

Special Contract Conditions Service and Support



1. Scope and Liability

These special contract conditions (“SCC”) form the contractual basis between the customer and TS Europe BVBA, its divisions, subsidiaries and affiliates (“TS”). All deliveries and services in the area of “TS Service and Support” shall be performed on the basis of these SCCs. They form a significant part of the contract relationship between TS and the customer. They complement TS’s general terms and conditions (“GTC”) which can be found at <http://www.techdata-europe.com/terms-and-conditions> or will be sent upon request. Where regulations of these SCC contradict those of TS’s GTC, the SCC takes priority over the GTC. These SCC are agreed to be valid for future contractual relationships.

2. Subject of Performance

2.1. TS offers against remuneration the following general and support services (deliveries and services) together with the use and application of software and hardware products, which the customer receives from TS (contractual software and hardware products).

General services which became necessary by the installation of software and hardware of third parties do not form part of the general and support services. The exact form of the service to be performed as well as the agreed payment arise from these SCC and the corresponding application form, additionally the GTC and any separate service descriptions or price lists from TS. TS’s general and support services are offered on the basis of what is at that moment technically, economically and operationally possible and reasonable.

2.2. Within the area of “TS Service and Support” TS supports and consults customers about the identification and solution of software and hardware problems which come up during the use and application of contractual software and hardware products.

2.3. The following definitions apply for the scope of these SCC:

- Inspection
Inspection of the essential functions of the contractual software and hardware products.
- Failure
Every impairment to the functions of the contractual software and hardware products which lead to a breakdown of the contractual software and hardware products.
- Fault
Every other impairment to the software or hardware functions of the contractual software and hardware products.

- Maintenance

Recognition, analysis and handling of faults and failures of the contractual software and hardware products, which are established through an inspection or are reported to TS by the customer and are not the fault of people, things or a force majeure.

Urgency Levels:

- 1 = complete failure of productive systems affecting business processes
- 2 = limited function without direct implications on business processes
- 3 = uncritical failure not affecting business processes

2.4. TS will consult and support customers with the maintenance and restoration of the operating state and the efficiency of the contractual software or hardware products and with the identification and solution of software and hardware problems (faults or failures), which occur during the application of contractual software and hardware products. Subject to special contractual agreements this includes support and consulting for general technical or administrative service questions, help for user problems or failure messages, notes for the use of the contractual software or hardware products and information for the interpretation of corresponding technical documentation or product descriptions. Not included are general questions or support for relevant questions or problems, which are not immediately linked to the application or use of the contractual software or hardware products. Within an agreed acceptance period, the customer can contact qualified members of staff at TS.

2.5. Subject to special individual agreements, general and support services in terms of these SCC, includes support and consulting of customers solely by phone or email.

2.6. The performance of general and support services by TS requires in particular that

- the contractual software and hardware products are used in Germany.
- all autosupport functions (so-called Reporter or Autosupport Agent) are activated by the customer following the TS guidelines or other given instructions.
- the contractual software and hardware products (including auxiliary modules) of the customer are correctly licensed and not identified as “end of life” by the manufacturer. In case of general and support services for Dell EMC products it is required that the Dell EMC software licenses and hardware applied in the solution are supported in accordance with the current compatibility guide of Dell EMC Software.

- for the use of the contractual software and hardware products (including any auxiliary modules) the minimum technical requirements, as laid out in the product description, are available.
- the customer has applicable knowledge regarding the contractual software or hardware products as well as the installed platforms and operating systems. Against this background, general and support services are limited to the customer's registered and qualified technical contact persons. Only these persons are permitted to register a support call. The customer's technical contact persons must be able to prove that they participated in a qualification for the relevant product or in an TS training or that they have at least one (1) year of experience with the supported software.
- the products purchased by the customer are covered by Maintenance service of the respective manufacturer.

If the above-named requirements are not fulfilled, particularly if the autosupport functions are not activated or the technical persons are lacking the required qualification, TS will invoice support services at 200 € per hour or a part of it or alternatively the cost for a man day (see TS price list) irrespective of the contract fee. The same applies if a person which is not registered as a technical contact person wants to utilize general and support services of TS.

