MATRIX42
SMARTER WORKSPACE – BETTER LIFE

GENERAL TERMS AND CONDITIONS OF BUSINESS
for MAINTENANCE and SUPPORT
- For commercial transactions only -

1. Scope, subject matter and conclusion of contract

(1) Parties and subject matter. The following Terms and Conditions shall apply for all contracts concluded between Matrix42 AG, Elbinger Strasse 7 in 60487 Frankfurt am Main ("**Matrix42**") and you as the customer ("**Customer**") for maintenance and support for the respective current version of the software specified in the software service licence. Maintenance and support shall be limited to the number of licences specified in the software service licence and/or invoice (hereinafter jointly referred to as "Service Licence"). These Terms and Conditions shall also apply to all future maintenance and support contracts concluded, even if they are not expressly agreed again. These Terms and Conditions shall not apply for "Software as a Service" services.

The maintenance and support shall include:
- Access to the Matrix42 Self-Service Portal and the customer area set up within this (section 2);
- Provision of updates and upgrades to the software (section 3);
- Correction of defects in the software after the expiry of the agreed limitation period for material defects (section 4);
- Provision of adjusted or new documentation for the software.

(2) Excluded services. Excluded from the maintenance and support shall be:
- Removal of faults/damages
    - that were caused by the intervention of the Customer or third parties, or are related to such interventions;
    - that are attributable to system requirements other than those approved by Matrix42; or
    - that have arisen through failure to observe installation instructions for system components or devices, or through improper handling for which Matrix42 is not responsible.
- Software which has been changed by programming work on the part of the Customer and program components which are not part of the original version of the software or the function of which is dependent on other programs.
- Software which is not used in accordance with the operating conditions prescribed by Matrix42.
- Versions of the software that are older than the version previous to the respective current version and if these are more than 18 months older than the respective current version.

(3) Additional services. Subject to separate ordering and remuneration, Matrix42 offers the following services in accordance with the Terms and Conditions for Services (T&C Services):
- Removal of damages that are attributable to one of the cases specified in section 1.2.
- Installation and/or implementation of the updates and/or upgrades to the software
- Instruction and training of employees
- Adaptation of the software to the specific requirements of the Customer
- On-site service at the premises of the Customer

(4) No differing regulations. The application of differing provisions or provisions going beyond these regulations shall be excluded. This applies in particular for general terms and conditions of business of the customer, even if Matrix42 accepts a customer's order, in which the customer indicates its general terms and conditions of business and/or the general terms and conditions of business of the customer are attached and Matrix42 does not reject these.

(5) Obligations in electronic commerce. Section 312g (1) Nos. 1, 2 and 3 as well as Section 312g (1) sentence 2 of the BGB (German Civil Code), which provide for certain obligations of the entrepreneur in the case of contracts in electronic commerce, shall be waived.

(6) Our offers are non-binding. The Customer and Matrix42 shall, unless expressly stipulated otherwise in the offer, be bound by the offer for three (3) weeks.

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2.   Access to the Matrix42 Self-Service Portal

Matrix42 shall grant the Customer the right, during the term of the contract, of 24 hour daily connection to the Matrix42 Self-Service Portal. Matrix42 guarantees an average 98% annual availability of this service.

The respective current version(s) of the software, documents, patches, up-to-date information and tools shall be available for the Customer to download in the Matrix42 Self-Service Portal.

Matrix42 shall notify the Customer of the password and the web address in writing.

3.   Update and upgrade service

(1) Provision of updates/upgrades. If and to the extent that Matrix42 brings to market any updates or upgrades for the standard version of the software during the term of the contract, Matrix42 shall make these updates/upgrades available to the Customer as a download.

For these updates and/or upgrades, Matrix42 shall grant the Customer the same rights of use and material defects rights as were granted to the Customer for the original version of the software through the software purchase or leasing contract. The Conditions of Use can be found at http://www.matrix42.com.

The limitation period for material defects shall begin on the date on which the Customer was able to use the update or upgrade (for example, upon receiving the message that the update/upgrade is available for download).

