

End User Terms and Conditions for Cloud Services of Exasol Cloud Computing GmbH ("Exacloud")

Exacloud offers the use of the high-performance Exasol database software in the Exacloud infrastructure as cloud services as well as complementary database services such as maintenance service, installation service, operational services, incident management and monitoring. The aforementioned mere cloud services together with the aforementioned database services will be referred to as Cloud Services. If an end user ("End User") purchases Cloud Services as well as further services (f.ex. Consulting etc.) from an Exacloud partner, an authorized Reseller ("Reseller"), the following End User Terms and Conditions ("T&C") shall apply supplementary to the agreement between End User and Reseller ("Agreement"). Unless otherwise explicitly agreed upon, Exacloud is Reseller's subcontractor and there is no contractual relationship between Exacloud and End User.

For the subcontractual relationship between Reseller and Exacloud the T&C shall apply accordingly.

1 General Provisions

1.1 Definition of Software and Documentation

(see also the overview on our website: <https://www.exasol.com/support/browse/SOL-345>)

„Software“ means the software stack consisting of Exasuite and clients and drivers provided by Reseller/Exacloud (e.g. ODBC, JDBC, ADO.NET) as well as every modification, bugfix, patch etc. provided by Reseller/Exacloud to End User in whatever form.

„Exasuite“ consists of the Exasol database software as well as a tuned operating system (Exacluster OS).

„Clients- and Drivers“ are the client Exaplus as well as drivers provided by Reseller/Exacloud (e.g. ODBC, JDBC, ADO.NET).

“Documentation” means the documentation that describes how to use the Software and is provided by Exacloud in electronic form in English via Exasol user portal (<https://www.exasol.com/portal/display/DOC/>).

1.2 Confidentiality and Data Protection

1.2.1 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.

1.2.2 The Parties will make Confidential Information available only to those employees (including employees of their affiliates) who require access to them in the performance of their job-related duties ("need to know"). The receiving party 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 disclosing party. Reseller, End User and Exacloud are not third parties according to this clause Section 1.2.

1.2.3 Necessary End User data relevant for business transactions will be processed with due consideration of the data protection regulations.

1.3 Remuneration, Payment

1.3.1 If the Agreement between End User and Reseller does not contain terms of payment or if there is a direct relationship between End User and Exasol, the following shall apply: Fees for the Cloud Services ("Cloud

Service Fee”), as well as other service fees, are due in full immediately after the commissioning and End User's receipt of invoice, and are payable within fourteen (14) days of the invoice date. If End User delays acceptance without cause, fees are still due and payable. Unless otherwise stipulated in the quote / Agreement, fees are payable in advance at the beginning of each service period (as stated in the quote, f.ex. monthly, quarterly, yearly).

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

1.4 Obligation to Cooperate, Backups

1.4.1 After conclusion of the Agreement, End User will receive an Onboarding document. Depending on the type of service ordered, End User shall nominate sufficiently qualified and authorized employees who shall be made available for Exacloud during the performance of its Cloud Services and further services, if any, under the Agreement and who may make any necessary decisions and take any necessary measures. With respect to Cloud Services the following contact persons are to be nominated:

- „MyExasol User Manager“ for access administration for the End User-specific support pages;
- „Decision Maker“, who is authorized to place orders with Exacloud or book services, e.g. an update on the current version, recovery of a back-up, etc.
- „Incident Manager“, who is responsible for informing Exacloud in the case of an Incident and who can support Exacloud during the Incident Management process in accordance with section 5.3 below.

1.4.2 Exacloud provides new bug-fix releases at regular intervals. End User is obliged to update the installed Software as soon as possible after such a release has become generally available.

1.5 Liability

1.5.1 Reseller 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 Reseller shall be without limitation.
- b) In the event of gross negligence, Reseller 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, Reseller shall be held liable only for such damage which is typical for this kind of business and was foreseeable upon the execution of the Agreement, but to the maximum amount of 50% of the annual Cloud Service Fee per claim and 100% of the annual Cloud Service Fee for all claims from and in connection with the contract overall.

1.5.2 Reseller is entitled to claim contributory negligence of End User. In particular, End User has the responsibility for data protection and blocking of malware in accordance with the latest technical standards.

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

1.5.4 In case of a possible liability of Exacloud toward the End User, the provision in Sections 1.5.1-1.5.3 (including liability limitations) shall apply to Exacloud accordingly.

