



Terms and Conditions for Software License Agreements, Appliances and Services of Exasol Europa Vertriebs GmbH (“Exasol”)

Exasol’s quotes and offers for software licenses (perpetual or subscription), Appliances and/or the provision of services are subject to the following Terms and Conditions (“T&C”) in addition to the provisions and service descriptions in the quote. When and insofar as provisions in the quote deviate from those in the T&C, such provisions in the quote shall take precedence over the T&C. Upon acceptance of the offer in the quote (“Agreement”) by the Customer, the following T&C become part of the Agreement.

For Exasol’s quotes for Software Evaluation the present T&C do not apply. For Software Evaluation, the special Terms and Conditions for Software Evaluation (PoC) apply exclusively.

1 General Provisions

1.1 Application of the Contractual Terms and Conditions

For agreements with Exasol as well as for pre-contractual obligations, these T&C shall apply exclusively. Customer’s general terms and conditions shall not apply, even if they are attached to requests for an offer, orders, declarations of acceptance, etc., and regardless of whether or not Exasol expressly objects to them in any individual case. The services specified in these T&C form only part of the Agreement if the provision of the respective services is explicitly agreed upon between the parties.

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.

1.2.3 Exasol processes the necessary customer data relevant for business transactions with due consideration of the data protection regulations.

1.3 Remuneration, Payment

1.3.1 Unless otherwise provided for in the quote / Agreement, payment obligations are due in full immediately after Customer's receipt of invoice and are payable within fourteen (14) days of the invoice date. If Customer delays acceptance without cause, the license or subscription fee, maintenance fee and service fees (e.g. for operations engineering services or consulting) are due and payable even though the Software/service was not provided. Unless otherwise agreed, subscription fees, maintenance fee (in case of subscription already included in the subscription fee) and service fees for operations engineering services are payable in advance at the beginning of the agreed service period (f.ex. yearly, quarterly etc.).

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

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

1.4 Obligation to Cooperate, Backup

1.4.1 After conclusion of the Agreement, Customer receives an Onboarding document. Depending on the type of service ordered, Customer shall nominate sufficiently qualified and authorized employees who shall be available to Exasol during execution of maintenance, operations engineering, consulting and training services and who is/are authorized to make necessary decisions and initiate measures. With regard to maintenance and operations engineering services the following contact persons have to be designated:

- „MyExasol User Manager“ for the management of the access to customer-specific support-sites.
- „Decision Maker“, who is/are entitled to place orders and book Exasol's services, e.g. update to the current version, restore a backup, etc.
- „Incident Manager“, who shall inform Exasol in case of an Incident (according to Sec. 4.4, in case Monitoring service was booked), and who is/are able to support Exasol with the Incident processing according to Sec. 4.3.

1.4.2 Customer shall ensure that data backups are conducted in a manner and frequency which takes the value and relevance of the data for Customer's business into account. It is recommended to perform at least a full backup weekly and to save and protect such backups until the next backups are safely generated. It is also advisable to generate incremental daily backups. Backups can be stored in the Cluster itself, and should additionally be stored outside of the Cluster.

1.4.3 Exasol regularly releases bugfix versions. Customer is obliged to update his installed Software timely.

1.5 Liability

1.5.1 Exasol is only liable for compensation and reimbursement for expenses (including, without limitation, lost profits, lost expenses, etc.) irrespective of the legal basis (e.g. pre-contractual, contractual and similar obligations, product liability, violation of duty or tort) to the following extent:

- a) Liability based on intent or guarantees given by Exasol shall be without limitation.
- b) In the event of gross negligence, Exasol shall be liable for typical, and upon the conclusion of the contract foreseeable damage.
- c) In case of a breach of cardinal duties (such as default) that endangers the purpose of the contract and which does not constitute gross negligence, Exasol shall be held liable only for such damage which is typical for this kind of business and was foreseeable upon the execution of this Agreement, but to the maximum amount of 50% of the license fee (in case of a subscription license: 50% of the yearly subscription fee) per claim and 100% of the license fee (subscription: 100% of the yearly subscription fee) for all claims from and in connection with the contract overall.

1.5.2 Exasol is entitled to claim contributory negligence of Customer. In particular, Customer 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.

1.6 Amendments to the Terms and Conditions

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 Customer not later than two months before the proposed effective date. If Customer does not object to

the amendment to Exasol until the proposed effective date, consent shall be deemed to be given. The revocation shall be addressed to Exasol Europa Vertriebs 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, Exasol will particularly emphasize Customer's right to revocation and the respective time limit. Exasol'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 Exasol only introduces a new service or functionality or suggests an amendment, which does not affect Customer's rights and obligations, Exasol is allowed to announce such an amendment with one month's notice. In such case a three-week revocation period applies.

