

Supplementary Terms and Conditions of Use of Software Services (SaaS) for KnowledgeCenter Modules of USU GmbH

1 Scope of the services

1.1 Under these contractual terms and conditions and the SaaS software certificate, which has precedence over them, USU GmbH shall provide software solutions pre-configured for the customer on hardware of USU GmbH or of its contractors, connection of the systems to a carrier, administration of software, databases, firewalls and associated infrastructure, installation of fixes and new versions, transfer and importing of external data in accordance with the customer's stipulations, and suitable data backup mechanisms for and on the systems of USU GmbH or its contractors.

The functional scope of the software is defined in the software documentation. USU GmbH shall be authorised to keep on developing the products further; deviations between the products ordered and actually supplied shall be permissible if the customer can be reasonably expected to accept them.

The USU Support Centre shall also support the customer in relation to incidents, standard support (service requests) and questions on operation under a maintenance agreement. The scope of these services is defined in the Standard Terms of Service.

1.2 The services specified under section 1.1 refer exclusively to the software components developed or sold by USU GmbH or its affiliate companies and/or software components that are required to maintain proper operation.

1.3 Activities such as the maintenance and replacement of hardware components or system configurations that need to be carried out at the premises of the customer are not included in the SaaS fee as a rule and shall be charged in accordance with the valid price list of USU GmbH on a time and cost basis plus travel expenses.

2 Availability

2.1 USU GmbH shall make (a) the agreed services available in accordance with the order, the Terms of Service and these Conditions of Use of the SaaS services (b) shall provide support in accordance with the services defined herein, and (c) shall provide the online services 24 hours a day, 7 days a week, with an availability (SLA) of 99.5%. This shall not include the non-availability of the system in the event of announced maintenance and update work and circumstances outside the control of USU GmbH.

2.2 Definitions:

- (a) Available – authorised users can utilise the service.
- (b) Permitted non-availability – announced maintenance and update work and circumstances outside the control of USU GmbH. That shall include force majeure, a general Internet outage, problems in the customer's infrastructure (such as no access to the Internet from the customer's network, unavailable VPN connections, inadequate firewall settings, etc.), changes to the service without the involvement of USU GmbH (e.g. as a result of customising, changes to interfaces, etc.), network intrusion or breaches, denial-of-service attacks or other unauthorised interference, encroachment or attacks by third parties.
- (c) Maintenance and update work – activities such as maintenance of the software by means of hotfixes, new releases, customer-specific adaptations and/or replacement of hardware components or system configurations to preserve security and availability.
- (d) SLA for availability (%) – is calculated on a monthly basis as a percentage of the ratio of the time (in hours) in which the service is available (uptime) to the total maximum possible service time minus the time of the permitted non-availability and is disclosed.

Example (fictitious): for the month of May: maximum possible service time = 31 days * 24 hours = 744 hours, time for an announced maintenance window = 2 hours, measured downtime = 1 hour.

SLA calculation:

Uptime = maximum possible service time of 744 hours minus permitted non-availability of 2 hours minus a downtime of 1 hour = 741 divided by the relevant service time = maximum possible service time of 744 hours minus permitted non-availability of 2 hours = 742 hours, giving an SLA of 99.86%.

3 SLA monitoring

3.1 The availability and usability of the systems shall be monitored by suitable monitoring systems of USU or its contractors.

4 Release upgrades / hotfixes

4.1 The monthly SaaS fee shall include, for each installation, an upgrade to a release version every 24 months at the latest. Additionally, it comprises installing of the latest hotfix version at least twice a year. The customer can choose in agreement with USU when and whether they wish to adopt a release upgrade. However, USU reserves the right to carry out a release upgrade, after agreeing a time for it with the customer, at the latest when technical requirements of the release in current use are no longer supported or errors can only be rectified by new releases.

4.2 The customer has a duty to cooperate in the event of release upgrades and hotfixes. Since the basic scope of the USU software can be extended on a customer-specific basis with the aid of the customising functionality, this extended functionality must be examined to ascertain whether it can run whenever the customer migrates to a new release version and if it needs to be adapted. That requires appropriate cooperation on the part of the customer.