1.6 Amendments to the General Contract Terms

1.6.1 Amendments to these T&C will be notified in text form (in writing, no signature required, e.g. via e-mail) to the End User not later than two months before the proposed effective date. If End User does not object to the amendment to Reseller/Exacloud until the proposed effective date, consent shall be deemed to be given.

The revocation shall be addressed to Reseller or Exasol Cloud Computing GmbH, Neumeyerstraße 22-26, 90411 Nürnberg or via e-mail to legal@exasol.com. In case of a revocation, the existing T&C without the proposed amendment continue to apply. In the notice informing about the amendment, Reseller/Exacloud will particularly emphasize End User's right to revocation and the respective time limit. Reseller/Exacloud's right to amendments pursuant to this Section is limited to provisions about Operation Engineering Services, Service Levels (e.g. Response and Processing Times) and the maintained versions.

1.6.2 If Reseller/Exacloud only introduces a new service or functionality or suggests an amendment, which does not affect End User's rights and obligations, Reseller/Exacloud is allowed to announce such an amendment with one month's notice. In such case a three-week revocation period applies.

1.7 Business Hours

Business Hours are Mon-Fri 08:00-18:00 (Europe/Berlin) with the exception of German public holidays. During the period from 24.12. to 31.12. Business Hours are Mon-Fri 09:00-12:00 (Europe/Berlin).

1.8 Reference End User

1.8.1 Exacloud and Exasol Europa Vertriebs GmbH ("Exasol") are entitled to refer to End User by name and display its logo for marketing and promotional purposes.

1.8.2 If Exacloud or Exasol plan the publication of press releases, success stories, video-statements of the End User, written quotes of the End User or presentation slides about the End User, the aforementioned advertising material will be coordinated with End User before publication.

1.8.3 If and when the End User takes part in the Exacloud Startup Program (Service Level "Startup") he commits himself to promote Exasol, in particular

- to name Exasol as a partner and solution on the End User's website;
- to provide a End User testimonial and a use case of the End User for the website and the promotional material of Exasol;
- to be available as a contact and reference for other start-ups which are interested in Exasol;
- to mention Exasol during interviews and talks with partners if they are about the technical implementation of the solution of the End User.

1.8.4 If there is no direct contractual relationship between Exacloud and End User, the aforementioned provisions in Section 1.8 are for the benefit of Exacloud and Exasol as third parties to the Agreement.

1.9 Term and Termination for the Cloud Services

1.9.1 The term (fixed or indefinite) and service period (f.ex. annually, quarterly etc.) for the Cloud Services shall be defined in the order / Agreement. If nothing otherwise is agreed upon, the term shall be deemed to begin when the cloud system is at End User's disposal. If no fixed term was agreed upon, the Agreement automatically renews for the service period stated in the order if not terminated with 3 months' notice towards the end of the initial/further service period. If a minimum term is agreed, then the Agreement may only be terminated at the earliest towards the end of the minimum term.

1.9.2 The right of immediate termination for cause shall remain in effect.

1.9.3 Notice of termination must be in written form.

1.10 Miscellaneous

1.10.1 Exacloud performs its services either by its employees or by employees of associated companies as defined in Section 15 of the German Companies Act ("Aktengesetz", hereinafter "AktG") or, in case of trainings, by

employees of certified Exacloud training partners. However, in such case, Exacloud remains responsible for the performance towards the End User. If the services – except for housing (cf. Sec. 2.1.3) – will be rendered by other subcontractors (not by associated companies according to Sec. 15 AktG), End User will be informed beforehand.

- 1.10.2 The laws of the Federal Republic of Germany shall apply without regard to the Convention on the International Sale of Goods (CISG). Legal venue for any dispute in connection with this contract is Nuremberg, Germany.
- 1.10.3 Amendments and additions to the T&C must be made in writing, including amendments to or a waiver of this written form requirement.
- 1.10.4 In the event that one or more provisions of these T&C 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.

2 Properties and Size of the System

2.1 System and Housing

- 2.1.1 Reseller provides to End User the use of Exasuite in the Exacloud infrastructure („System“) as a service. For avoidance of doubt, Clients and Drivers and any other software End User may choose to use in connection with Exasol Database (e.g. Cognos, Tableau, etc.) will be run by End User outside of the System.
- 2.1.2 In addition to one or several servers („Cluster“), the System allocated to the End User may include a so-called failover server which can assume the tasks of node in case of failure. Processing and main memory capacities, which are not typically part of the allocated System, may also be provided. Unless specific infrastructure and system requirements for the System are agreed upon, Reseller/Exacloud can make any necessary decisions as to how it provides the System in question at its sole discretion, e.g. use of physical or virtual systems, as well as to the infrastructure set-up for Housing. Reseller/Exacloud is entitled to make changes to the infrastructure etc. in its sole discretion at any time, if the End User System is not materially affected by these measures.
- 2.1.3 System Housing is carried out by Exacloud or a qualified third-party provider authorized by Exacloud. Housing includes the operation of servers and the required infrastructure, i.e. power, air-conditioning, etc. for the agreed configuration. The datacentre is located in Germany. Any changes to the location or setup of the environment need to be agreed with End User in advance.

