms and conditions which may appear on any purchase order or other document furnished by Customer to EXASOL.
- 10.6 This Agreement and any dispute or claim arising out of it or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of the State of California without reference to its conflicts of law principles. The parties agree that the CISG (UN-Convention on Contracts for the International Sale of Goods) and the Uniform Computer Information Transaction Act (UCITA) are specifically excluded and neither shall apply to this Agreement or to the performance hereof by the parties hereto.
- 10.7 All disputes between the Parties in connection with this Agreement shall first be discussed in good faith between the Parties in order to try to find an amicable solution. The parties irrevocably agree that if no amicable settlement can be reached, then the courts of the State of California located in the City of San Francisco shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims). Customer waives any objections to personal jurisdiction and venue to that forum.
- 10.8 In any action or proceeding to enforce rights under these terms and conditions, the prevailing party shall be entitled to recover costs and attorneys' fees.
- 10.9 If any provision of this Agreement is held to be unenforceable, such provision shall be limited, modified or severed as necessary to eliminate its unenforceability, and all other provisions shall remain unaffected.

10.10 This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together constitute one and the same instrument.

In witness whereof, the Parties have caused this Agreement to be signed by their legal representatives.

Date: _____ Date _____

zzz_test_admin

EXASOL, Inc.

Signature: _____ Signature: _____

Name: _____ Name: _____

Annex 1. General Terms and Conditions EXASOL Inc.

1 GENERAL PROVISIONS

1.1 EXASolution Licence

In consideration of the payment of the Fee by the Customer, Customer is granted a non-exclusive, perpetual right to use the Products in accordance with the agreed usage parameters and these terms and conditions. Unless otherwise agreed the license can be used for commercial purposes. If and in as far as Customer is granted a development license or a test license, then commercial use of the software is not permitted; the Software may then only be used for development and test purposes. Certain EXASolution® sub-components (e.g. libraries) may be subject to the GNU General Public License. The license terms can be accessed under www.fsf.org/licensing/licenses/gpl.html.

1.2 Customer Acknowledgements

Customer acknowledges that the Software may not be operated without the License Server and that the License Server administrates the implementation of the License in the Server Cluster and for this reason the Server Cluster must be dedicated for running the Software.

1.3 Restrictions and Conditions

Customer shall (i) not physically separate the License Server from the Server Cluster before or during operation and shall not attempt to operate the Software without the License Server; (ii) not distribute, sub-license, transfer, sell, assign or otherwise convey (whether by operation of law or otherwise) the Software, whether stand-alone or embedded in any other application without EXASOL's prior written consent; (iii) not modify, enhance, reverse engineer, decompile, disassemble, supplement, create derivative work from, adapt, translate or otherwise reduce the Software to human readable form except as specifically permitted in the Documentation or required by law; (iv) limit access to the Product to only those employees, agents, and consultants of it or its Affiliates who require access in connection with the use of the Product and who have agreed in writing or are otherwise legally bound to observe the obligations hereunder; (v) not remove from or move on any copies of Software and Documentation any titles, trademarks, copyright and other proprietary or restrictive legends or notices; (vi) not rent, lease or lend the Product nor allow the use of the Product for service bureau, timesharing, application service providing or similar licensing models, or (viii) not disclose results of benchmarks or other performance tests run on the Software to any third party.

After installation on the Server Cluster, Customer shall communicate on which Server Cluster the Software is to be operated (including the respective serial numbers of the individual servers, RAM size, CPUs, HDD and network configuration, including switch in the case of the physical hardware or the exact Server Cluster specification otherwise) and where the Server Cluster is located (where applicable, which data center). This obligation to notify does not apply if the installation is executed by EXASOL on Customer's Site. In principle, all data processing devices (e.g. hard disks and processors), onto which the Software is to be copied or partially transferred, as contractually permissible, for the short term or long term, must be on Customer's Site and be in Customer's direct possession and control. If the Server Cluster is located in an external data center, Customer must ensure via contract with the data center the conformance with the obligations under this paragraph. As soon as the Software is transferred to a Server Cluster other than the one originally communicated to EXASOL, EXASOL is to be informed of the respective serial numbers of the servers in the case of physical hardware and the location of the new Server Cluster. If the Software is to be transferred to a Server Cluster that is located outside of the United States, EXASOL reserves the right to object.