2.7. In principle, the general and support services for the support and consulting of customers following these SCC are performed as follows:

- Taking On and Processing of Support Calls (Service Levels Taking On and Processing of Support Calls will be carried out for the corresponding Service Levels (as defined below) and Urgency Level (as specified under 2.3.) in the following time periods and response times.

a) Service Level Basic Pro

- Taking on Support Calls 7*24
- Processing of Support Calls Mon-Fri 8:00am – 5:00pm
- Urgency Level/Response Time (within Mon-Fri 8:00am – 5:00pm): 1/120min, 2/240min, 3/NBD (NBD: „Next Business Day“ = Mon-Fri)

b) Service Level Advanced Pro

- Taking on Support Calls 7*24
- Processing of Support Calls Mon-Fri 6:00am – 8:00pm
- Urgency Level/Response Time (within Mon-Fri 6:00am – 8:00pm): 1/60min, 2/90min, 3/120min
- Exchange of Hardware will be carried out NBD
- The Exchange of Hardware consists of the supply of spare parts. The Customer is responsible for the installation of CRUs (Customer Replaceable Units, Units that can be replaced by the Customer). On request TS can provide a list of CRUs.

c) Service Level Premium Pro

- Taking on Support Calls 7*24
- Processing of Support Calls 7*24
- Urgency Level/Response Time 7*24: 1/Live Transfer (usually direct transfer to a system specialist, first reaction within 20min), 2/60min, 3/90min
- The Hardware exchange service shall be arranged on the next business day.

- The Exchange of Hardware consists of the supply of spare parts. The Customer is responsible for the installation of CRUs (Customer Replaceable Units, Units that can be replaced by the Customer). On request TS can provide a list of CRUs. As part of the Service and Support package TS will take care of the installation of the spare parts on request of the Customer.

d) Processing of Support Calls for all Service Levels as defined above under a) – c) will not be carried out after 12:00am on December 24th and 31st of each calendar year. For the Service Levels as defined above under a) and b) processing of Support Calls will not be carried out on January 1st, Easter Monday and December 25th of each calendar year.

- TS Active Monitoring

Daily monitoring of the information delivered by Reporter and Auto Support Agent will be done according to the Service Levels and time windows as described above in lit. a) – d).

- Hotline

The hotline can be reached by phone at +49 89 4700 3200 or by TS Support Portal <https://support.orchestra.de>

- Recognition, analysis and handling of faults or failures Support and consulting for the customer with the recognition, interpretation (analysis) and handling of identifiable and reproducible faults or failures of the contractual software or hardware products. Handling the problem can possibly include escalation to the manufacturer.

- Product and Operation Support

On request, TS offers the customer information about new product features, solutions to known faults or failures and consulting and support for suitable installation methods or the implementation of contractual software and hardware products.

- Software Patches, Software Updates/Upgrades

They can be obtained through TS when needed and when available from the software or hardware manufacturer. The customer carries the cost for any license fees.

- Telediagnosis

Unless otherwise agreed in the contract, TS can use electronic resources (service tools) of its choice for the effective inspection and maintenance of the contractual software and hardware products for telediagnosis and remote maintenance. Should it be necessary, the choice of service tools to be used for this job will be agreed between TS and the customer.

- On-site application

If special written agreements within the framework of general and support services include/require on-site visits at the customer's location by TS, TS will compile a "Statement of Work" before the performance of service, which specifies the on-site service to be performed and is to be confirmed in writing by the customer.

2.8. TS will deal with the faults or failures of the contractual software or hardware products within a reasonable amount of time depending on what is technically, economically and operationally reasonable and possible at the time. TS will analyze reported faults or failures as well as consult the customer on how to deal with the faults or failures discovered.

For fault or failure handling, TS reacts in the following way:

- Confirmation (by telephone or email) of the notification of the faults or failures,
- Initial consultation (by telephone or email),
- If necessary, the application of electronic resources (service tools) for the tele-diagnosis and remote maintenance.