1.7 Service times

Exasol's service times are Mon-Fri 8AM-6PM (Europe/Berlin), except for German national public holidays. From Dec 24th until Dec 31st, the following times apply: Mon-Fri 9AM-12AM (Europe/Berlin).

1.8 Reference Customer

1.8.1 Exasol is entitled to refer to Customer by name and display its logo for marketing and promotional purposes.

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

1.9 Miscellaneous

1.9.1 Exasol is entitled to perform services due under the terms of the Agreement 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 Exasol training partners. However, in such case, Exasol remains responsible for the performance towards the Customer. If the services will be rendered by other subcontractors, Customer will be informed beforehand.

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

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

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

2 **Terms and Conditions for Software Purchase and Software Subscription**

2.1 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 Exasol (e.g. ODBC, JDBC, ADO.NET) as well as every modification, bugfix, patch etc. provided by Exasol to Customer 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 Exasol (e.g. ODBC, JDBC, ADO.NET).

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

2.2 Extent of Use

- 2.2.1 With payment of the license fee (in case of subscription: subscription fee) Customer is granted a non-exclusive, non-transferable, non-sublicensable, and unlimited in time right (in case of a subscription license: limited in time right) to use Exasuite on one or several, dedicated servers („Cluster“) and to use Exasol Clients and Drivers. This right of use is limited according to the parameters stated in the quote / Agreement. Unless otherwise agreed in the quote / Agreement, 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 the commercial use of the Software is not permitted; the Software may then only be used for development and test purposes.
- 2.2.2 Customer shall communicate on which system Exasuite is to be operated (including – if applicable – the respective serial numbers, instance types, size of the Cluster, RAM size, CPUs, hard disk and network configuration, including switch, cloud provider, and data processing center). As soon as Exasuite is transferred to a system other than the one originally communicated to Exasol, Exasol is to be informed of the respective changed data. If Exasuite is to be transferred to a system that is located outside of the European Union, Exasol reserves the right to object.
- 2.2.3 The Software shall not be rented, subleased or otherwise distributed in tangible or intangible form. The use by and for third parties (e.g. by outsourcing or application service providing) without prior consent of Exasol is not permitted.
- 2.2.4 Without consent of Exasol, the Customer is not allowed to change, edit or copy the provided Software to an extent that is not in accordance with the designated use of Sec. 69 UrhG (German Copyright Act). A decompilation is only permitted in accordance with the provisions of Sec. 69e of the German Copyright Act (UrhG).
- 2.2.5 Certain Software components are subject to the GNU General Public License and comparable license terms (short “GPL components”). Regarding such GPL components and only in regard to them, the terms of their respective license takes precedence over the license terms of this Agreement. The aforementioned license terms are in each case listed in the Exasuite software part concerned (Software + Driver + Clients etc.). At Customer’s request, Exasol will send such list in digital form to the Customer prior to the conclusion of the contract. If a test system is at Customer’s disposal before conclusion of the contract, the license terms can be viewed directly in the respective Software package (e.g. Exaoperation/Exaplus).
- 2.2.6 In case of a breach of the above-mentioned provisions as well as a breach of Sec. 2.3 by the Customer, insofar that the Software was given to a non-authorized third party, Customer shall pay Exasol a contractual penalty in the amount of half the total amount the third party would have had to pay if the third party had licensed the Software directly from Exasol according to the then-current price list but at least to the amount of half of the current contractual license fee / contractual yearly subscription fee. The right to claim further damages is reserved.
- ## 2.3 Transfer to a third party (possible only in case of a Software purchase according to the following provisions)
- 2.3.1 The transfer of the Software shall only be permitted with Exasol’s written consent. Exasol grants approval if (i) Customer assures Exasol in written form that Customer has transferred all original copies of the Software to the third party and that Customer has deleted all copies, if (ii) the third party agrees in written form to the terms and transfer conditions hereunder and, if (iii) there are no other reasons (e.g. protection against competition) which oppose the transfer.
- 2.3.2 Customer shall only be permitted to transfer the Software to a third party in whole, and not in part, and only by final waiver of Customer’s right to use the Software.

2.4 Delivery

- 2.4.1 The transfer of the Software to Customer will be executed according to a separate agreement of the parties, by mailing of the license key which authorizes the use of the Software, by installation by Exasol on Customer's premises or via provision of a license server used for the operation of Exasuite in the Cluster. If a license server is supplied, Customer shall pay the amount that has been agreed in the quote. Customer agrees not to install any other software in the Cluster other than the licensed Software.
- 2.4.2 The Software is only provided in machine code (binary license), not in source code.
- 2.4.3 The user documentation for the Software is available for download by Customer on the homepage of Exasol in the German and English languages.

