

## GENERAL TERMS AND CONDITIONS FOR EXASOL PARTNERS

These General Terms and Conditions for Exasol Partners (“General T&C”) apply to the Exasol Partner Agreement (“Agreement”) executed between Exasol Europa Vertriebs GmbH and Partner that incorporates these General T&C.

### 1. Definitions

- **“Approved Opportunity”** has the meaning as defined in Section 2 of the Agreement.
- **“Authorised Partner”** is Exasol’s standard partner status. Benefits and obligations are listed in Sections 2.1 and 2.3 below.
- **“Business Partner”** is the Exasol partner status, with reduced certification requirements (refer to Annex A, Section 6 of the Agreement) and a partnership exclusively focused on referral fees for Referral Opportunities (not Joint Sales Opportunities) and without the possibility of reselling (Section 5 below does not apply). Otherwise, the provisions for Authorised Partners apply.
- **“Confidential Information”**, **“Disclosing Party”** and **“Receiving Party”** has the meaning as defined in Section 9 below.
- **“Digital Content”** has the meaning as defined in Section 4.3 below.
- **“Documentation”** is the user manual for the Software available at the Exasol User Portal (<https://www.exasol.com/portal/>) in German and English languages. Other languages may be published by Exasol from time to time or created with Exasol Partner by mutual agreement.
- **“Effective Date”** is the date specified in Section 7 of Annex A. If no such date is specified, Effective Date is the date of the last signature of the Agreement.
- **“Elite Partner”** is Exasol’s premier partner status; as such Elite Partner shall receive not only the benefits of Authorised Partners (Section 2.1 below), but also additional benefits as listed in Section 2.2 below. Additional obligations are listed in Section 2.4 below.
- **“End User”** or **“Customer”** is any person or entity which licenses the Software for operation within its business for internal and/or commercial purposes and who agrees to the terms and conditions of the End User Agreement.
- **“End User Agreement”** has the meaning as defined in Section 5.1 below.
- **“Force Majeure”** means an event or circumstance beyond the reasonable control of the party affected by it including any strike, lock out or labour dispute (other than one affecting the affected party’s own employees), act of God, disease, war, riot, civil commotion, malicious damage, fire, flood, or storm.
- **“NFR-License”** has the meaning as specified in Section 9 of the Agreement
- **“ORF”** has the meaning as set out in Section 3 of the Agreement.
- **“Partner Logo”** has the meaning as defined in Section 4.1 below.
- **“Partner Portal”** is an online gateway accessible via password for accessing Digital Content, information, tools and services for Exasol Partners.
- **“Products”** refer to Software and Services as provided by Exasol at its sole discretion in different commercial forms, e.g. subscription, perpetual, time-limited, cloud-based, time & material, etc.

- **“Quote”** has the meaning as defined in Section 6 of the Agreement.
- **“Services”** consist of services, such as maintenance, operational services, , consulting, pre-sales engineering, training etc., as provided upon request by Exasol and defined in the applicable End User Agreement.
- **“Software”** means Exasol’s current software stack consisting of the Exasol database software, the underlying EXACluster operating system, the client EXAplus and various drivers (e.g. ODBS, JDBC, ADO.NET), in whichever version is currently supported and/or released by Exasol, and provided in object code form, unless otherwise agreed. Exasol may change the components in the Software stack at its sole discretion. For more information, please see overview at <https://www.Exasol.com/support/browse/SOL-345>).
- **“Term”** has the meaning as set out in Section 12 of the Agreement.
- **“Territory”** means the geographic or market territory specified in the Business Terms in Annex A of the Agreement.
- **“User Portal”** is a password accessible online gateway to access digital content, information, tools and services for Exasol End Users.

## 2. Benefits and Obligations

### 2.1 Benefits as an Exasol Partner

#### 2.1.1 Marketing

Partner shall:

- be allocated a Partner Account Manager, refer to Section 9 of Annex A of the Agreement, for all issues in connection with the partnership;
- have access to ongoing marketing support in generating leads, organizing events and to Exasol’s Digital Content which is created and improved on an ongoing basis (refer to Section 4.3 below);
- is placed on the Exasol website with the partner’s logo and a jointly agreed description of the partner; and
- be entitled to use the Exasol respective Partner Logo (refer to Section 4.1 below).