2.2 [Intentionally left blank]

2.3 Initial Sizing – Performance Influencing Factors

Recommendations regarding initial sizing of the Software license and required hardware – if any – are made to Reseller/Exacloud’s best knowledge and based on the conditions and performance-influencing factors known at the time the recommendation is made. However, the Software is a complex database management system whose performance metrics depend on various influencing factors (e.g. hardware environment, other environmental conditions, data model and query structure, data volume, etc.). Every change of such a factor may affect the performance metrics, thus Reseller/Exacloud cannot provide any guarantee for a specific performance level of the Software, especially if known influencing factors are subsequently changed. If End User desires advice and assistance with respect to performance under the existing system conditions, Exacloud offers appropriate Performance Service or Individual Consulting.

2.4 License Size, Upgrade

- 2.4.1 The allocated license size is defined in the applicable order / Agreement and defines the maximum data volume and/or RAM which is available for the End User's System.
- 2.4.2 If and when the maximum data volume is exceeded the allocated and agreed license and potentially cluster hardware has to be upgraded. As soon as the End User recognizes that the agreed license volume could be exceeded within the next two months, the End User undertakes to notify Exacloud of the anticipated additional requirements.
- 2.4.3 Upgrade of Service-Levels „Standard“ and „Premium“: Reseller/Exacloud will propose an extension calculated to cover the End User's additional requirements. If End User confirms the proposed extension, then Reseller/Exacloud will initiate the necessary changes within 4 weeks of receipt of End User's confirmation. In this case the extension shall be deemed to have taken effect.
- 2.4.4 Upgrade of Service-Level „Startup“: Parties will in good faith negotiate an amendment to the Agreement, in particular with respect to the applicable Service Levels. If within one month after announcing the expected additional requirements no agreement has been reached, then Reseller/Exacloud shall be entitled to terminate the existing Agreement with immediate effect.
- 2.4.5 In the case that the End User does not accept or confirm the extension proposal within 4 weeks of receipt of Reseller/Exacloud's proposal or if no amendment to the Agreement is agreed and the maximum data volume is exceeded the following shall apply:
- Reseller/Exacloud shall not be responsible for defects, errors, performance degradation or other issues in connection with Cloud Services; Reseller/Exacloud's warranties, Maintenance and other Service obligations shall be suspended.
 - Reseller/Exacloud shall not be responsible for data back-ups which cannot be carried out or are missing due to insufficient storage in connection with the data overload.
 - Reseller/Exacloud shall have the right to invoice End User for any additional work necessary to support the End User's system which is caused by the data overload, e.g. Incidents such as „back-up cannot be completed“, „database cannot be started“, etc.

3 **General Terms applicable to all Database Services**

3.1 Database Services and Service Levels

3.1.1 In addition to providing Software and the System, Reseller/Exacloud provides the following Database Services, solely in regard to Software as set out in section 1.1 above:

- Maintenance Service (Section 4)
- Installation Service (Section 5.1)
- Operational Services (Section 5.2)
- Incident Management (Section 5.3)
- Monitoring (Section 5.4)

Additional Services such as Performance Service (Section 5.5), Consulting (Section 6) or Training (Section 7) must be ordered separately. The scope of each Database Service is determined by the agreed Service-Level indicated in the order: Exacloud Startup, Exacloud Standard or Exacloud Premium

3.1.2 The conditions set out herein specify the details of Exacloud Database Services provided by Reseller to End User, irrespective of whether the End User brings a previously bought Exasol license or licenses within the cloud offering.

3.2 Incident and Error

- 3.2.1 An „Incident“ is an event which leads to a deviation from the System’s normal operation and causes an interruption or disturbance of normal operations, e.g. a database instance does not accept connections, a back-up cannot be carried out or one or more hardware components are defective, etc.
- 3.2.2 An „Error“ is assumed if the Software does not provide the functionality described in the Documentation or which has been specifically defined in the Agreement.
- 3.2.3 To register Incidents or Errors, or to book specific Services Exacloud provides personalized access to the customized Support Portal and maintains a customer hotline for communicating Incidents and Errors.
- 3.2.4 If the End User does not state otherwise all notifications via the Support Portal or by Email to service@exasol.com will initially be treated as „Incidents“.