5 Maintenance windows

5.1 For technological and security-related reasons, USU GmbH or its contractors will utilise a maintenance window once a month at the most in order to update the IT infrastructure (hardware and software). Among other things, that ensures that security gaps are remedied no later than 90 days after they become known.

5.2 The customer will be given 14 days' advance notice of these maintenance windows, which shall preferably be outside the service times where possible.

5.3 Maintenance work shall be announced by e-mail along with an indication of the expected duration. When the maintenance work has been completed, a final notification shall be issued.

5.4 The provisions in sections 5.1 and 5.2 shall not include maintenance windows that are necessary due to critical security gaps or an acute threat.

6 Place of performance of the services

6.1 The services shall be provided in Germany. That means specifically that the data centre housing the infrastructure for the SaaS applications is located in Germany.

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7 Troubleshooting

- 7.1 The obligation to rectify errors relates to the release of the standard software product provided as part of the SaaS service.
- 7.2 The customer shall report problems via the channels defined in the Standard Terms of Service.
- 7.3 USU GmbH shall rectify errors within an appropriate period of time and start by examining the reported error and initiating the required troubleshooting measures in accordance with the response times likewise defined in the Standard Terms of Service.

8 User management

- 8.1 Service requests for the customer's user management must be submitted electronically in an agreed format and shall be fulfilled in one working week at the most.

9 Rights of use

- 9.1 By using SaaS services provided by USU GmbH, the customer acquires the non-exclusive and non-transferable personal right to use the software or software modules stated in the SaaS software certificate for a period of time limited to the term of the agreement. This right of use shall end when the contractual relationship ends as a result of its term expiring or its being terminated.
- 9.2 The right of use shall end when the contractual relationship ends. The customer alone shall have the rights and obligations relating to the data created by use of the software. The customer shall be provided with said data in the form of a database backup on a suitable medium when the agreement ends.

10 Data security

- 10.1 USU GmbH warrants to its customers that the hardware is operated in suitable premises at USU GmbH or its affiliate companies or contractual partners. Special requirements of the customer relating to these premises must be communicated to USU GmbH in writing. If the customer fails to do so, any compensation claims in the event of damage in this regard shall become void.
- 10.2 All data that is created as a result of the relationship between USU GmbH and its customers and by contacts with third parties authorised by the customer shall be treated with strict confidentiality. Requirements of the customer relating to the handling of confidential information and personal data above and beyond legal requirements and USU GmbH's standards must be communicated to USU GmbH in writing. If the customer fails to do so, any compensation claims in the event of damage in this regard shall become void.
- 10.3 The data arising from use of the software by the customer shall be backed up incrementally every day and as a whole every week. Data backups shall be stored at another location than that used for hosting and sent to the customer as agreed.
- 10.4 The customer is aware that the internet is a public and international forum in which there are unavoidable security risks. This makes it particularly vulnerable to attacks by third parties. USU GmbH consequently rules out any liability for data corruption and data abuse by third parties.
- 10.5 Communication with the customer and with third parties authorised by the customer shall be conducted via a secured, state-of-the-art connection.

- 10.6 Upon request, the customer can name contact persons who are to be notified if a data security incident is suspected.

11 Service continuity management

- 11.1 USU GmbH and its contractors jointly undertake a wide range of measures to ensure smooth operation. If the rare situation of a serious outage nevertheless occurs, a major emergency shall be announced and work immediately initiated to restore operability, which shall be accomplished within 72 hours at the most.

12 Miscellaneous

- 12.1 The service agreement for SaaS services may be supplemented by additional GTCs of USU GmbH if they are referred to in the software certificate.
- 12.2 If individual provisions are or become fully or partly ineffective, this shall neither affect the validity of the other provisions nor the effectiveness of the agreements based on these Terms and Conditions of Use as a whole. An ineffective provision shall be replaced by an arrangement that corresponds as closely as possible to the intended economic purpose.

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