2.5 Material Defects

- 2.5.1 The Software's characteristics and functions are conclusively described in the user documentation and quote. The statements contained there are to be understood as specifications and not as a guarantee or warranty. A guarantee or warranty is only granted if it is clearly stated as such by written declaration by authorized representatives of Exasol.
- 2.5.2 The Software is fit for the contractually stipulated use; in case of a missing agreement regarding the contractual use, the Software is suitable for standard use. It meets the criteria of software of this kind and has the quality that is customary for this kind of software; however, it is agreed that it is not error-free. A functional impairment of the program resulting from hardware defects, environmental conditions, faulty operation or similar conditions shall not be deemed a defect. An insignificant reduction of quality shall not be considered a relevant defect.
- 2.5.3 Customer is obliged to immediately report defects and provide relevant information known to Customer that could help Exasol to identify the cause of the defect in question. In the event of a defect, Exasol may remedy the defect by delivery of software that is not defective, or by providing the possibility to work around the effects of the defect. In case of a defect, at least three remedy attempts shall be accepted. An equal value program version or the equivalent prior program version without the defect shall be accepted by Customer as remedy as far as reasonable. If a new version of the Software is provided in exchange for an older version, the older version shall be destroyed or upon request handed over to Exasol.
- 2.5.4 Customer shall provide Exasol with assistance in error analysis and the fixing of defects by describing the defect which occurred, delivering comprehensive information to Exasol and granting time and opportunity to fix the defect. Exasol can fix the defect at its choice remotely or at Customer's premises. Exasol may also provide services via remote maintenance. Customer shall provide the necessary technical requirements at Customer's own expense and shall provide remote access to the Software upon prior notification and agreement.
- 2.5.5 If Exasol does not successfully complete the remedy of defects within an appropriate time frame, Customer is entitled to set an adequate grace period (usually at least 2 weeks) with threat of final refusal. After expiration of the grace period, Customer may within 2 weeks demand an appropriate reduction of the paid license fee, or Customer may terminate the contract with regard to the Software concerned. In cases required by law (cf. Sec. 323 para. 2 BGB – German Civil Code) the setting of a deadline may be omitted. Claims for damage compensation or reimbursement for expenses shall be governed by Sec. 1.5.
- 2.5.6 In case of a subscription license the obligation for maintenance as part of the statutory warranty rights does not include the adjustments of the Software to changed operation conditions or technical and functional developments such as modification of the IT environment, in particular modification of the hardware, operating system, adjustments according to the functional scope of competing products or achieving

compatibility with new data formats. In case of a subscription license, compensation, regardless of fault, for defects that already existed when the contract was signed is excluded.

2.5.7 For defects in third-party products Exasol will pass on to Customer, to the extent legally possible, those claims to which Exasol itself is entitled against the third-party providers. Exasol's liability for defects due to defective third-party products is limited to a reduction of the fee paid and respectively the rescission of the contract. Sec. 1.5 of these General Terms and Conditions remains unaffected thereby.

2.5.8 With the exception of compensation claims, warranty claims are possible within a maximum time period of one year after delivery, unless the defect was fraudulently concealed. In the case that a license server is provided or the installation is performed by Exasol, the warranty period starts with actual delivery at the place of delivery; in the case of an Internet download (after sending the license key), the warranty period starts after the log-in credentials for the download have been unlocked.

2.6 Defects of Title

Exasol will indemnify Customer against third-party claims which may be brought against Customer in connection with the contractual use of the Software. Customer will immediately inform Exasol of any planned legal proceedings and legal defense and give Exasol the opportunity to initiate proceedings against the third party/parties. Further, Exasol will either provide Customer at its discretion with a license, deliver a suitable substitute or modify the Software so that third-party rights are not violated.

2.7 Initial Sizing – Performance Influencing Factors

Recommendations – if any – regarding initial sizing of the license and hardware were made to Exasol's best knowledge and based on the conditions and influencing performance factors at the moment the recommendation was made. However, the Software is a complex data base, whose performance values depend on various 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 values, thus Exasol cannot provide any guarantee for specific performance of the Software, in particular if respective factors were subsequently changed. If Customer wishes advice and assistance regarding the performance related to current system conditions, Exasol offers the data base administration (cf. Sec. 4.5) service or individual consulting (cf. Sec. 5).

