

EDENTITY Software Solutions GmbH

General Terms and Conditions for the License Maintenance of Server-Standard Software – Version 3/2016



The following constitutes the License Maintenance Terms and Conditions of your (hereinafter "LICENSEE") server software created by Edentity Software Solutions GmbH (hereinafter "EDENTITY"). These terms and conditions are part of any Software Maintenance contract between EDENTITY and the LICENSEE. EDENTITY concludes Software Maintenance contracts solely under this terms and conditions and its current pricelist. Contract closing by the Licensee constitutes acceptance of these License Maintenance Terms and Conditions as well as a waiver of conflicting general terms and conditions. This is also applicable in cases of no express conflict with the General Terms and Conditions of EDENTITY. Any other conditions are binding only upon being accepted in writing by EDENTITY. In such cases, the conditions set by EDENTITY are supplementary.

A. Subject matter / Statement of work

The following definitions are part of clause A and clause B of this document and are specifying the terms for all license maintenance contracts and associated provisions.

1. Definitions

1.1 Major-Release (new version of the software)

A new release or Major Release means an upgrade of the software under maintenance to the current major version, indicated by changing the first part of the version number – e.g. change from 2012 to 2013.

1.2 Minor-Release (new version of the software)

A Minor Release is applicable in cases of functional modification of an existing Major Release, indicated by changing the second part of the version number – e.g. change from 2013.1 to 2013.2.

1.3 Patch (new version of the software)

A patch is the fixing of unwanted or wrong behaviour (bug) of existing functionality, indicated by changing the last part of the version number – e.g. change from 2013.1 to 2013.1 HF3.

1.4 Bug

A bug is unwanted or wrong behaviour of functionality according to EDENTITY's product description.

1.5 Upgrade

Upgrade means the process of changing the Licensee's current version to a new Major or Minor Release.

1.6 Update

Update means the process of changing the Licensee's current version to a new patch level.

1.7 Module

A module is a separate part of the software, which can be licensed separately – e.g. „DBS Dashboard-Module“.

1.8 End-of-life

End-of-life of any release or module means that the part will neither be supported by EDENTITY's Support-Hotline nor by patches.

1.9 Decompiling

Decompiling means the extraction of source code or similar types of code of the licensed software.

1.10 Reverse-Engineering

Reverse Engineering means the conclusion of earlier development stages or production stages of the software.

2. Statement of work for Software Maintenance

During an active Software Maintenance Agreement and against payment of the agreed fee according to the current pricing the Licensee is entitled to request the services or deliveries stipulated in this document. Conclusion of a license maintenance agreement prerequisites purchasing of an EDENTITY Server Software according to the General Terms and Conditions for the Licensing of Server-Standard software - version 07/2013.

The following services are declared being separate and additional to the warranty, especially the fixing of defects, according to the Software Licensing Agreement. Remediation of defects within the warranty period also in conjunction with services of this agreement is free of charge.

2.1 New Versions of the Software (Patches, Minor or Major Releases)

EDENTITY provides from time to time new versions of the software under maintenance to the Licensee according to clause 2.1.1 to 2.1.3 to update it, to avoid malfunction and to solve known problems.

2.1.1 New Minor or Major Releases

New software releases will be provided as download package or against an agreed fee on an appropriate media provided by EDENTITY. The deployment of the new software on the Licensee's environment needs to be handled by the Licensee. EDENTITY agrees to conduct the deployment instead and for the Licensee based on separate agreement and against payment. Supplementary chapter 1 of the EDENTITY General Terms and Conditions for Contracts of Business - Version 7/2013 is applicable.

2.1.2 Continuous patching

The deployment of available patches in the Licensee's environment shall happen in a timely manner always in order to avoid subsequent problems and efforts.

2.1.3 New Products, Modules or further development

The maintenance does not cover or include the provision of new products or new modules of the software product under maintenance and is not obliging EDENTITY to further developments, except expressly agreed.

2.1.4 Rights and obligations for new Software versions

EDENTITY provides new software versions to the Licensee. The Licensee will immediately examine the new version and claim defects. After providing a new software release EDENTITY will maintain the previous version for an appropriate transition period, which will be usually no longer than 3 months. Claims for defects by the Licensee are valid only if the defect is reproducible or is proven in a different way by the Licensee. For notification of defect article 8.3.3 is applicable.

In case of valid claims for defects, the Licensee has only the right to obtain subsequent fulfilment within an appropriate period. EDENTITY is free to choose either remediation of the defect or delivery of a replacement software as long as the Licensee's interest are considered in an appropriate way.

