

1. Subject Matter of Contract

(1.1) Matrix42 shall render maintenance and support services for the software specified in the software service coupon in its respective current version and based on the following terms & conditions: Maintenance and support are limited to the number of licenses/ clients specified in the software service coupon or the invoice (in the following „service coupon“).

Maintenance and support comprise the following:

- Access to the web console and the Customer section of the FTP server **(point 2)**;
- Supply of updates and upgrades for the software **(point 3)**;
- Supply of the modified or a new software documentation **(point 4)**;
- Elimination of software defects after expiry of the agreed limitation period for material defects;
- Usage of the hotline during the first 60 days after commencement of contract **(point 5)**.

(1.2) The following is excluded from maintenance and support:

- Elimination of failures/damages that
 - have been caused by the Customer's or Third-Party intervention or are related to such intervention;
 - result from the usage of system requirements other than those approved by Matrix42;
 - result from the negligence of installation instructions for system components or devices or from improper operation for which Matrix42 is not responsible.
- Software that has been modified by Customer's own programming works and program parts that are not part of the original software or whose function depends on other programs.
- Software that is not used according the terms of use specified by Matrix42;
- Software versions that are more than 18 months older than the current version.

(1.3) Matrix42 offers the following services upon a separate order and separate fee:

- Elimination of damages that are a result of one of the causes specified under **point 1.2**;
- Installation and/or implementation of updates or upgrades of the software;
- Briefing and training of employees;
- Software customization;
- On-site service on the Customer's premises.

2. Access to the Support Web Section

Matrix42 grants the Customer the right to access the Matrix42 web console and the Customer section of the FTP server 24 hours a day.

The web console can be used by the Customer to download documents, patches and tools.

The FTP server can be used to access all current information on users' problems with the software.

Matrix42 will inform the Customer of the respective password and Internet address in writing.

3. Update and Upgrade Service

(3.1) If and to the extent that Matrix42 launches updates or upgrades for the software's standard version in the German market during the term of the contract, Matrix42 shall supply the Customer these updates/upgrades, including documentation, via e-mail, on CD or by mail or any other suitable medium.

Matrix42's cost for forwarding these updates/upgrades are included in the flat-rate fee according to **point 7**.

Matrix42 shall grant the Customer the same rights of use and for

material defects for these updates/upgrades as have been granted the Customer for the original software version in the software purchase agreement. . The rights of use can be viewed und www.matrix42.com/company/eula.

The limitation period for material defects shall start at the time when the Customer has the possibility to use the update or upgrade (for instance when he is notified that the update/upgrade is available for download).

Regarding the rights of use, the rights on the updates/upgrades shall replace the rights on the previous versions after a reasonable transitional period, which will normally not exceed one year. The Customer shall have the right to archive a copy of the old software version.

(3.2) The updates/upgrades may be published to remedy software bugs and/or modify and/or extend software functions or may contain new functionality.

The specific functional scope of the updates/upgrades can be found in the supplied information on the software.

4. Rectification of Defects After Expiry of the Limitation Period

The Customer's rights in case of material defects of software within the agreed limitation period are based on the software purchase agreement concluded with Matrix42.

Matrix42 will eliminate software defects that are detected after the limitation period for material defects of the current version (not for version already discontinued by Matrix42) has expired and that are communicated by the Customer to Matrix42 in a reproducible form within a reasonable time. Defects are either eliminated by supplying a software update where the bug has been remedied or by informing the Customer of a reasonable work-around.

5. Hotline Service (Additional Services)

(5.1) Upon the Customer's request by telephone, Matrix42 or third parties commissioned by Matrix42 will render support by telephone regarding the usage of the software once the Customer has concluded a hotline service support agreement:

- During configuration;
- For user-related problems;
- In case of incompatibilities of the software with third-party software;
- During installation by the Customer.

This hotline support does not include consulting services for Customer-specific individual solutions and packaging requests.

(5.2) Matrix42 will render this hotline support on business days, Monday to Friday between 8.30 a.m. and 5 p.m. via telephone, fax or e-mail. Public holidays in the German state of Hesse and December 24 and 31 of each year are excluded. Requests that are received outside of these support times are deemed received on the next business day. The requests must be made to the Matrix42 support team under the following telephone number: **+49-6102 816 140**

6. Customer's Duty to Cooperate

(5.1) The Customer shall support Matrix42 at his best to enable Matrix42 to render maintenance and support services. The Customer will provide Matrix42 the knowledge necessary to answer the Customer's requests, in particular on the Customer's network setup and the environment conditions for the software. The Customer will also inform Matrix42 immediately on any changes thereof. The Customer is responsible for proper data backups, in particular prior to updates or upgrades

(5.2) The Customer agrees to always use the latest software version that has been supplied, including updates and upgrades, version that has been supplied, including updates and upgrades, unless this usage causes unacceptable efforts for the Customer.