2.8 Software Subscription: Duration, Termination

2.8.1 The subscription term (fixed or indefinite) and service period (f.ex. annually, quarterly etc.) for the subscription license shall be defined in the quote / Agreement. If nothing otherwise is agreed upon, the subscription terms shall deem to begin with delivery of the Software to Customer. If no fixed term was agreed upon, the Agreement automatically renews for the service period stated in the quote if not terminated with 3 months' notice towards the end of the initial/further service period. In case a monthly service period was agreed upon, the Agreement can be terminated with one month notice towards the end of monthly 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.

2.8.2 The right of both parties to terminate for cause remains unaffected.

2.8.3 The termination shall require written form in order to become effective.

2.8.4 After termination of the Agreement, Customer has to return the license server – if received –, as well as other data mediums or backup copies created. In addition, Customer has to uninstall the Software and to delete irreversibly any parts of the Software remaining in the IT system. Upon request of Exasol, Customer has to confirm compliance with the aforementioned duties in written form.

2.9 Special License Terms and Conditions for Tableau Turbo Enterprise Licenses

- 2.9.1 The Tableau Turbo Enterprise License can only be used in conjunction with Tableau servers and/or Tableau desktops from the company Tableau Software, Inc. and no other front-end BI/data visualization tool.
- 2.9.2 Tableau's software, server, desktop as well as any other products and services distributed by Tableau Software, Inc. are not subject of the Tableau Turbo Enterprise License and have to be acquired separately from Tableau Software, Inc.
- 2.9.3 Regarding the Tableau Turbo Appliance the additional terms for Appliances (cf. Sec. 2.10 and Sec. 3.8 for maintenance) apply.

2.10 Special License Terms and Conditions for Appliances

- 2.10.1 Definition: An Appliance is a configured system consisting of the Software installed on a server cluster of the manufacturer Dell including a preconfigured license server („Hardware“).
- 2.10.2 Reporting obligations: The reporting obligations according to Sec. 2.2.2 shall only apply if the Software of the Appliance is transferred to another system.
- 2.10.3 Delivery: Instead of Sec. 2.4.1 the following provision shall apply: The delivery of the Appliance to Customer will be executed according to a separate agreement of the parties. As soon as Exasol knows the possible delivery date of the hardware manufacturer, Exasol will communicate with Customer.
- 2.10.4 Shipment and retention of title: Unless otherwise provided for in the quote / Agreement, the Hardware/Appliance will be shipped at the expense of Customer. In addition, Customer bears the cost of any customs duties, taxes and other governmental charges. The risk will be transferred to the Customer as soon as Hardware/Appliance is handed over to the person in charge of its transportation. Exasol retains ownership of the Hardware/Appliance until full payment of the agreed purchase price.
- 2.10.5 Hardware defects: Exasol assigns to Customer all claims and rights due to defects in the Hardware (§ 437 German Civil Code) as well as any additional warranty claims against the manufacturer who supplied the Hardware. So far as the Customer has claims against the manufacturer or a third party based on own rights (e.g. based on incorrect advice of the manufacturer), the Customer is obliged to primarily enforce these rights. Apart from that, Customer has no claims and rights against Exasol due to defects in the Hardware, unless
- Exasol has fraudulently concealed a defect,
 - Exasol, their legal representatives or agents have breached their duties either intentionally or through gross negligence,
 - injury to life, body or health.

3 Terms and Conditions on Maintenance

3.1 Maintenance Service

- 3.1.1 Beyond its liability for defects, Exasol provides the following maintenance and support:
- Bugs fixing in the Software by providing software which modifies and/or complements the Software specified in sec. 2.1.
 - Provision of a hotline for error reporting
 - Personalized access to a customer-specific support website
 - Access to current software versions
- 3.1.2 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 Sec. 3.2, and then handled according to the appropriate response and

processing times (Sec. 3.3). Exasol does not give a guarantee for the elimination of the error in general or within a certain time frame. Further, there is no obligation to guarantee a certain availability of the Software.

3.1.3 The scope of the contractual maintenance services is each major or minor version for two years starting from its introduction by Exasol. This time period will be extended until the release of the second follow-up version. For the marking of the software versions the following system will be used: Major.Minor.Bugfix (e.g. 4.2.6: „4“ – refers to the major, „2“ – refers to the minor and „6“ – refers to the bugfix version). For up-to-date information about the life cycle please visit this page on our website:

<https://www.exasol.com/portal/display/DOWNLOAD/EXASol+Life+Cycle>. Customer is not entitled to demand maintenance service for a version which is older than the aforementioned versions. If Customer requires such additional maintenance service for an older version a separate agreement with Exasol is necessary.

3.2 Error Priorities

3.2.1 If Customer recognizes that the Software does not provide the functionality stipulated in the documentation or contract (“Error”), then Customer will inform Exasol by either e-mail or the support portal and will describe the Error in a reproducible manner.