3.3 Priority Levels

- 3.3.1 Notified Incidents or Errors shall be dealt with in accordance with the following priority levels:
 - Critical: Business-critical processes are degraded, e.g. processes of high importance or which are time-critical cannot be executed. There is no possibility to work around the problem; normal work is generally not possible.
 - Major: Important functions are impaired, e.g. important processes can only be executed by employing complicated work-around solutions; Software operations are substantially degraded.
 - Normal: Individual, less important functions are unavailable or important functions can only be started by employing work-around solutions; a problem which only affects an individual module or function which the End User does not require continuously or for which there is no material need. The System functionality is otherwise unimpaired, or at least not substantially degraded.
 - Minor: An Error which does not materially affect the System or its performance. Other issues or queries with respect to the Software with low urgency.
- 3.3.2 The priority in each case is determined by the End User. If the End User makes no determination of the priority then the issue will be allocated the priority level „Normal“. While solving the Error or Incident the priority level may change.
- 3.3.3 If there is no Error or Incident and if the processing of queries has not been expressly agreed, then Reseller/Exacloud may inform the End User that any processing will be separately invoiced or that the query should be directed to the Exasol Community. If the notified issue is not an Error or Incident then in addition the action times defined below shall not apply.

3.4 Reaction Time

- 3.4.1 In accordance with the classification of the Error or Incident in question the following Reaction Times shall apply:

	Service-Level		
	Start-up	Standard	Premium
Critical	within 8 hours	within 4 hours	within 2 hours
Major	within 16 hours	within 8 hours	within 4 hours
Normal	within 48 hours	within 24 hours	within 12 hours
Minor	within 96 hours	within 48 hours	within 24 hours

- 3.4.2 Within the applicable Reaction Time the End User will receive confirmation of receipt of the Incident or Error notification („Basic Response“). Reaction Times are measured as the time elapsed within Incident

Management Times as defined in section 5.3.5 between the receipt of the End Users notification and Exacloud's Basic Response to the End User.

- 3.4.3 If Exacloud has not received a detailed Incident or Error report with End User's notification then the End User is obliged to provide Exacloud with further information about the Incident or Error in question. Exacloud will collect independently and pro-actively additional information, such as logfiles etc., as far as possible, in order to begin resolving the Incident or Error as quickly as possible.

4 Maintenance Service

4.1 Subject matter of Maintenance Service

- 4.1.1 Over and above its warranty obligations under the Agreement Reseller fixes Software Errors ("Maintenance Service") with the typical industry-standard care pursuant to the following provisions. At Reseller's discretion, solving issues may be carried out by providing Software which changes or supplements the Software in use.

- 4.1.2 Software Errors are allocated one of the Error priorities defined under Section 3.3.1 and subsequently processed in accordance with the applicable Reaction, Processing and Solution Times. Reseller/Exacloud does not guarantee any specific time for resolving an Error or to resolve an Error at all. Reseller/Exacloud also assumes no obligation to ensure a certain availability of the Software.

4.2 Supported Software Versions

The scope of the Maintenance Services under this Agreement is limited to each Major and Minor release for a period of two years from the respective release date. This period can be extended until the release of the second next release (Minor or Major). The Software version nomenclature uses the following format: Major.Minor.Bugfix (e.g. 4.2.6, where „4“ – denotes the Major, „2“ – denotes the Minor und „6“ denotes the bugfix-version). Up-to-date information about the ongoing life-cycle(s) can be found under <https://www.exasol.com/portal/display/DOWNLOAD/Exasol+Life+Cycle>. Reseller/Exacloud has no obligation to support an older version and will only do so at its own discretion and if a separate agreement describing the applicable rules for this exception is concluded between End User and Reseller.