With respect to the rights of use, the rights to the updates/upgrades shall, after a reasonable transition period – usually not more than one year – replace the rights to the previous versions. The Customer may file a copy of the old version of the software.

(2) Functionality of the updates/upgrades. The updates/upgrades may serve for the debugging of the software and/or modify and/or expand and/or improve the software functions or include new features.

The functional scope of the updates/upgrades is shown in detail in the respective information provided about the software.

4.   Correction of defects after the expiry of the limitation period

The Customer's rights regarding material defects in the software at the time of transfer of risk and within the limitation period stipulated in the software purchase contract shall be governed by the software purchase contract concluded with Matrix42. For material defects on leased software, the correction of defects shall be governed by the limitation period stipulated in the software leasing contract.

On the basis of these T&C for Maintenance and Support, Matrix42 shall in addition provide the following defect correction services: Defects in the software that occur after the period of limitation for material defects pertaining to respective current software version (i.e. not a version of the software that already has been discontinued by Matrix42) and which the Customer informs Matrix42 about in a reproducible manner, shall be corrected by Matrix42 within a reasonable time period. The correction of the defect shall be made either by the delivery of a software update in which the defect is no longer present, or by the notification of a reasonable circumvention strategy (a so-called workaround).

If the Customer reports an alleged defect and in doing so the Customer culpably causes a work expenditure by Matrix42 not covered by the subject matter of the maintenance and support contract pursuant to Section 1(2), Matrix42 shall be entitled to charge for the work expenditure in accordance with the applicable Matrix42 price list and Matrix42 T&C for Services (e.g. solving problems that were the fault of the Customer due to the disregarding of installation instructions).

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5. Hotline service (additional services)

(1) Service times and contact. The support services are provided by Matrix42 on work days Monday to Friday between 08:30 – 17:00 (CET) by phone or e-mail. Exceptions to this shall be public holidays in Hesse and 24 and 31 December of each year. Inquiries received outside of these support hours shall be deemed as received during the next work day. The inquiries must be directed to the support department of Matrix42 at: **+49 (0) 6102 816 140** or at Email: **helpdesk@matrix42.com**.

6. (Cooperation) duties of the Customer

(1) General cooperation duties. The Customer shall do its best to assist Matrix42 in the provision of maintenance and support services. The Customer shall provide Matrix42 with the knowledge necessary for it to fulfil the contract, in particular regarding the Customer's in-house network layout and the ambient conditions of the software, and inform Matrix42 about changes.

(2) Use of the latest software versions. The Customer shall use the latest software version provided to it respectively, including updates and upgrades, unless this use represents an unreasonable burden to the Customer. An enhanced maintenance package and/or fee-based support can be requested from Matrix42.

(3) Customer contact persons. To ensure that Matrix42 is able to provide an efficient maintenance and support service, the Customer shall nominate as contact persons for Matrix42 a maximum of two (2) employees who are sufficiently qualified in technical terms. Matrix42 shall only be obliged to provide maintenance and support services through the contact persons named by the Customer. The Customer shall thus ensure that changes in the contact persons are notified to Matrix42 in good time.

(4) Fault descriptions. The Customer shall report faults in the software comprehensibly and in detailed form, giving all relevant information for the detection and analysis of these by e-mail or via the Matrix42 Self-Service Portal. The steps that have led to the appearance of the fault must be detailed in particular, as well as the manifestation, the effects of the defect and the system environment (computer system, operating system, open applications).

(5) Information regarding overuse. The Customer shall inform Matrix42 immediately, when it uses the software for more licences than are specified in the Service Licence or invoice.

(6) Data back-up. The Customer alone shall be responsible for ensuring proper data back-ups are made, particularly before the implementation of updates and upgrades, and before the execution of fault works.

(7) No use in high-risk areas. Maintenance and support services are not designed, provided or intended for use or transmission on equipment to be employed in high-risk areas. This excludes in particular the use of these for the operation of nuclear facilities, aviation navigation and communication facilities, direct life-support systems or weapons systems, or in safety-critical areas in which the failure of the software could lead directly or indirectly to the death or injury of persons or to serious environmental or other physical damage. The Customer shall be prohibited from using the maintenance and support services for these high-risk areas.