3.2.2 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.

3.2.3 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.

3.2.4 If the subject of an Error report is not an Error as defined in Sec. 3.2.1 and the processing of such requests has not been contractually agreed, then Exasol may invoice the processing. If no Error exists, then the response-, processing and solution times defined below do not apply. Specifically, there is no Error as defined if the problem was caused by the unauthorized installation of software in the Cluster or by the operation of the Software in an uncertified environment.

3.3 Response, Processing and Solution Times

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

- Critical: within 4 hours
- Major: within 8 hours
- Normal: within 24 hours
- Minor: within 48 hours

Within the Response Time, Customer will receive a confirmation about receipt of his Error report (“Simple Response”). The Response Time is calculated within the Maintenance Times as per Sec. 3.5 as the time difference between receipt of the Error report by Exasol and the Simple Response from Exasol by Customer.

- 3.3.2 If Exasol has not received a qualified 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 work on fixing the Error as fast as possible.
- 3.3.3 After receipt of the Error report and, if applicable, necessary additional information (“Qualified Error Report”), Exasol will try to reproduce the Error (“Error Diagnosis”). 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 expected availability of a solution or bug fix (“Qualified Response”). If an Error exists, Customer will be regularly informed about the progress of the bug fix.
- 3.3.4 According to the Error priority, the following Processing Times shall apply, calculated as of the moment of receipt of the Qualified Error Report until sending a Qualified Response and within Exasol’s Maintenance Times:
- Critical: within 4 hours
 - Major: within 8 hours
 - Normal: within 24 hours
 - Minor: for the next release
- 3.3.5 If necessary, Exasol will coordinate next steps with the Customer and start the development of a solution (start of the „Solution Time“). To avoid down time or impairments of use, a temporary solution might be suggested (work-around). If Customer accepts the suggested solution (e.g. update to a current Software version, implementation of a specific command in the database), the error priority will be adjusted accordingly and the Solution Time ends. Customer may refuse a work-around only for good cause. Such good cause exists in particular, if a solution is not feasible or involves a disproportionate effort. The final bug-fix can be provided within one of the next releases.
- 3.3.6 If, during the course of the Error Diagnosis or development of a solution, measures are necessary which do not fall within Exasol’s responsibility - e.g. provision of important additional information for a Qualified Error Report (e.g. logfiles), hardware repair work or restoration of back-ups - and if Exasol cannot proceed without such measures, then the time for the execution of those measures will not be included in the above defined Processing, Response and Solution times.
- 3.4 Implementation of Maintenance and Support Services
- 3.4.1 If, during the course of the Error Diagnosis or development of a solution, access to a system table is required, Exasol will be entitled to login to the database by using a special database user, whose access privileges are limited to system tables. Thus, direct access to the data tables of the database is impossible.
- 3.4.2 Services are carried out taking into account provisions governing the protection of personal data. Particularly the copying of such data for analysis of an Error shall require the express approval of the Customer.
- 3.4.3 For the fulfilment of Exasol’s contractual duties, Customer grants to Exasol the necessary access data for the Cluster. In case of correction work and other maintenance actions, this access data specifically includes user domains which are necessary for processing the request and which have the necessary privileges at the operating system and data base level. If Customer does not grant access to the affected system, Customer is responsible for the provision of necessary information for Error Diagnosis and development of a solution.
- 3.5 Maintenance Times / Error Reporting system
- Maintenance Times correspond to the Service Times according to Sec. 1.7. During Maintenance Times, Error reports can be provided via e-mail to service@exasol.com, via the support hotline or through the Exasol support portal. If not otherwise agreed upon, the above-stated Response, Processing and Solution Times (Sec. 3.3) apply only within the Maintenance Times.

3.6 Hardware

- 3.6.1 The Cluster, upon which the Software natively runs, typically consists of high-performance Intel servers, mounted in 19" racks offered as standard by all large hardware vendors. The minimum requirements for the hardware and network can be found under <https://www.exasol.com/support/browse/SOL-132>. In the course of certification by Exasol such servers or IT-environments can be tested for their functionality and performance with Exasuite. At the end of the certification process Exasol provides a statement about the type and extent of possible support for the tested environment (please refer to <https://www.exasol.com/support/browse/SOL-197> for more details on the certification process). An up-to-date list of already certified hardware and IT-environments can be found under www.exasol.com/hardware.html. In the case that a non-certified or only limited certified hardware or IT-environment (in particular public clouds or virtualizations) is used for the Software, operational malfunctions are possible. Therefore, Customer shall use the Software on certified hardware or IT-environments or shall request an individual certification at Customer's expense beforehand.
- 3.6.2 If Customer operates the Software on non-certified hardware or in a non-certified IT-environment (in particular public clouds or virtualizations), no warranty will be accepted for any defects or Errors or any services according to Sec. 4 Terms and Conditions regarding Operations Engineering. In addition, the Response, Processing and Solutions Times (Sec. 3.3) do not apply and correction work will be invoiced after notification. In case of a limited certification the extent of maintenance and operations engineering services are determined in Exasol's certification statement, cf. 3.6.1.