1.4 Warranty

EXASOL warrants that the Software, when properly used, will operate in all material respects in conformity with the Documentation and this Agreement. Except as set out in this Agreement, in the event of non-conforming Software Customer's sole remedy and EXASOL's exclusive liability shall be, as applicable and at EXASOL's option, replacement of the affected Software or parts of Software at no additional charge, or a refund of the fees paid. THIRD PARTY SOFTWARE IS PROVIDED "AS IS" WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE. EXASOL DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND WHETHER ARISING BY STATUTE OR IN LAW WITH RESPECT TO THE SOFTWARE AND DOCUMENTATION. NO WARRANTY IS MADE REGARDING THE RESULTS OF THE SOFTWARE OR THAT ALL ERRORS IN THE SOFTWARE WILL BE CORRECTED, OR THAT THE SOFTWARE'S FUNCTIONALITY WILL MEET ALL CUSTOMER'S REQUIREMENTS. CUSTOMER ACKNOWLEDGES HIS RESPONSIBILITY TO REGULARLY AND INDEPENDENTLY BACK UP DATA MAINTAINED ON THE CLUSTER USING THE SOFTWARE. THE PROPER BACK UP FREQUENCY SHALL BE DETERMINED BY THE CUSTOMER WITH RESPECT TO THE RELATIVE IMPORTANCE AND VALUE OF THE DATA IN QUESTION.

If upon request or demand by the Customer EXASOL undertakes work of any substantial form for identifying, locating and repairing errors, which does not fall within EXASOL's sphere of responsibility (as set out in part B "MAINTENANCE" below), EXASOL shall be entitled to invoice Customer for such work at EXASOL then current rates. EXASOL shall seek written permission from the Customer prior to commencing work of this nature.

1.5 Infringement Indemnification

If a claim is made or an action brought that the Software infringes a patent, or any copyright or trade secret, EXASOL will hold the Customer harmless against such claim and resulting costs, damages and reasonable attorneys' fees finally awarded or agreed to in settlement, provided that (a) Customer promptly notifies EXASOL in writing of the claim, and (b) EXASOL has sole control of the defense and all related settlement negotiations. Customer may be represented by separate counsel at its own expense. EXASOL's obligations under this Section are conditioned on Customer's agreement that if the Software, or the use or operation thereof, becomes, or in EXASOL's opinion is likely to become, the subject of such a claim, EXASOL may at its expense, either procure the right for Customer to continue using the Software or, at EXASOL's sole option, replace or modify the same so that it becomes non-infringing (provided such replacement or modification does not materially adversely affect Customer's intended use of the Software as contemplated in the Documentation). If neither of the foregoing alternatives is available on terms which are commercially acceptable in EXASOL's reasonable judgment, Customer will return the Product on written request by EXASOL and EXASOL will credit or (at Customer's option) refund to Customer, all upfront license fees paid for such Product during the one (1) year period immediately prior to such infringement claim, less depreciation on a straight line basis over an assumed five year life. EXASOL shall have no liability for, and Customer shall indemnify, defend and hold EXASOL and its subsidiaries and licensors harmless from, any claim based upon (i) the combination, operation or use of the Software with equipment, software or data not supplied or expressly approved in writing by EXASOL, if such claim would have been avoided by use of other equipment, software or data, (ii) the use of any version of the Software other than a current, unaltered release, if such infringement would have been avoided by the use of a current, unaltered release; or (iii) a modification of the Software that is not done or expressly authorized in writing by EXASOL. THE FOREGOING STATES THE ENTIRE REMEDY OF CUSTOMER AND THE SOLE OBLIGATION OF EXASOL WITH RESPECT TO INFRINGEMENT CLAIMS.

1.6 Intellectual Property

Title to the Software and Documentation, and copyrights and all other property rights applicable thereto, shall at all times remain solely and exclusively with EXASOL and, in the case of 3rd party software, with its respective owners and Customer shall not take any action inconsistent with such title. The Software and Documentation are protected by copyright laws and international treaties.

1.7 Export Regulations; U.S. Government Restrictions

1.8 Service provision

The services specified in parts C and D are additional, optional services that may be purchased at any time. The terms and conditions so contained in those parts will only apply if a service is explicitly agreed between the parties and listed in Annex 1, or otherwise agreed in writing by the Parties.

2 MAINTENANCE

2.1 Maintenance and Service Support

2.1.1 EXASOL provides the following maintenance and service support:

- Provision of a hotline for error reporting;
- Personalized access to a customer-specific support website for up to 5 employees (for an additional fee access for more than 5 employees can be provided);
- Provision of bug fixes for fixing internal logic errors, as required
- Access to current releases and upgrades.