4.3 Processing and Solution Times

- 4.3.1 If End User notices that the Exacloud system has been affected by an Error, then End User will notify Exacloud by Email via service@exasol.com, via the Support Portal or - during Business Hours also - via Exacloud's dedicated hotline and describe the Error with as much information and details as possible and available.
- 4.3.2 After receipt of the Error Notification and, as far as available, necessary additional information („Qualified Error Report“) Exacloud will attempt to reproduce the Error („Error Diagnosis“). If the Error can be reproduced, Exacloud will inform the End User within the Processing Time whether the cause is a Software Error and will provide an estimated time until a solution or fix is available („Qualified Response“). In the case of an Error Exacloud will regularly inform the End User about the progress of the Error solution.
- 4.3.3 In accordance with the Priority level the following Processing Times, calculated from receipt of the Qualified Error Report until the dispatch of the Qualified Response within Exacloud's Business Hours, shall apply:
- Critical: within 4 hours
 - Major: within 8 hours
 - Normal: within 24 hours
 - Minor: next release.

- 4.3.4 If necessary Exacloud will subsequently discuss the next steps with the End User and begin working out a solution (begin of the „Solution time“). In order to avoid or reduce down-times or operational problems Exacloud may propose a temporary work-around solution („Work-around“). Should the End User accept the proposed Work-around (e.g. update to more current Software version, execution of certain commands in the database, etc.) then the Priority level may be adjusted accordingly and the Solution Time ends. The End User may only refuse to accept a Work-around for important reasons. Important reasons would be considered to be – inter alia – if the Work-around is impractical or would lead to a disproportionate amount of effort on End User’s part. The final Error Solution may be carried out in the context of the next release.
- 4.3.5 If in the course of the Error Diagnosis or working out a solution measures become necessary which do not fall within Reseller/Exacloud’s sphere of responsibility, e.g. provision of additional required information for a Qualified Error Report (e.g. logfiles), changes to the End User hardware or retrieval of a back-up, etc., and Exacloud is prevented from continuing with its work, then the time until such issues are resolved will not be included in calculating the Reaction, Processing and Solution Times as defined above and below.

4.4 Processing Software Errors

- 4.4.1 Should in the course of Error Diagnosis or when working out a solution for correcting an Error it be necessary to access system tables in the database, Exacloud will do so through a database user account, who is authorized to access system tables. In this way it is ensured that Exacloud does not have direct access to the data tables.
- 4.4.2 Exacloud will fulfil its obligations in accordance with the rules and regulations for the protection of personal data. This means in particular that data will only be extracted for analysis purposes with the express consent of the End User.
- 4.4.3 End User shall make the access data for the database instance available as far as necessary to enable Exacloud to perform its duties. In cases of maintenance work this shall include access codes with the required privileges at database level for carrying out the tasks involved.

4.5 Maintenance Times

Maintenance Times correspond to Business Hours defined under Section 1.7. Unless otherwise expressly agreed the above Response, Processing and Solution times are only applicable during the Maintenance Times.

5 **Operations Engineering**

Operative tasks include Installation Service, Operational Service, Incident Management, Monitoring and Performance Service. All of the aforementioned services are included in the Cloud Database Service offer with the exception of Performance Service. Performance Service can be booked by separate agreement as well as financial compensation. As a rule, Operation Engineers do not require a privileged log-in for the database(s). If a privileged access does become necessary (e.g. in the case of a Major update), Exacloud will inform the End User accordingly. Unless otherwise agreed Operation Engineering tasks are limited to activities on the Exasuite Cluster. The End User is responsible for providing and maintaining the appropriate infrastructure around or outside the Cluster (e.g. the staging server, client administration, etc.).

5.1 Installation Service

Installation Service includes preparing the system for operating Exasuite. As a rule, the following activities are carried out:

- Preparation of the Cluster for operation
- Setting up a secure End User network access

- Starting of database instances
- Setting up the backup scheduler
- Transfer of access data for the database instances (at point of transfer the installation is complete)

For Exacloud offerings, the initial installation is free of charge.

5.2 Operational Service

5.2.1 Scope: Operational Service covers activities in connection with the planned maintenance of the system and includes in particular the following services:

- Update service for major and minor versions
- Node management
- Set-up and installation of a node
- Adding and removing reserve nodes for a database instance
- Cluster upgrade
- Management of database instances
- Set-up and deletion of a database instance
- Start / stop of a database instance
- Set-up of data back-ups for the database instances
- Recovery of database instances if required
- Monthly reports about system usage (available via the Support Portal)

5.2.2 The End User is obliged to maintain sufficient storage space in the Cluster or on external storage media for creating data back-up's. External data back-up's may be ordered separately. The storage space allocated to the End User, if any, will be defined in the Agreement.

5.2.3 In order for Exacloud to generate system usage reports End User will grant Exacloud access to the statistical system tables in Exasuite.