(5.3) The Customer shall name two (2) employees with sufficient technical qualification that act as contact persons for Matrix42 to ensure that Matrix42 can render efficient maintenance and support services. Matrix42 shall only be obliged to render maintenance and support services to the contacts named by the Customer. Therefore the Customer will ensure that Matrix42 will be informed of any changes of contacts in time.

(5.4) The Customer must notify Matrix42 in writing of any software defects in a comprehensible and detailed way, including any information that can be used to detect and analyze the respective defects. This includes, but is not limited to, work steps that have caused the failure, the manifestation and consequences of failure, and the system environment (computer system, operating system, open applications).

(5.5) The Customer shall inform Matrix42 immediately if he uses Empirum for more licenses/clients than specified in the service coupon or the invoice.

(5.6) The Customer is responsible for proper data backups, in particular prior to updates or upgrades and before failures are remedied.

7. Remuneration and Terms of Payment

(7.1) The fee for the services to be rendered by Matrix42 as specified in this contract depends on the number of target licenses/clients as specified in the service coupon, plus applicable value-added tax. This fee is due net immediately after the initial commencement of contract and after each renewal upon receipt of invoice and within 14 days without any deductions.

(7.2) If the Customer uses the software for more licenses/clients during the term of contract than is specified in the service coupon or the invoice, the payment for the contractual services will increase according to the increase in licenses/clients.

(7.3) If the contract is renewed after the initial term of contract, the payment for contractual services for each year will be determined, based on the respective current Matrix42 price list for the respective number of licenses/clients and for a one-year term.

(7.4) Matrix42 has the right to change the agreed fee by written announcement six (6) months prior to the end of a quarter. Such change is permitted 24 months after conclusion of the maintenance and support agreement at the earliest. The Customer has the right to terminate the contract if the fees are increased by more than five percent (5%), compared to a previous 12-month period. The Customer may terminate the maintenance and service contract in writing within one month after receipt of notification and beginning at the time when the new prices become effective.

8. Term of Contract / Termination

The contract shall be concluded for a term of 12 months. The commencement of contract is laid down in the service coupon. It shall be renewed for another 12 months unless it is terminated with a period of notice of three (3) months to the end of the respective term of contract. Termination has to be done in writing.

9. Privacy and Data Protection

The Customer's data needed for the performance of contract and sales statistics are subject to privacy laws.

To the extent that Matrix42 can access personal data that are stored on the Customer's systems, Matrix42 will act solely as commissioned data processor (according to § 11 para. 5 of the German Data Protection Act, BDSG). Matrix42 agrees to

observe the Customer's instructions on how to use these data. The Customer shall bear any disadvantageous impact of such instructions on the fulfillment of contract. If necessary, details on how to use personal data shall be agreed between the contractual parties in writing.

10. Liability

Matrix42's liability of damages caused by carelessness is excluded unless these are damages for which Matrix42 is responsible independent of careless behavior or these are damages to the body, health or life or imply a violation of material contractual duties. In case material contractual duties are violated, Matrix42's liability for carelessness shall be limited to the damage predictable by Matrix42 when the contract was concluded.

(10.2) Matrix42 shall only be liable for the recovery of data if the Customer has ensured that these data can be reproduced with reasonable effort in the sense of proper data processing based on records that are supplied in a machine-readable format.

(10.3) Liability according to the German Product Liability Act shall remain unaffected. In all other cases Matrix42 shall assume unlimited liability unless legal regulations provide for a maximum liability amount.

11. Modifications/ Place of Fulfillment / Sole Place of Venue / Severability Clause

(11.1) Modifications and amendments as well as any required declarations of consent must be done in writing (written addendum) to become effective; they must be signed by the duly authorized signatories of both contractual parties, as specified in the commercial register. This provision shall also apply for the waiver of this written form requirement agreed between the parties to this contract.

(11.2) Place of fulfillment for all claims arising from this contract is Neu-Isenburg. This contract is subject to the German substantive law under exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG). Sole place of venue for all disputes arising out of and in relation to this contract is Hamburg.

(11.3) In case any term or provision of this contract is invalid or incomplete, this shall not affect the validity of the remaining terms and provisions hereof. If possible, the parties will replace the invalid or missing term or provision by a valid provision that comes as close as possible to the economic intent of the parties.