2.2 Information about new Software versions

EDENTITY will notify the Licensee about available software versions and solutions as well as work-around procedures on availability.

2.3 Limitation of Service, Exclusion of Maintenance

2.3.1 Scope of Service

EDENTITY's services under the software maintenance contract do not include telephone advice, remote maintenance, end-of-life notices and on-site support.

2.3.2 Exclusion of Maintenance

Further services in conjunction with software upgrade, which are not in direct relation to chapter A 2, are not covered by this agreement. Problems arising from new versions of the operating systems, database system or from administrative restrictions in the Licensee's environment are not covered by this agreement. If changes in the Licensee's System, which are acting as source for the EDENTITY software under maintenance are causing changes in EDENTITY's software, such changes are not covered by this agreement.

3. Statement of work for Software Support

If the Licensee decided for a software support contract, the Licensee is entitled to request the following support services against payment of a fee according to the current pricing and condition additionally to the services in chapter 2.

EDENTITY renders these services itself, by associated group companies, branches or partner companies; the Licensee will be informed about the rendering entity during contract conclusion.

Conclusion of a license maintenance agreement prerequisites purchasing of an EDENTITY server software according to the EDENTITY General Terms and Conditions for the Licensing of Server-Standard software - version 07/2013. The following services are declared being separate and additional to the warranty, especially the fixing of defects, according to the Software Licensing Agreement. Remediation of defects within the warranty period also in conjunction with services of this agreement is free of charge.

3.1 Support Hotline

Unless otherwise agreed, the telephone support hotline is available for the Licensee on Austrian working days from 09:00 to 17:00 in German or English language. The support rendering entity is supporting the Licensee if problems with the software occur by identifying, verifying, avoiding or solving it via telephone calls or email. EDENTITY will support the Licensee by providing product relevant expertise and experience. The Licensee needs to cooperate, especially in a detailed description of how and when the problem occurs and what the impact of the problem is.

In opposition to remote support according to article 3.2 EDENTITY cannot access the Licensee's environment but can only contact the Licensee by email and via phone calls. Specific investigations, simulations or tests in the Licensee's environment are not part of this service. EDENTITY reserves the right to change the process in case of new better or easier support tools are available; the Licensee will be notified in advance in such case.

3.2 Remote Maintenance within the Licensee's environment

EDENTITY will access the Licensee's environment directly via a remote maintenance tool or connection to investigate or solve problems directly there. The Licensee must provide a remote maintenance tool to EDENTITY to access all computers using the software. The specific tool and configuration is subject to a mutual agreement. The Licensee needs to ensure EDENTITY is provided access allowing EDENTITY to start applications and change the system configuration in order to ensure proper operation of the software.

3.3 End-of-life / supported software versions

EDENTITY reserves the right to announce twice a year the list of supported software versions. Bug fixes for software versions exceeding the end-of-life date are not delivered. First, a release upgrade to the current version of the software needs to take place.

Individual customization by the Licensee, which are not part of the standard software, can trigger further adoptions during an upgrade which will be charged on a time and material basis. This is also applicable for add-on software or underlying software like operating system or database systems. EDENTITY expressly points out that the Licensee is obliged to conduct a backup before any release upgrade or system changes are conducted by EDENTITY.

3.4 Problem classes, response time, actions

3.4.1. Problem classes

Depending on the class, a problem is assigned to, EDENTITY takes measures and actions within different response times.

Class A (critical): System stops, crashes and/or needs to be restarted to work. A critical function for the ordinary usage is not possible for large part (>80%) of the users.

Class B (Normal): The system is running, but serious interference in ordinary operations for single users occur.

Or the System is running, but deficiencies are seriously hindering the ordinary usage for many users.

Class C (low): Other issues or generic specific requests about the usage or functionality, but not user training. The Licensee can purchase trainings separately.

3.4.2 Response time

For class A issues EDENTITY provides qualified feedback within 6 hours and targets as solution within 12 hours.

For class B issues EDENTITY's response time is 2 working days.

For class C issues no specified response time is agreed; EDENTITY will respond as soon as the ordinary course of business allows it.

3.4.3 Actions

Considering article B 3.3 EDENTITY will immediately initiate actions to identify and locate the cause of the problem based on the problem description provided by the Licensee. If the outcome of the first investigation is, that the problem is not a bug EDENTITY will notify the Licensee immediately. Otherwise, EDENTITY will take further actions like deeper analysis and solving the problem. In case of 3rd party software the problem will be handed over to the 3rd party software vendor including the problem description and the results from the previous analysis.