If nothing was otherwise agreed upon, the Customer receives a simple, non-exclusive, non-transferable right to use work results.

2.1.2 EXASOL provides only qualified employees or authorized third parties for maintenance and service support who are familiar with the functionality of the Software. Maintenance is carried out at the discretion of EXASOL and usually by providing software that modifies and/or complements the Software.

2.1.3 EXASOL provides maintenance services in accordance with the care customary in its business area and in accordance with the following provisions: bugs which occur in the Software are to be categorized by the error priorities mentioned in Section 10.2, and then handled according to the appropriate response (Section 11.1) and processing times (Section 12.2).

2.1.4 The scope of the contractual maintenance services is the current program version (including maintenance releases) as well as the previous version (including maintenance releases). To provide enough lead-time to update, EXASOL provides maintenance service for at least two years for the previous program version. If Customer requires maintenance service for an older version a separate agreement with EXASOL is necessary.

2.2 Error Priorities

2.2.1 If Customer recognizes that the Software contains a fault and does not provide the functionality stipulated in the Documentation or the Agreement ("Error"), then Customer will inform EXASOL and will describe the Error in a detailed and reproducible manner ("Error Report"). Error reports are to be provided by e-mail or support system set up for this purpose. Errors of the priority "Critical" and "Major" must be additionally reported through the hotline.

2.2.2 Reported Errors are differentiated according to the following priorities:

Critical - Impairment of business critical processes, e.g., processes with high priority and a fixed time frame cannot be processed in due time. There is no possibility to avoid the Error; proper operation is generally not possible.

Major - Impairment of important functions, e.g., processes with high priority can only be processed with extensive workaround solutions; work with the Software is significantly limited.

Normal - Single functions of minor importance are not available or important functions are available by working around the problems; the Error affects only a function or module that the Customer does not need or use continuously and/or essentially. Furthermore, the system functionality is not affected or at least not substantially limited.

Minor - An Error occurs, which does not have severe effects. Miscellaneous disturbances/feature requests to the product with low priority.

2.2.3 The priority is initially determined by Customer. If Customer does not make any statements about the priority, the reported Error will receive the priority level "Normal". The priority can change during the course of the correction work.

2.2.4 In the case of reported Errors with priority "Critical" or "Major", if not already installed, EXASOL will be granted temporary access to the affected system via a Virtual Private Network (VPN).

2.2.5 If the subject of an Error Report is not an Error as defined in Section 10.1 and the processing of such requests has not been contractually agreed, then EXASOL may inform Customer that the necessary work will be invoiced. If no Error exists, then the Service Hours defined below do not apply. Specifically, there is no Error as defined if the problem was caused by the unauthorized installation of software on the license server or by the installation of the Software on uncertified hardware.

2.3 Response Times

2.3.1 Depending on the classification of an Error, the following Response Times shall apply:

- Critical: within 30 minutes
- Major: within 30 minutes
- Normal: within 30 minutes
- Minor: within next work day (24 Hrs)

Within the response time, Customer will receive a call from a qualified operations engineer ("First Response"). The response time is calculated within the Service Hours as the time difference between receipt of the Error Report by EXASOL and the First Response from EXASOL to Customer.

2.3.2 If EXASOL has not received an Error Report, Customer is obliged to provide additional information about the Error. If a VPN connection is available, EXASOL will independently retrieve additional information, i.e. log files, in order to start working on fixing the Error as fast as possible.

2.4 Processing Times

2.4.1 After receipt of the Error Report and, if necessary for EXASOL's correction work, additional information ("Qualified Error Report"), EXASOL will attempt to reproduce the Error.

If the problem is reproducible, EXASOL will inform Customer within the Processing Time, whether it is a bug in the Software and will provide an evaluation of the necessary steps to be taken and the expected duration of the correction work ("Action Plan"). If an Error exists, Customer will be regularly informed about the progress of the bug fix.

2.4.2 According to the Error priority, the following Processing Times shall apply, calculated as of the moment of receipt of the Qualified Error Report and within EXASOL's service hours to delivery of a solution:

- Critical: within 60 minutes
- Major: within 60 minutes
- Normal: within 60 minutes
- Minor: within 48 hours

2.4.3 Within the processing time, EXASOL will begin the correction work by developing patches, work-arounds, releases etc. To avoid and/or limit down-times or impairments of use, a temporary work-around can be supplied initially.