#### 2.1.2 Sales & Technology

Partner shall:

- receive access to sales and technical enablement content, technical architecture best practices and advanced topics as and when made available by Exasol;
- gain access to the Exasol Partner Portal;
- have access to e-learning tutorials (Exacademy) leading to technical and sales certification in case of successful completion of the relevant examination;
- be entitled to register opportunities via the ORF (refer to Agreement, Section 3); and
- be entitled to install and use NFR-Licenses (refer to Agreement, Section 10 and General T&C, Section 3 below).

#### 2.1.3 Discounted Consulting (refer to Agreement, Section 7)

#### 2.1.4 Training (refer to Agreement, Section 8)

**2.1.5 Entitlement to Referral fees (Referral and Joint Sales) and discounted reselling (Reselling)** in accordance with the terms and conditions in the Agreement (Refer to Sections 2-6 and these General T&C). The Business Partner is only entitled to referral fees from Referral Opportunities.

## **2.2 Additional Benefits for Elite Partner**

Exasol will provide Elite Partner with:

- assistance in creating a business plan with quarterly business reviews (QBR);
- access to the Exasol sales organization for discussing and working on joint opportunities and developing sales strategies;
- privileged access to Exasol's product roadmap & development; and
- optional access to Exasol's Marketing Development Fund (refer to Agreement, Annex A, Section 8).

## **2.3 Obligations as an Exasol Partner**

In consideration for the above-mentioned benefits Partner agrees to:

- display the Exasol logo in its authorized format prominently on Partner's website;
- work cooperatively and transparently with the Exasol sales team on joint opportunities;
- follow strictly the Exasol marketing guidelines in their most current version for any content creation and use of digital communication platforms, such as LinkedIn, Facebook, Twitter etc.
- In no event shall Partner's marketing or sales materials or website disparage Products or compare or position them unfavorably with respect to competing products.

## **2.4 Additional Obligations for Elite Partners**

In addition to Partner's obligations described under Section 2.3 above and in consideration for the additional benefits made available to Elite Partners the latter shall also

- create an annual joint-marketing plan with proposed joint events, exhibitions and customer lead generation activities and an up-to-date enablement plan for keeping technical and sales certifications valid;
- work pro-actively with Exasol's Partner and Product Management to define interesting potential solutions or technology stacks for customers, industry segments or specific use cases;
- carry out regular reviews with the named Partner Account Manager on joint opportunities to discuss progress, success criteria and what help is required from Exasol to win new business;
- organize a minimum 1 (one) partner day per annum at which Exasol may present to the partner's management on the alliance, joint solutions, strategic- and reference-customers as well as about possible additional sales to existing customers;
- submit at least 1 (one) joint customer case study for external marketing purposes per annum;
- hold QBR meetings with Exasol's partner and/or sales leadership teams on the progress of alliance; and
- have a minimal annual Software license turnover (license only; maintenance and other professional services are not included, in case of subscription the maintenance portion will be deducted) of GBP 250,000 (two hundred and fifty thousand British Pounds). Turnover includes executed Referral Opportunities, Joint Sales Opportunities and Reselling Opportunities in the discounted amount received by Exasol from Partner, respectively with regard to Referral the amount invoiced to the End User, less the referral fee paid to the Partner. If the referral or reselling opportunity is executed in a currency other than GBP, the calculation of the relevant amount will be based on the following exchange rate:
  - o Referral Opportunity: Day when Exasol has received payment by the customer.

- Reselling Opportunity: Day when Exasol has received payment by Partner.

### **3. Use of Not for Resale License (NFR-License)**

#### **3.1 General**

Subject to the terms and conditions of this Agreement and during the Term Partner may install and use NFR-Licenses (in the volume and configuration specified in the Business Terms (Annex A) on its own or dedicated and controlled IT infrastructure. Notwithstanding the aforesaid and without an express written agreement to the contrary the use of Software is always subject to the applicable End User Agreement (refer to Section 5.1 below), as may be modified by Exasol from time to time. The End User Agreement is available at Exasol User Portal or at Exasol's homepage. It is not permitted to use NFR-Licenses for any other purposes including, without limitation, use or distribution for any other commercial use or in any billable engagements or for evaluation purposes by Partner's prospects without express prior and written approval by Exasol.