3.7 Maintenance contract: Duration, Termination (Software purchase)

- 3.7.1 In case of a Software purchase, the terms in Sec. 3 (Terms and Conditions on Maintenance) shall only apply, if such service was explicitly been ordered by the Customer (Maintenance contract). In case of a Software subscription, maintenance service (Sec. 3) forms part of the subscription service and thus no separate maintenance contract has to be concluded. With regard to the term and termination of the software subscription license, Sec. 2.8 shall apply.
- 3.7.2 The maintenance term (fixed or indefinite) and service period (f.ex. annually, quarterly etc.) for the maintenance contract shall be defined in the quote / Agreement. If nothing otherwise is agreed upon, the maintenance terms shall be deemed to begin with delivery of the Software to Customer. If no fixed term was agreed upon, the maintenance contract automatically renews for the service period stated in the quote if not terminated with 3 months' notice towards the end of the initial/further service period. In case a monthly service period was agreed upon, the maintenance contract can be terminated with one month notice towards the end of the monthly service period. If a minimum term is agreed, then the maintenance contract may only be terminated at the earliest towards the end of the minimum term.
- 3.7.3 The right of both parties to terminate for cause remains unaffected.
- 3.7.4 The termination shall require the written form in order to become effective.

3.8 Special Maintenance-Terms for Appliances – Hardware Support Service

- 3.8.1 Error reporting/Response Times: The error reporting system according to Sec. 3.5 is also available to Customer for the report of hardware defects. In addition, for hardware defects the Response Times according to Sec. 3.3 apply.
- 3.8.2 Dell service description: For the Hardware Support Service, the country specific Dell service description of the selected support level (indicated in the quote) which may be found at <http://www.dell.com/learn/us/en/uscorp1/campaigns/global-commercial-service-contracts?c=us&l=en&s=corp&cs=uscorp1> shall apply. (f.ex. Support Level „ProSupport Next Business Day“)

for a German Customer: Select Germany, Select Support Service, Select Dell ProSupport for Client and Enterprise).

- 3.8.3 Term: Instead of Sec. 3.7.2 the maintenance contract for the Appliance (except for the switches) will be concluded for the fixed term of 36 months, starting from the date of provision of the Appliance and ending automatically after the expiry of the term. The maintenance contract for the switches will be concluded for the fixed term of 33 months, starting from the date of provision of the Appliance. If the manufacturer Dell offers a maintenance renewal after expiry of the term – if so, than probably once for a term of two years – parties can negotiate such a renewal.

4 Terms and Conditions regarding Operations Engineering

Exasol offers a variety of operational services to ensure the smooth operation of the system. The concrete services offered are detailed in the quote.

Operational tasks include Installation Service, Operational Service, Incident Management, Monitoring and Database Administration. Operation Engineers usually do not require a privileged log-in to the databases, unless Database Administration Service is agreed. If a privileged login is required for conducting some tasks (e.g. a major update), the Customer will be informed beforehand.

Specific services, in particular services related to the management of nodes, cannot be provided for shared or virtual environments. Unless otherwise agreed, the operations engineering services are limited to the Exasuite-Cluster. For the provision and maintenance of a suitable infrastructure outside of the Cluster (e.g. for off-site data back-up, staging server, administration of clients) the Customer shall be responsible.

Unless otherwise explicitly agreed, the services will be provided remotely. Access to the Cluster via VPN is required.

4.1 Installation Service

Installation service typically starts with a comprehensive consultation regarding cluster configuration and integration of the Software in the specific target environment. After that, the Cluster will be prepared for the operation of Exasuite. In doing so, the following services are usually differentiated:

- Adding and installation of cluster nodes
- Creation of users in Exaoperation for administration and monitoring
- Setup of database instances
- Network setup of cluster nodes
- Integration of nodes in the cluster setup of backup scheduler
- Handover of login data for the database instances

The installation will be completed by the handover of the login-data and an introduction to the most important functionalities of Exaoperation.