2.5 Correction Times

2.5.1 The following Correction Times apply:

- Critical: within 4 hours
- Major: within 8 hours
- Normal: within 24 hours
- Minor: for the next release

The Correction Time is the time from supplying an Action Plan to the Customer to providing an acceptable patch, workaround, etc.

2.5.2 If, during the course of the correction work, measures which do not fall within EXASOL's responsibility, e.g. hardware repair work or generation/restoration of back-ups, are necessary and if EXASOL cannot proceed without such measures, then the time for the execution of those measures will not be included in the Processing or Correction Times.

2.5.3 If the agreed processing times for Errors of critical and major priority level are not met, the following penalties will apply:

- First case – 2 % credit towards the total maintenance fee for the following year
- Second case – 5 % credit towards the total maintenance fee for the following year
- Third case – 10 % credit towards the total maintenance fee for the following year
- For every incident after the third incident – 15 % credit cumulatively towards the total maintenance fee for the following year.

The Customer shall provide certified and trained employees or third parties for database and cluster administration who are familiar with the functionality of the Software to work with EXASOL during Processing and Correction Times.

2.5.4 The percentage credit is based on the annual \$20K USD for normal support. If the additional 24 hours support is also purchased by \$18K USD (annual) then it applies to both (ie the percentages apply to the total annual fee of \$38K USD).

2.6 Correction Work

2.6.1 Correction work is performed via an explicit support role. This role has access only to system tables. Thus, direct access to the data tables of the database is impossible.

2.6.2 The access follows existing privacy policies that regulate the access to personal master data and user data. Particularly the copying of such data for analysis of an Error shall require the express approval of the Customer.

2.6.3 For the fulfilment of EXASOL's contractual duties, Customer grants to EXASOL the necessary access information for the Cluster. In case of correction work and other maintenance actions, this access information specifically includes user domains with are necessary for processing the request and which have the necessary privileges at the operating system and database level.

2.7 Service Hours

EXASOL's Service Hours are Monday-Friday, 08:00 to 18:00 (Eastern Time USA), except Canadian public holidays. On the 24th and on the 31st December the following support times apply: 09:00 to 12:00. During Service Hours emails and problem reports will be accepted at, via the EXASOL Hotline or through the EXASOL Support Portal.

2.8 Environment Terms for System Operations

2.8.1 The Server Cluster, upon which EXASolution runs, typically consists of high-performance Intel servers, mounted in 19" racks offered as standard by all large hardware vendors. An exception is the pre-configured License Server, which does not have to conform to the same performance parameters. In the course of certification by EXASOL such servers or virtual machine settings or public hosting setups can be tested for their functionality and performance with EXASOL products. An up-to-date list of already Certified Environments can be found on the EXASOL website. In the case that a non-Certified environment is used for the Software, operational malfunctions are possible. In such cases EXASOL reserves the right not to treat such malfunctions as an Error in terms of Section 10.1, unless the behavior is reproducible in a Certified Environment. In the case of a non-physical environment, even if certified, EXASOL reserves the right not to treat malfunctions as an Error in terms of Section 10.1, unless the behavior is reproducible in a physical environment. It is highly recommended to deploy the Software in a pre-certified environment or to request an individual certification, at Customer's expense.

2.8.2 The Software provides two tools for a convenient and safe cluster, and database configuration: the web administration interface EXAoperation and the "maintenance" shell user for assisted network configuration.

2.8.3 Direct access to the operating system (Linux) through the shell (SSH) is intended for use by EXASOL support and restricted to diagnostic tasks only.

2.8.4 Customer is encouraged to employ EXAoperation and the maintenance shell for administrative activities, and to use the privileged shell access (i.e. the root user) solely on the instruction and guidance of EXASOL.

2.8.5 In the case where Customer disregards this, EXASOL reserves the right not to treat malfunctions as an Error in terms of Section 10.1.

2.9 Term, Termination

2.9.1 If expressly listed in Annex 1, or if otherwise agreed in writing between the Parties, this Part B will form a part of the main Agreement.

2.9.2 The relevant services in this Part B ("Maintenance") shall commence from the moment the Software is provided and shall continue for a minimum period of 12 months.

2.9.3 Thereafter, the term for Maintenance shall automatically renew for additional one (1) year periods unless notice of termination is given to the other Party at least three (3) months prior to the expiration of the then-current term.

2.9.4 Either party may terminate this (Maintenance) service if the other Party materially and/or willfully breaches any of its obligations and fails to cure such breach within thirty (30) days after written notice.