#### **3.2 Disclaimers, No Warranty**

For clarity, irrespective of any warranty provisions in the End User Agreement, Exasol accepts no warranties, support or indemnity obligations of any kind with respect to Partner's use of the NFR-License in connection with the Agreement.

#### **3.3 Return of Software**

Partner shall cease use of and return all copies of the Software and Documentation to Exasol upon the earlier to occur of expiration or termination of the Agreement or justified written request by Exasol.

### **4. Partner Logo, Intellectual Property Rights, Digital Content**

#### **4.1 Use of Partner Logo**

Subject to the terms and conditions of the Agreement, Exasol hereby grants Partner a non-exclusive, non-transferable, non-sub-licensable right to (1) identify itself as an Exasol Business, Authorised or Elite Partner (depending on the specification in the Business Terms in Annex A) and (2) use Exasol's Business, Authorised or Elite Partner Logo (depending on the specification in the Business Terms in Annex A), created by Exasol (referred to as "Partner Logo") and the applicable Software trademarks solely for the purposes foreseen and authorized under the Agreement. The respective Partner Logo is available on the Partner Portal.

#### **4.2 Intellectual Property Rights**

Exasol or its affiliates and its and their licensors (as the case may be) own all right, title and interest in and to the Products, which (notwithstanding any use of the word "sale" or its cognates to describe or refer to a transaction involving the Products) are licensed, not sold. Each party will own and retain all rights in its trademarks, logos and other brand elements (collectively, "Trademarks"). To the extent a party grants any rights or licenses to its Trademarks to the other party in connection with this Agreement, the other party's use of such Trademarks will be subject to the reasonable trademark guidelines made available to the other party. Partner shall not remove any Trademarks or other proprietary notices incorporated in, marked on, or affixed to the Products. Partner agrees that it will not register, or attempt to register, any domain name containing the word "Exasol" or any product name of an Exasol product and, if despite the aforesaid, Partner has registered any such domain then Partner herewith undertakes to immediately effect transfer of such domain name to Exasol without charge.

### **4.3 Digital Content**

Exasol creates or from time to time requests third parties to create digital content around a number of topics ("Digital Content"). Exasol grants Partner a non-exclusive, non-transferable and revocable license to use Digital Content and to provide copies in part or in whole and changed within reason to conform to Partner's go-to-market strategy and corporate identity to potential customers. Partner shall not permit anyone other than a potential customer to use or access Digital Content, or display or otherwise make any Exasol-proprietary materials available to anyone without prior written consent from Exasol.

## **5. Reselling**

### **5.1 General**

In case of an Approved Reselling Opportunity (Refer to Agreement, Section 4 and 6) Exasol will submit a Quote to Partner. Such quote lists the Products subject to reselling, special terms, if any, and refers to the End User Agreement. The End User Agreement is a set of terms and conditions which applies for the provision of Products by Exasol and is available on Exasol's homepage ("End User Agreement"). The link to the homepage is indicated in the Quote. The Quote and the End User Agreement apply in the specific contractual relationship between Exasol and Partner with regard to the Approved Opportunity. Subject to compliance with the Agreement (i.e. Section 5.2 below etc.), Partner is entitled to resell the Products to the prospect listed in the applicable Quote. For the avoidance of doubt, reselling or resales of Products mean, that there is no contractual relationship between Exasol and End User, but between Partner and End User. With regard to Services subject to reselling, Exasol is Partner's subcontractor; however, in general there is no contractual relationship between Exasol and End User.

### **5.2 Enforcement towards End User**

Partner is responsible to enter into an agreement with the End User with regard to the Products. Partner agrees to include in its agreement with the End User the provisions of the End User Agreement. Section 1 of the End User Agreement (General Provisions: i.e. remuneration, payment etc.) has not to be included in the agreement with the End User.

### **5.3 Reselling of Services**

Partner may resell Services as defined in the End User Agreement in case of an Approved Opportunity. Partner acknowledges to have no right to receive any fees and/or discounted rates for Exasol Services except as stipulated in Annex B of the Agreement. After the initial term of the Service provision of such Approved Opportunity, Exasol may provide Exasol Services directly to the End User at its own discretion (including renewal of such Services) by contacting End User directly. If Partner provides maintenance or professional support services with regard to the Products to end customers, Exasol and Reseller have to agree on the terms and conditions of such service provision in a separate Service Addendum.