5.2.4 Operational Service Times: Operational Service Times for the Service-Levels „Startup“ and „Standard“ correspond to Business Hours defined under Section 1.7. For Service Level „Premium“ Operational Service Times are continuous. If a End User with the Service-Level „Start-up“ or „Standard“ desires this Operational Service outside the normal Business Hours it can be ordered separately (at extra cost) as Individual Operational Services.

5.2.5 In the course of regular maintenance work, Exacloud - among other activities - carries out updates to the current version. The maintenance windows will be communicated in good time. The minimum times for announcing maintenance work will be:

- Installation of a bugfix-version or a security update: 4 weeks
- Infrastructure work: 6 weeks
- Installation of a Minor version: 4 months
- Installation of a Major version: 6 months

The above announcement times do not have to be observed in case of Maintenance Service for critical Errors or other urgent security updates and if the End User opts for an earlier update time.

5.2.6 Maintenance work announced by Exacloud will be carried out during the agreed Operational Service Times (see Section 5.2.4). If the End User wants necessary maintenance work to be carried out outside Operational Service Times or at other times than the announced date, this can be arranged with Reseller/Exacloud at chargeable rates.

5.3 Incident Management

- 5.3.1 Within the scope of Incident Management Exacloud will react to an „Incident“ within the agreed Incident Management Times (cf. Section 5.3.5) and undertake all necessary measures to restore the Exasuite Cluster to normal operation.
- 5.3.2 As soon as all necessary information about the Incident is available (see Section 3.4.3) Exacloud will immediately begin to restore normal operations. If no sufficient information is available work cannot begin until the necessary additional information („Qualified Error Report“) is made available.
- 5.3.3 If the cause of an Incident is a Software Error as defined under Section 3.2.2 a Qualified Error Report will be provided. However, Software correction work itself is not included in Incident Management, but is governed by the Maintenance Service (cf. Sec. 4) or warranty provisions. In order to provide a Qualified Error Report under certain circumstances End User may be asked to provide assistance (e.g. to make client logs available). If measures to resolve an Incident lie outside Exacloud’s sphere of influence, Incident resolution may be closed by providing appropriate recommendations for action (e.g. ordering sufficient storage space for back-up’s, execution of certain SQL commands in the database as part of a Work-around solution, etc.).
- 5.3.4 If an Incident is caused by improper use or operation of the System (e.g. the permitted data volume is exceeded, a recommended work-around solution is not applied, etc.) Reseller/Exacloud shall have the right to invoice the End User for any additional work.
- 5.3.5 Incident Management Times: Incident Management Times for the Service-Levels „Start-up“ and „Standard“ correspond to the Business Hours defined under Section 1.7. For Service-Level „Premium“ Incident Management Times are continuous. If an End User with the Service-Level „Start-up“ or „Standard“ desires Incident Management Service outside normal Business Hours, it can be ordered separately (at extra cost). Reseller/Exacloud shall have the right to invoice the „Premium“ level monthly charge in which the Incident Resolution was carried out.
- 5.3.6 Incident Reporting: Incidents can be reported via the Support Portal or by Email to service@exasol.com. Outside normal Business Hours reports are to be additionally made via Exacloud’s dedicated hotline.

5.4 Monitoring

- 5.4.1 Exacloud utilizes a software-based health monitoring system in the Exasuite-Cluster which employs an automatic Incident reporting system including a multi-stage escalation process. The scope of the health monitoring system covers the typical sources of malfunction in an Exasuite Cluster.
- 5.4.2 Should certain malfunctions occur regularly, which can be traced back to improper use of the Software or an unsuitable infrastructure, Exacloud retains the right to suspend Incident reporting until the cause has been eliminated.
- 5.4.3 Monitoring times are continuous. Incident resolution is undertaken in accordance with the agreed Incident Management scope.

5.5 Performance Service (PLEASE NOTE: Not included in Cloud Database Service offer, cf. Section 5, Introduction)

- 5.5.1 Within the scope of Performance Service Exacloud will periodically monitor general performance trends (on a monthly basis) and provide performance analysis upon request during Exacloud's service times. The time allocated for Performance Service shall not exceed a one man day per month. Additional Performance Service can be ordered under Reseller/Exacloud’s Consulting Services (Section 6).
- 5.5.2 Exacloud shall be granted access to system tables in the database through an expressly authorized database user account. This user shall only have access to the system tables and statistical system tables. Direct access to the data tables in the database is therefore excluded.