3 OPERATIONS ENGINEERING

3.1 Installation Service

3.1.1 At Customer's request and as agreed between the Parties, EXASOL will install and put the Product into operation at the Site and Customer undertakes to set up and organize the necessary conditions herefor. Customer also agrees to implement and maintain at its own cost VPN-access for EXASOL to carry out certain services in connection with the Product and its operation.

3.1.2 In doing so, the following tasks will be typically conducted:

- Adding and installation of cluster nodes
- Creation of users for administration and monitoring
- Network setup of cluster nodes
- Integration of nodes in the cluster
- Setup of database instances
- Backup configuration
- Hand over of login data

3.1.3 The installation will be completed by introduction to the most important functionality of EXAOperation.

3.2 Operational Service

3.2.1 This service includes regular maintenance tasks, which are performed as required or upon request by the Customer. The Operational Service includes the following:

- Update Service: Installation and deployment of releases (major and minor)
- User Management (for operation and monitoring)
- Node Management

Adding and installation of nodes

Stand by node handling

- Cluster upgrade
- Database Instance Management
- Creation / removal of database instances
- Start / stop of database instances
- Implementation of backup strategy
- Database restore upon request
- Database usage reporting (monthly)

3.2.2 External data backup (offline backup) is not included in the scope of service. The system-internal data backup requires that Customer reserves enough storage in the Cluster for the backup.

3.2.3 Reports about system usage are created on a monthly basis. Therefore access to the statistics system tables in EXASolution is required.

3.2.4 Service Hours apply.

3.2.5 If no operational service is purchased or if services are to be performed outside of the Service Hours, then services can be ordered on an ad hoc basis, subject to T&M hourly rates.

3.3 Incident Management

3.3.1 If an "Incident" occurs within the agreed Incident Management hours, EXASOL will initiate all necessary actions to restore the standard operation of the EXASolution Cluster as quickly as possible. Software bug fixing is not subject to Incident Management, but to the maintenance contract or the provided warranty, as applicable.

3.3.2 An "Incident" is an issue that causes a deviation from the standard operation of the EXASolution Cluster and which causes an actual or potential interruption or disruption of the operation, or a reduction of the contractual quality of the Software, e.g. a database instance does not accept connections; the backup cannot be generated or one or more hardware components are defective, etc.

3.3.3 If Monitoring is additionally agreed, according to Section 19, and if EXASOL therefore receives an automated "Incident Notification", EXASOL will begin processing the Incident within the scope of the monitoring times. In that case Customer does not have to separately report the incident to EXASOL.

3.3.4 If no Monitoring is agreed, or Customer notices an Incident outside of the monitoring times, then Customer should report it to EXASOL via the support hotline, the support portal or by e-mail to service@exasol.com. Outside the monitoring times the report must be provided through the hotline.

3.3.5 Incident Management times correspond to the Service Hours in Section 14.

3.3.6 If Incident Management "24x7" is agreed then the Incident Management times are also "24x7". If no Incident Management "24x7" is agreed then processing the Incident outside of the Incident Management times will be charged separately in accordance with EXASOL's standard price list.

- 3.3.7 Without Incident Management only Exasolution software bugs are covered. Work which is not covered by the maintenance agreement is charged at \$225 USD per hour. But, FleetComplete reserves the right to purchase Incident Management at any time.

3.4 Monitoring

- 3.4.1 EXASOL installs a software-based system monitor with an automated Incident report system that follows a two-stage escalation strategy. The monitoring is oriented toward typical error sources in the EXASolution Cluster and database operations.
- 3.4.2 While the monitoring times correspond to the Service Hours in Section 14, EXASOL always processes Incidents as quickly as possible within the scope of the agreed Incident Management.
- 3.4.3 Purchase of the Monitoring Service is predicated on purchase of the Incident Management Services.

3.5 Involvement of the Customer

For services the Customer will grant EXASOL continuous access to the corresponding system and will grant at least one appropriate maintenance window per quarter. All appointments will be agreed upon with the Customer in advance. EXASOL will inform the Customer in a timely manner about planned service operations and will document the operations.

3.6 Term, Termination

- 3.6.1 If expressly listed in Annex 1, or if otherwise agreed in writing between the Parties, the relevant sections of this Part C will form a part of the main Agreement.
- 3.6.2 The relevant services in this Part C (“Operations Engineering Services”) shall commence from the moment the relevant Operations Engineering Service is provided and shall continue for a minimum period of 12 months.
- 3.6.3 Either party may terminate an (Operations Engineering) service if the other Party materially and/or willfully breaches any of its obligations and fails to cure such breach within thirty (30) days after written notice.