4.2 Operational Service

- 4.2.1 Scope: This service basically includes scheduled maintenance tasks (not error correction work according to Sec. 3 above), in particular the following services:

- Update service for major and minor versions
- Node Management
- Adding and installation of nodes
- Adding and removal of spare nodes to a data base instance
- Cluster upgrade
- Database instance management
- Creation / removal of database instances

- Starting / stopping of database instances
- Setup of a system-internal backup of the data base instances
- Support for the setup of an external backup of the data base instances
- Database restoration upon request
- Monthly system usage reporting (available on the support-portal)

It is assumed that Customer reserves enough storage space in the Cluster or on the external storage media for the backup. Reports about system usage require access to the statistics system tables in Exasuite.

- 4.2.2 Request for services: Customer must make an appointment with Exasol in order to schedule when the Operational Services will be provided and coordinate the scope of the services. The appointment must be made at least three days before the planned service actions.
- 4.2.3 Operational Service Times: Operational Service Times correspond to the Service Times according to Sec. 1.7. If Operational Service "24/7" is agreed then the Operational Service Times are nonstop. If no Operational Service package is booked or if the services are to be performed outside of the Operational Service Times, the above-mentioned services can be ordered individually.

4.3 Incident Management

Within the scope of Incident Management, if an "Incident" occurs within the agreed Incident Management hours, Exasol will initiate all necessary actions to restore the standard operation of the Exasuite Cluster as quickly as possible.

- 4.3.1 An "Incident" is an occurrence which poses a deviation from the standard operation of the Exasuite Cluster and which causes an interruption/disturbance of the operation, e.g. a database instance does not accept connections, the backup cannot be generated or one or more hardware components are defective, etc.
- 4.3.2 Incident Priorities, Response Time and Processing: Incidents are differentiated according to the priorities defined in Sec. 3.2.2 above. According to the Incident priority, the following Incident Response Times shall apply:
- Critical: within 1 hour
 - Major: within 2 hours
 - Normal: within 4 hours
 - Minor: within 8 hours.

Within the Incident Response Time, Customer will receive a simple response. The response time is calculated within the Incident Management Times as per Sec. 4.3.3 as the time difference between Customer's incident report and the simple response from Exasol to Customer. If Exasol has all necessary information about the Incident and a VPN-connection to the system exists, Exasol immediately begins with the tasks to remedy the disturbance; otherwise the tasks cannot start before the provision of access to the system or the provision of necessary additional information about the Incident (qualified error report).

If the reason for the interruption/disturbance is an Error in the Software according to Sec. 3.2.1, Exasol provides a Qualified Error Report during the course of Incident Management; however, error correction is not a subject of Incident Management but of maintenance service and warranty agreement. The preparation of the Qualified Error Report requires under certain circumstances the assistance of the Customer (e.g. provision of client-logs, provision of the session-ID).

If tasks to remedy the disturbance do not fall within Exasol's responsibility, the processing of an incident will be completed by a recommendation of action (e.g. provision of enough storage space for the backups, repair of hardware, execution of SQL-commands in the data base in the context of a workaround, etc.). If the interruptions/disturbances are due to an incorrect use of the Software or the use of an unsuitable

infrastructure (e.g. Customer has not reserved enough storage space in the Cluster for backups, an accepted solution was not implemented), Exasol reserves the right to invoice the Customer for the additional work.

4.3.3 Incident Management Times: Incident Management Times correspond to the Service Times according to Sec. 1.7. If Incident Management Service “24/7” is agreed then the Incident Management Times are nonstop. If no Incident Management is booked or if the Customer wants Incident Management service to be performed outside of the Incident Management Times, the Incident processing or the on-call service will be invoiced. Exasol reserves the right to invoice a monthly lump sum compensation for months during which Incident processing has taken place.

4.3.4 Incident Report: Customer reports Incidents through the Exasol support portal or via e-mail to service@exasol.com. Outside the Service Times according to Sec. 1.7 the report must be additionally provided through the hotline. If the provision of Monitoring Service is additionally agreed (Sec. 4.4) and if Exasol therefore receives an automated “Incident Notification”, Exasol will begin processing the Incident within the Incident Management Times.

4.4 Monitoring

4.4.1 Exasol installs a software-based health-monitoring with an automated Incident report system in the Exasuite Cluster, which includes a multistage escalation strategy. The extent of the monitoring is oriented toward typical error sources in the Exasuite Cluster.

4.4.2 The booking of the Monitoring Service always requires the booking of the Incident Management Services as well.

4.4.3 If recurring disturbances occur due to an incorrect use of the Software or the use of an unsuitable infrastructure (cf. Sec. 4.3.2), Exasol reserves the right (i) to turn off the respective Incident reports until the causes for the disturbance have been eliminated and (ii) not to forward them as a disturbance or Incident to Incident Management.