5.5.3 Performance Times correspond to the Business Hours defined in Section 1.7.

6 Terms and Conditions for Consulting Services

The End User is entitled to a certain amount of consultation and support services in connection with the End User specific installation of the system. In case the Service Level "Standard" is agreed, one man-day consulting (8 h) and in the case of the Service Level "Premium" three man-days within the first six months after the initial operation of the system as agreed with Reseller/Exacloud according to the following conditions can be claimed. Additional consulting services can be ordered at any time against additional remuneration. If Consulting Services are ordered by Reseller from Exacloud to be provided towards the End User – within or independantly of the Cloud Services – the following provisions apply subject to the condition, that Exacloud is Reseller's subcontractor and there is no legal relationship between End User and Exacloud.

6.1 Scope of Services

- 6.1.1 Within the scope of consulting services, Exacloud provides advice and support to the End User according to the subject and extent described in the service offer/quote.
- 6.1.2 If nothing stating otherwise was explicitly agreed upon, Exacloud is not required to provide a certain result within the scope of consulting and does not have any obligation concerning the achievement of any objectives, which the End User may be pursuing.
- 6.1.3 If the local presence at End User's premises is not required to provide the Consulting Service, the Service can be provided remotely.

6.2 Time of Service

- 6.2.1 The End User must make an appointment with Exacloud in order to schedule when the consulting services will be provided. The appointment must be made at least four weeks before the planned service actions. Any changes to the appointment must also be communicated before the previously agreed-upon appointment. If no appointment has been agreed upon, there exists no claim for the provision of the services.
- 6.2.2 If the End User does not claim the services at the agreed-upon appointment, the claim for execution of the consulting services expires. In this case, 80% of the agreed-upon price will be charged.

6.3 Payment Terms

- 6.3.1 Unless expressly agreed otherwise, prices quoted by Reseller/Exacloud are to be understood plus VAT and any travel costs and expenses incurred.
- 6.3.2 One man-day consists of 8 hours on average. Man-days which were provided to a lesser or higher extent of 8 hours, will be invoiced proportionately per hours or minutes.
- 6.3.3 Unless expressly agreed otherwise, the information provided in the Agreement/quote about the time required, represents a non-binding time estimate only. Fees will be invoiced according to actual man-days and consulting hours provided at the rates specified in the quote. If Exacloud notices during the provision of services that the time estimated in the quote will be presumably exceeded, End User will be informed. End User shall than decide without delay on further proceedings and inform Exacloud in written form.
- 6.3.4 If it was agreed that payment is due after service provision, Reseller/Exacloud is entitled to invoice parts of the services after 2 or more man-days have been completed.

6.4 Obligations to Cooperate

The End User will make all necessary information, documentation and data – as appropriate, in written form – available to Exacloud. If required, Exacloud shall be given access to the business and operating premises of the End User.

6.5 Work Results

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

6.5.2 Subject to agreements to the contrary, the End User is not entitled to use the work results for non-internal use or – as far as that is not part of the intended use – make them available to third parties.

7 **Terms and Conditions for Training**

If Trainings are ordered by Reseller from Exacloud to be provided towards the End User, the following provisions apply accordingly subject to the condition, that Exacloud is Reseller's subcontractor and there is no legal relationship between End User and Exacloud.

7.1 Training Content and Conditions

7.1.1 Information about subject, content and duration of standard Training as well as certifications are available at <https://www.exasol.com/portal/display/TRAINING>. Subject, duration and price of Trainings and Training packages are set forth in the quote. Besides "Public Training" parties can also agree on "Team Trainings" (Customer to choose the entire participants of the Training).

7.1.2 If, in deviation from the standard Training offer, End User-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 (Individual Training or Workshop). The specification of the individual Training program must be completed at least two weeks before the Training. Training is held in English language. Any Training material is in English.

7.1.3 If a training contingent was ordered, one (1) unit will be deducted per participant and training day in case of a Public Training; in case of a Team Training (maximum number of 8 participants), eight (8) units will be deducted regardless of the number of participants. Unclaimed units laps after the agreed service period and will not be reimbursed.

7.2 Training package (Subscription)

7.2.1 If a Training package was ordered, End User is entitled to send a defined number of persons (as stated in the quote) during a defined service period (as stated in the quote) to either specific Training modules (as stated in the Agreement or quote) or any Training modules offered by Exacloud during the service period (flat rate). Dates for the individual Training modules are announced on Exacloud's website. The Training participants have to be identified by name at the beginning of the service period. A replacement of one of the aforementioned named participants is only possible if the replaced participant has not yet attended a training module.