## **6. Term, Termination**

### **6.1 Term (refer to Agreement, Section 12)**

### **6.2 Effect of Termination**

6.2.1 Upon any expiration or termination of the Agreement, (i) each party will return or destroy within 7 days of termination or expiry (and upon request certify complete destruction of) the other party's Confidential Information, including returning or destroying all copies of the Software (and associated documentation) and all promotional material relating to the Software (and associated documentation)

then within its control, save that each party may retain copies of such Confidential Information (other than the Products) as it is required to retain by law or which it is reasonable to retain for the purposes of good record keeping, provided that it continues to treat such retained Confidential Information in accordance with applicable law and its confidentiality obligations under Section 8 below; (ii) all licenses and rights granted under the Agreement will cease (for further obligations refer to Section 3.3 above); (iii) provided termination is not for breach by Partner, Exasol agrees to pay Partner all Partner fees, if any, properly due prior to the date of termination and (iv) Partner shall immediately pay any outstanding amounts due to Exasol under the Agreement or a related quote.

6.2.2 In the event of expiry or termination of this Agreement for any reason, the Partner shall immediately:

- 6.2.2.1 cease soliciting and accepting orders for the Products [and the Software];
- 6.2.2.2 cease use of Exasol's Intellectual Property;
- 6.2.2.3 cease all promotion, marketing, advertising of the Products; and
- 6.2.2.4 remove from all materials in any form which are to be provided or made accessible to any person (including websites, notices, advertisements, and any other documents) any reference to it being an authorized Partner or an Elite Partner.

6.3 The Partner shall have no claim against Exasol for compensation for loss of any rights, loss of goodwill or similar loss following termination or expiry of this Agreement, in whole or in part, for any reason.

6.4 If a Partner is for any reason deemed to be a commercial agent under the Commercial Agents (Council Directive) Regulations 1993 (which is not admitted by Exasol), any entitlement under regulation 17 on termination of this Agreement, however occurring, will be to indemnity and not to compensation.

6.5 Termination or expiry of this Agreement for whatever reason shall be without prejudice to the rights of the parties accrued up to the date of such termination or expiry.

## **7. Liability**

7.1 Exasol shall not be liable for any of the following (whether direct or indirect):

- 7.1.2 loss of profit;
- 7.1.3 loss of contracts;
- 7.1.4 loss of operation time;
- 7.1.5 loss of production;
- 7.1.6 loss of commercial opportunity;
- 7.1.7 loss of reputation or goodwill;
- 7.1.8 loss or corruption of data;
- 7.1.9 loss of savings, discount or rebate (whether actual or anticipated).
- 7.1.10 any losses, liabilities, claims, costs or expenses arising from the combination of the Software and/or the Products with any other software or products.

7.2 Notwithstanding any other provision of this Agreement, the liability of the parties shall not be limited or excluded in any way in respect of the following:

- 7.2.2 death or personal injury caused by negligence;
- 7.2.3 fraud or fraudulent misrepresentation;
- 7.2.4 breach of any obligation as to title implied by:
  - 7.2.4.1 section 12 of the Sale of Goods Act 1979;
  - 7.2.4.2 section 2 of the Supply of Goods and Services Act 1987;

- 7.2.5 breach of section 2 of the Consumer Protection Act 1987; or
- 7.2.6 any other losses which cannot be excluded or limited by applicable law.

7.3 Subject to Sections 7.1 and 7.2, Exasol's maximum aggregate liability (whether in contract, tort (including negligence), breach of statutory duty or under or pursuant to any other cause of action or legal theory of liability) to the Partner arising out of or in connection with the Products, this Agreement or the End User Agreement will be limited to the value of the contract for a period of 12 months preceding the date giving rise to such liability or, in the case of a series of events giving rise to liability, the date of the last of such events.

## **8. Indemnification**

Partner shall reimburse Exasol for the costs of all third-party claims (including legal fees on a full indemnity basis, damages awarded and settlement amounts agreed), and for losses or damages of any type suffered by Exasol or its Affiliates, in each case arising in connection with any act or omission by a Partner that constitutes a breach of this Agreement or breach of any applicable law. . Exasol may participate in the defence of any such claims by counsel of its own choosing, at its cost and expense. Partner shall not settle any claim without Exasol's prior written consent if the settlement requires Exasol to take any action, refrain from taking any action, or admit any liability.