2.9. Handling a request through TS is completed when at least one of the following criteria apply:

- the customer has been informed that the fault or failure is not due to faults or failures on the part of the contractual software or hardware products;
- the customer has been told how to handle the fault or failure;
- the customer has been informed that the fault or failure will be corrected in the following version of the contractual software or hardware products;
- the customer has been informed how, with which conditions (if necessary cost inducing), to obtain and use a software patch or software update/upgrade for the handling of the fault or failure in the contractual software or hardware products;
- the customer has been informed that the fault or failure was caused by an error (bug), up until now unresolved, within the contractual software or hardware products;
- the problem has been passed on to the manufacturer of the contractual software or hardware product and TS has passed on the answer of the manufacturer to the customer;
- the customer has been told that the fault or failure in the contractual software or hardware products lies outside the specifications of the product description;
- the customer has obtained the information that a fault or failure in the contractual software product has been diagnosed as an error in hardware, which is not included in TS's general and support services.

2.10. Unless otherwise agreed, the general and support services to be performed do not include:

- services such as performance tuning or configuration concepts for system and network environments as well as customer-specific developments and programming (scripts, work-arounds), complete software and hardware installations;
- on-site applications (exception: Services that are defined in section 2.6.b and 2.6.c);
- customer's own or external development;
- support and consultancy services which, according to TS, are necessary due to unsuitable handling, use or development of the contractual software and hardware products, particularly interference by the customer in the operation of the contractual software or hardware products;
- support and consultancy services regarding the interoperability of contractual software and hardware products with other hardware or software components which are not part of TS's general and support services;

- Delivery, installation or exchange of contractual software or hardware products, additional features or accessories (exception: Services that are defined in section 2.6.b and 2.6.c);
- Such services are to be specially ordered through TS and paid for by the customer.

2.11. The customer is not entitled to dictate how the general and support services shall be performed. TS shall coordinate this with the customer.

2.12. Provided that the general and support services performed by TS are acceptable, the customer must test them immediately and declare acceptance if the service was performed soundly or there were no severe deficiencies which could prevent acceptance. The customer must immediately notify TS of any deficiencies discovered.

If the customer does not declare acceptance and completion within a period of two weeks after the performance of the general or support service in question and does not declare any deficiencies, then the acceptance is seen as having been successful.

2.13. TS has the right to delegate performance of the Service and Support to third parties without specific consent of the customer.

3. Obligations of the Customer

3.1. In performing a service due, as far as is reasonable, the customer must support TS appropriately and as necessary to the best of his ability.

3.2. The customer will follow the technical instructions of TS.

3.3. The customer will inform TS immediately of any faults or failures of the contractual software and hardware products and pass on all necessary information about the maintenance.

3.4. The customer will attempt to describe any faults or failures in as much detail as possible. If no comprehensive description is available for TS, TS will alert the customer to the lack of a description of the fault or the failure. If a failure diagnosis cannot be performed, then TS has the right in this case to subsequent billing of the additional costs for the failure diagnosis.

3.5. TS is not responsible for the results of a delayed or incomplete report of the faults or failures.

3.6. The customer guarantees that all compulsory cooperation of the customer will be fulfilled at no cost to TS.

The customer will in particular:

- refrain from arbitrarily changing settings or configurations set by TS in the contractual software and hardware products;
- during the application of service tools for a remote access, allow the use of a dial-in appliance with dial-back function for electronic communication, provided that this has been especially contractually agreed between TS and the customer;
- comply with all of operating and license conditions of the manufacturer;
- name one or more responsible and authorized contact persons before start of the service, who shall be available to TS's staff or vicarious agents and are authorized to make binding declarations for the customer;

- make all necessary information or documents available to the staff or vicarious agents at TS (particularly technical data and facts regarding the hardware and software), which are required for the orderly performance of the service by TS.
- avoid taking measures that would make performing the general or support service difficult or impossible. Otherwise, TS is released from its service responsibilities.
- inform TS about any change of the location where the contractual Hardware and Software products are used.

3.7. If TS should provide general and support services to a third party because of special agreements with the customer, the customer shall ensure that the third party fulfills compulsory cooperation in accordance with these specifications.

3.8. The customer is responsible to ensure compliance with data protections laws. The customer indemnifies TS for any breaches thereof.

3.9. The customer will return all defect components within 20 days after exchange, that have been replaced on the basis of the Hardware Exchange Service. In case the customer does not return the Hardware, TS is entitled to charge the full price.

4. Period of Validity

Unless otherwise expressly agreed, this contract is concluded for a term of one year. Subsequently, it will automatically be extended by one year unless terminated 3 months prior to the expiration of the validity.

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