7.2.2 The service period is stated in the quote. If during the service period less than three Training courses take place for a Training module which forms part of the ordered Training package, the service period shall automatically extend to the date when the third Training course of the respective Training module takes place. Unless otherwise explicitly agreed, the service period starts from the signature of the Agreement. Unless explicitly stated otherwise in the quote, the Training contract is concluded for a definite period (no auto-renewal).

7.3. Location and Training Time

- 7.3.1 Training is typically conducted in Exacloud's Training rooms. Exacloud reserves the right to change the location, as far as is reasonable for the participants.
- 7.3.2 In case of special agreements, in-house Training can be conducted at End User's premises. In this case End User shall provide suitable rooms and facilities, in particular a separate room with a projection surface for a projector. If a projector is not available, Exacloud must be informed in advance. If End User does not meet the aforementioned conditions, Training cannot be conducted, however, the cost will be charged. 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.
- 7.3.3 The Training durations are a maximum of 8 hours per day. Unless otherwise agreed the courses start at 9 AM and end at 5 PM. Lunch breaks will be held as agreed.

7.4 Registration Fee

- 7.4.1 The amount of the registration fee will be set forth in the quote. Stated prices are non-binding until Exacloud confirms them. The registration fee is to be understood as per participant or group.
- 7.4.2 The registration fee includes course papers, certification fee, a certification document from Exacloud (if the course is duly passed) and provisions during the coffee breaks. All other costs incurred by the participant in connection with the Training, e.g. board and lodging, must be paid by the participants.

7.5 Registration (Public Training)

- 7.5.1 Registrations for Training are to be made online via the form available at Exacloud's homepage.
- 7.5.2 The registration for Training must be made at least 3 weeks before the start of the Training. The registration is only valid if confirmed by Exacloud. The registration confirmation by Exacloud is subject to a minimum number of 3 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.

7.6. Cancellation and Rebooking

- 7.6.1 In case of a cancellation or rebooking of a course, Exacloud 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 End User, the following shall apply:
- until 21 calendar days before the start of the course, no fees will be charged.
 - until 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.
- 7.6.2 Exacloud reserves the right to cancel a course under reasonable conditions, if the minimum number of 3 participants for a public Training 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. Exacloud will inform End User about any cancellation. If a postponement of the appointment is not possible, Exacloud 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 Exacloud or its agents. Exacloud 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.

7.7 Liability

Exacloud shall not be held liable for the loss or damage of items which are brought to courses, unless the loss or damage is the result of intentional or grossly negligent conduct on the part of Exacloud 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. Furthermore, the provisions of the Agreement regarding liability apply.

7.8 Property Rights

Training documentation and presentations by Exacloud are copyright protected. Audio and video recordings during the training by End User or a participant are prohibited without express written consent by authorized Exacloud representatives. All training documentation remains the sole property of Exacloud. End User receives the copies and is permitted to use them for its own use only; they are not to be disclosed to third parties and they shall neither be copied, nor processed or distributed without the written consent of Exacloud. Exacloud reserves all rights.

7.9 Access to Exacademy

If End User gets access to Exacademy via the Exasol user portal, the following use terms shall apply:

- 7.9.1 The content, videos and other trainings material (“Content”), available at the portal “Exacademy”, are copyright protected. End User is entitled to use the access to Exacademy and the available content for the purpose for training its employees.
- 7.9.2 End User and the respective user of End User’s account will not and has no right (i) to copy available Content either in whole or in part, i.a. by filming the content or producing comparable training products etc.; or (ii) to store; or (iii) to edit; or (iv) to transfer; or (v) to publish available Content or make Content otherwise available to third-persons (f.ex. by distribution of the link, leading to the Content etc.).
- 7.9.3 In case Content gets available to the public by a misconduct of End User, End User has to pay a contractual penalty in the amount of EUR 100.000.

7.10 Data Protection

- 7.10.1 Exacloud is entitled to save and process a participant’s data for the sole purpose of fulfilling the contract and caring for the End User relationship in compliance with the EU General Data Protection Regulation (GDPR) and the German Federal Data Protection Act (BDSG) or (where relevant) other equivalent data privacy laws in the applicable jurisdiction.
- 7.10.2 For enhancing the learning content of the training, access to a training database will be provided. End User is aware and accepts and informs his employees who participate that any operations taken within such database will be recorded (auditing). Such record of data takes place for the sole purpose of enhancing participants` training effect. Such recorded data are available for all training participants and they must not - together with other data in the training database – be copied or exported from the database. Exacloud will not further process the aforementioned data.