## **9. Confidential Information**

Each party (as "Receiving Party") agrees that all code, inventions, know-how, business, technical and financial information it obtains from the disclosing party ("Disclosing Party") or the Disclosing Party's Affiliates constitute the confidential property of the Disclosing Party ("Confidential Information"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be Confidential Information due to the nature of the information disclosed and the circumstances surrounding the disclosure. The Software, Documentation, technical information and other code or data of any type provided by Exasol (or its agents) shall be deemed trade secret and Confidential Information of Exasol without any marking or further designation. Except as expressly authorized herein, the Receiving Party will hold in confidence and not use or disclose any Confidential Information. Affiliates of the Receiving Party will not considered to be a third party according to this Section, but the Receiving Party shall procure that its Affiliates comply with this Section 9. The Receiving Party's non-disclosure obligation shall not apply to information which the Receiving Party can document: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; or (iv) is independently developed by employees of the Receiving Party who had no access to such information. In addition, Receiving Party may disclose Confidential Information if so required pursuant to a regulation, law or court order, but only to the minimum extent required to comply with such regulation or order and (to the extent permissible) with advance notice to the Disclosing Party. The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm to the Disclosing Party that could not be remedied by the payment of damages alone and therefore that upon any such disclosure by the Receiving Party the Disclosing Party shall be entitled to appropriate equitable relief in addition to whatever remedies it might have at law.

## **10. Data Protection**

Each party will comply with its obligations under the data protection laws applicable to it, and will use reasonable efforts not to do any act or thing which is likely to cause the other to breach any applicable data protection laws. The parties agree that, before "exit day" (as defined in the European Union (Withdrawal) Act 2018), they will enter into Commission-issued standard contractual clauses to permit continued transfers of personal data between the United Kingdom and the EEA, unless the United

Kingdom and the European Union agree other arrangements making such contractual clauses unnecessary.

## **11. Miscellaneous**

### **11.1 Assignment**

Except as expressly set forth in the Agreement or permitted under mandatory law, no Party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the prior consent of the other Party.

### **11.2 Independent Contractors**

Parties to the Agreement are and remain independent contractors. Irrespective of any use of terms such as “partner”, there is no relationship of partnership, joint venture, employment, franchise, commercial agents or agency created hereby between the Parties. Neither party will have the power to bind the other or incur obligations on the other party’s behalf without the other party’s prior written consent.

### **11.3 Non-Exclusive**

The rights granted to Partner hereunder are non-exclusive and nothing in this Agreement shall be deemed to prohibit Exasol from entering into any alliance, referral, resale, end-user license or other agreement with any party anywhere in the world (including the Territory named in Annex A) either during or after the Term of the Agreement.

### **11.4 Audit**

Partner will keep accurate and complete records relating to its activities under the Agreement. At Exasol’s request, Exasol may audit such records and Partner’s use of the Software during normal business hours and subject to Partner’s reasonable security requirements.

### **11.5 Force Majeure**

Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from any event of Force Majeure.

### **11.6 Taxes and compliance with law**

11.6.1 As between Exasol and the Partner, the Partner shall be responsible for all taxes levied on amounts payable under this Agreement other than taxes on Exasol’s revenue. In the event that a party is obliged by law to withhold any part of a payment due to the other party by way of withholding tax, the paying party will pay the appropriate withheld amount to the relevant tax authority and use all reasonable efforts to obtain for the payee party appropriate documentation as to the withheld amount for the purpose of the payee party claiming the withheld amount back under applicable double taxation treaties.

11.6.2 The Partner shall in connection with this Agreement comply with all laws, enactments, regulations, regulatory policies, guidelines and industry codes applicable to it and shall maintain such authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with this Agreement.

11.6.3 The Partner shall be responsible for obtaining and maintaining all necessary export and other government approvals, permits, authorisations and authorities to allow the distribution of the



Software and the exercise of the Partner's rights and performance of the Partner's responsibilities in accordance with all applicable laws.

#### **11.7 Law and jurisdiction**

11.7.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including any non-contractual obligations arising out of or in connection with it) shall be governed by and construed in accordance with the law of England and Wales.

11.7.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.