4.4.4 Monitoring Times are nonstop. Incident processing is carried out in the context of the agreed Incident Management.

4.5 Database Administration

4.5.1 Within the scope of Database Administration Exasol monitors performance trends in the data base and reports them to the Customer on a regular basis (e.g. monthly). In addition, Exasol analyses performance issues in the Cluster, which are not recognized as errors according to Sec. 3.2.1, and provides the Customer with suggestions for improvement. Such effort is limited to one man-day per month. Exasol may undertake additional effort within the scope of the consulting portfolio.

4.5.2 Exasol requires access to the system tables in the data base through a special data base user. This user only has access to the system tables and statistic system tables. Thus, a direct access to the data tables of the data base is excluded.

4.5.3 Database Administration Times correspond to the Service Times according to Sec. 1.7.

4.6 Term, Termination of continuing services

Regarding the term, service period and termination of continuing services pursuant to this Section 4, Sec. 3.7.2 – 3.7.4 shall apply accordingly.

5 Terms and Conditions for Consulting Services

5.1 Scope of Services

- 5.5.1 Within the scope of consulting services, Exasol provides advice and support to the Customer according to the subject and extent described in the quote.
- 5.1.2 If nothing stating otherwise was explicitly agreed upon, Exasol 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 Customer may be pursuing.
- 5.1.3 If the local presence at Customer's premises is not required to provide the Consulting Service, the Service can be provided remotely.

5.2 Time of Service

- 5.2.1 The Customer must make an appointment with Exasol 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.
- 5.2.2 If the Customer 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.

5.3 Payment Terms

- 5.3.1 Unless expressly agreed otherwise, prices quoted by Exasol are to be understood plus VAT and any travel costs and expenses incurred.
- 5.3.2 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.
- 5.3.3 Unless expressly agreed otherwise, the information provided in the 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 Exasol notices during the provision of services that the time estimated in the quote will be presumably exceeded, Customer will be informed. Customer shall then decide without delay on further proceedings and inform Exasol in written form.
- 5.3.4 If it was agreed that payment is due after service provision, Exasol is entitled to invoice parts of the services after 2 or more man-days have been completed.

5.4 Obligations to Cooperate

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

5.5 Work Results

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

Subject to agreements to the contrary, the Customer 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.

5.6 Storage and Return of Documentation

Exasol will properly store all documentation provided in the framework of consulting services and will especially make sure that third parties cannot gain access to it. The provided documentation is to be returned at any time on the Customer's demand.

6 **Conditions of Contract for the Provision of Training**

Exasol provides courses and training („training“) according to the provisions below.

6.1 Training Content and Conditions

6.1.1 Information on subject, content, duration and price of standard training and training packages as well as certifications are available at: <https://www.exasol.com/portal/display/TRAINING/> and are respectively defined in the quote / Agreement.

6.1.2 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. Training is held in English language. Any training material is in English.

6.2 Training Package

6.2.1 If a training package was ordered, Customer 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 Exasol during the service period (flat rate). Dates for the individual training modules are announced on Exasol'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.

6.2.2 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).

6.3 Location and Time of Training

6.3.1 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.

6.3.2 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. If Customer 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.

6.3.3 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.

6.4 Registration Fee

6.4.1 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 to be understood as per participant or group.

6.4.2 The registration fee includes course papers, certification fee, a certification document from Exasol (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.

6.5 Registration

6.5.1 Registrations for training are to be made in writing, by e-mail or via the Internet to Exasol at the following address: Exasol Europa Vertriebs GmbH, Neumeyerstr.22-26, D-90411 Nürnberg, E-mail: training@exasol.com, <https://www.exasol.com/portal/display/TRAINING/Planned+Training+Courses>.

6.5.2 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 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.

6.6 Cancellation and Rebooking

6.6.1 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:

- 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.

6.6.2 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.

6.7 Liability

Exasol 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 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 Sec. 1.5 shall apply.

6.8 Property Rights

Training documentation and presentations by Exasol are copyright protected. Audio and video recordings during the training by Customer or a participant 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.

6.9 Access to Exacademy

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

- 6.9.1 The content, videos and other trainings material (“Content”), available at the portal “Exacademy”, are copyright protected. Customer is entitled to use the access to Exacademy and the available content for the purpose for training its employees.
- 6.92 Customer and the respective user of Customer’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.).
- 6.9.3 In case Content gets available to the public by a misconduct of Customer, Customer has to pay a contractual penalty in the amount of EUR 100.000.
- 6.10 Data Protection
- 6.10.1 Exasol is entitled to save and process a participant’s data for the sole purpose of fulfilling the contract and caring for the customer 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.
- 6.10.2 For enhancing the learning content of the training, access to a training database will be provided. Customer 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. Exasol will not further process the aforementioned data.