4 TRAINING

4.1 Training Content and Conditions

- 4.1.1 Information on subject, content, duration and price of standard training is available at: <http://www.exasol.com/en/services/training/> and are respectively defined in the Agreement or its Annexes.
- 4.1.2 If, in deviation from the standard training offer, customer-specific or special topics shall be covered, the parties shall agree separately, in advance and in written form, on content, duration, number of participants and prices. The specification of the individual training program must be completed at least two weeks before the training.

4.2 Location and Time of Training

- 4.2.1 Training is typically conducted in EXASOL’s training rooms. EXASOL reserves the right to change the location, as far as is reasonable for the participants.
- 4.2.2 In case of special agreements, in-house training can be conducted at Customer’s premises. In this case Customer shall provide suitable rooms and facilities, in particular a separate room with a projection surface for a projector. If a projector is not available, EXASOL must be informed in advance. The costs for travelling, overnight stays and other expenses of the course instructor(s) will be invoiced separately, according to the actually incurred expenses as evidenced by respective records and receipts.
- 4.2.3 The training durations are a maximum of 8 hours per day. Unless otherwise agreed the courses start at 09:00 and end at 17:00. Lunch breaks will be held as agreed.

4.3 Registration Fee

- 4.3.1 The amount of the registration fee can be found in the price list or will be separately stipulated in writing. Stated prices are non-binding until EXASOL confirms them. The registration fee is per participant.

4.3.2 The registration fees are due upon issue of the invoice and must be paid within 14 days, without deductions. Price information from EXASOL is exclusive of any applicable taxes.

4.3.3 The registration fee includes course papers, certification fee, a certification document from EXASOL (if the course is duly passed) and provisions during breaks. All other costs incurred by the participant in connection with the training, e.g., board and lodging, must be paid by the participants. To provide the most effective know-how transfer, the number of participants for each course is generally limited to 5 people.

4.4 Registration

4.4.1 Registrations for training are to be made in writing, by fax, e-mail or via the Internet to EXASOL at the following address:
EXASOL AG, Neumeyerstraße 48, D-90411 Nürnberg, Germany
Telefax: +49 (0) 911 23991-5264

4.4.2 The registration for training must be made at least 3 weeks before the start of the training. The registrations must be confirmed by EXASOL. The registration confirmation by EXASOL is subject to a minimum number of 3 and maximum number of 5 participants. Registrations will be processed in the order they are received. The requirement for successful participation in the training is the previous knowledge described in the training description.

4.5 Cancellation and Rebooking

4.5.1 In case of a cancellation or rebooking of a course, EXASOL must be informed in writing. If a course participant is prevented from attending the training, a substitute person can attend instead. The full registration fee will be charged, even if the participant does not attend the entire course. In case of a cancellation or rebooking by the Customer, the following shall apply:

- up to 21 calendar days before the start of the course, no fees will be charged;
- up to 14 calendar days before the start of the training a fee in the amount of 50 % of the total registrations fees will be charged;
- less than 14 calendar days before the start of the course, the total amount of the registration fees will be charged. Credit for a course will not be given.

4.5.2 EXASOL reserves the right to cancel a course under reasonable conditions, if the minimum number of 3 participants is not reached or if organizational or technical issues arise. This is in particular the case if the instructor is unable to attend for any reason or in any cases of force majeure. EXASOL will inform Customer about any cancellation. If a postponement of the appointment is not possible, EXASOL will refund the already paid registration fees. Further claims are excluded, unless they are based on intended or grossly negligent conduct on the part of EXASOL or its agents. EXASOL can appoint a replacement instructor, modify and enhance the content of the training and, with timely prior notice, postpone the training date and change the training location.

4.6 Liability

EXASOL shall not be held liable for the loss or damage of items that are brought to courses, unless the loss or damage is the result of intentional or grossly negligent conduct on the part of EXASOL or its agents. In the training breaks, valuables or important documents are not to be left in the training rooms. House rules must be respected. The provisions in Clause 6 of the Agreement shall apply.

4.7 Property Rights

Training documentation and presentations by EXASOL are copyright protected. Audio and video recordings during training are prohibited without express written consent by authorized EXASOL representatives. The training documents that are handed out by EXASOL become the property of the participant, however, they shall neither be copied, nor processed or distributed without the written consent of EXASOL. EXASOL reserves all rights.

Stand 10/24/2017