7. Remuneration and terms of payment

(1) Amount and time of payment. Remuneration for the services assumed by Matrix42 in this contract shall depend on the number of licences and shall be evident from the Service Licence. Remuneration shall be payable at the beginning of the basic term and each additional renewal term within 14 days after receipt of invoice, net and without deduction.

(2) Remuneration in the case of overuse. If the Customer uses the software during the term of this Contract for a greater number of licences than is specified in the Service Licence or invoice, the remuneration under this contract shall automatically increase in accordance with the higher number of licences.

(3) Price changes. Matrix42 shall be entitled to increase or reduce the prices agreed with the Customer upon the expiry of least 12 months from the effective date of the last price change respectively (but no earlier than 24 months after the conclusion of the maintenance and support contract) with effect from the beginning of the following renewal term. Such a price increase shall not amount to more than 5%

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per year of contract, unless the costs for Matrix42 for the provision of the service have risen by more than 5% per year of contract. The revised prices shall take effect if (i) Matrix42 announces them to the Customer in advance in writing or by e-mail at least six weeks prior to them taking effect, and (ii) the Customer does not object to them in writing or by e-mail within six weeks of notification. When notifying of the price change, Matrix42 shall make reference to this legal consequence again separately. If the Customer objects, the existing prices shall continue to apply. Matrix42 shall have the right to ordinary termination of the contract in accordance with section 8.

(4) Net prices. Prices shall be quoted exclusive of the respective statutory value-added tax (VAT).

8. Term and termination

The contract shall initially be concluded for the duration of 12 months ("Basic Term"). The beginning of the contract or a term differing from the above shall be evident from the Service Licence. It shall then be extended by 12 months respectively ("Renewal Term") if it is not terminated with a notice period of 3 months to the end of the Basic Term or a Renewal Term. Notice of any termination must be given in writing.

9. Data protection

Where Matrix42 is able within the framework of its activities to access personal data that is stored on the Customer's system, the following shall apply: Matrix42 processes Customer data as a contract data processor within the meaning of Section 11 of the German Federal Data Protection Act (BDSG) exclusively on behalf of and according to the instructions of the Customer and for the sole purpose of fulfilling the contract. Matrix42 shall take appropriate technical and organisational measures for the protection of Customer data. The Customer shall remain responsible for the legality of the collection, processing and use of Customer data in accordance with the statutory provisions, in particular the BDSG.

10. Liability

(1) Matrix42 shall be liable for damages, insofar as these
    a) were caused by the wilful or gross negligence of Matrix42, or
    b) were caused by slight negligence by Matrix42 and result from significant breaches of obligations that jeopardise the achievement of the purpose of this contract, or from the breach of obligations, the fulfilment of which is a prerequisite to enable the proper implementation of the contract and upon compliance of which the Customer should be able to rely.

In all other respects, the liability of Matrix42 shall be excluded, irrespective of the legal basis thereof, unless Matrix42 is liable as mandated by law, in particular on account of injury to life, body or health of a person, the assumption of an express guarantee, fraudulent concealment of a defect or in accordance with product liability law. Guarantees from Matrix42 shall be made in writing and shall be designated as such.

(2) Limitation in terms of amount. In the case of section 9(1) b), our liability shall be limited to € 500.000.

(3) Employees and representatives of Matrix42. The limitations of liability set out in section 10(1) and 10(2) shall also apply to claims against employees and representatives of Matrix42.

11. Miscellaneous provisions

(1) Choice of law. The legal relationship between the Customer and us shall be subject to substantive German law under exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

(2) Place of jurisdiction. The place of exclusive jurisdiction for all disputes between the parties arising from or in conjunction with the business relationship shall be Hamburg, insofar as a different jurisdiction is not mandatorily prescribed by the law.

(3) Reasonable deadline. Where it is legally necessary to set Matrix42 or the Customer a reasonable deadline, this shall be at least 2 weeks.