If available EDENTITY will provide measures or work-arounds such as handling recommendations within the response time, which the Licensee shall consider/implement. In case a patch for the software under maintenance is necessary, EDENTITY will provide the patch as soon as possible considering the problem class of the issue.

3.6 Contact person

The Licensee names qualified contact persons who are in charge to handle user request related to the software under maintenance. Only those named contacts are entitled to raise requests to the support hotline.

3.7 Exclusion of Maintenance, further Services

3.7.1 Exclusion of Maintenance

Problems and support services arising from changes in the Licensee's systems, which are acting as source for the EDENTITY software under maintenance, are not covered by this agreement.

3.7.2 Further Services

Further services exceeding the scope of chapter A 2 and A 3 in section A are not covered by this agreement. Such services need a separate agreement and are charged separately.

This could be for example on-site work at the Licensee's site, consultancy and training after release upgrade, clarification of interfaces to 3rd party systems, installation or configuration support.

B. General Provisions

The below mentioned provisions are valid for both parts chapter A 2 (Software Maintenance) and chapter A 3 (Software Support).

1. Contract Term

1.1 Unless otherwise agreed, the contract starts with the delivery of the software according to article 1 of the EDENTITY General Terms and Conditions for the Licensing of Server-Standard software - version 07/2013

1.2 The contract has an initial term until the end of the year of signing. It will be prolonged every year for another 12 months, if it is not terminated by one of the parties within a termination notice period of 3 months before end of the respective contract year.

Relevant for keeping the notice period is the arrival at the other party. Furthermore, both parties can terminate the contract for good reason without notice period.

1.3 Termination is valid only if provided in written by a register letter

2. Remuneration

2.1 Flat rate Software Maintenance contract

The Licensee pays for the software maintenance services a flat rate fee for the respective settlement period in advance. EDENTITY provides an according invoice at the beginning of every settlement period. Basically the settlement period is one year; for the first year the fee is pro rata temporis and invoicing happens with contract closure.

2.2 Fees for Software Support

The fees are individually agreed depending from the contract / operations model.

2.3 fees for additional services

Additional services, which are not covered by the maintenance or support contract, will be charged according to article 1.1 of the EDENTITY General Terms and Conditions for Contracts of Business – version 07/2013.

2.4 Change of pricing / fees

EDENTITY is free to change the pricing annually. The Licensee has the right to terminate if the price rises more than ten percent against previous year.

2. Usage rights

The Licensee's usage rights to the new software versions are the same as they were to the previous version of the software under maintenance. The usage rights to the new version of the software are replacing the right to the previous version after an appropriate transition period – normally up one month. The Licensee may archive a copy.

3. Duties of the Licensee

3.1 Licensee shall designate a responsible contact person. This person can and shall without delay make or cause to be made binding decisions for the Licensee. The contact person shall be available to EDENTITY to provide required information.

3.2 The Licensee shall immediately inform EDENTITY about any changes in the field of use. Furthermore, the Licensee ensures that the software under maintenance runs in a suitable environment, which is supported by the software under maintenance.

3.3 The Licensee shall give written notice of defects in understandable and detailed form including specifying all information useful for recognizing and analysing defects. In doing so, the work steps that led to the defect appearing, the form of appearance and the impact of the defect shall be specified.

3.4 The Licensee shall ensure that competent personnel are available for supporting EDENTITY.

3.5 The Licensee shall support EDENTITY if necessary and the Licensee shall prepare the environment in his operating sphere to enable EDENTITY an ordinary execution of the order; particularly the remote access to the Licensee's system environment and provision of analysis material (e.g. logs and monitoring data). Furthermore, the Licensee provides workplaces and sufficient work material upon EDENTITY's request.

3.6 Unless otherwise agreed, the Licensee will retain documents handed over by EDENTITY, information and data in such a way that those can be restored after a data carrier failure or loss.

3.7 EDENTITY may charge its efforts additionally, if

- a) work was rendered after a Licensee's problem notification without being a defect, or
- b) a reported problem cannot be reproduced and is not proven in a different way by the Licensee being a defect, or
- c) additional efforts caused by the Licensee not fully fulfilling its duties.

4. Delivery

If software is delivered under this agreement and unless otherwise agreed, the delivery happens in the same way as the delivery of the original software under maintenance happened.

5. Applicability of EDENTITY GTC of business

The EDENTITY General Terms and Conditions for Contracts of Business – version 07/2013 shall apply in supplement; particularly for material defects chapter 5, for defects of title chapter 6 and for compensation of damage and efforts caused by delay chapter 7 above mentioned GTC are valid.