

## General Conditions on Upgrade and Support Package

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### § 1 Maintenance item

The maintenance item results respectively from the invoice. In the case of agreed invoicing EgoSecure undertakes to fulfil the following agreed maintenance and support services within the accounting period.

### § 2 Maintenance services

(1) **Maintenance Releases** are improved versions of the software and are made available to the customer for downloading, e.g. modifications from 3.1.1 to 3.1.2. **Updates** (Minor Releases) are the extended and/or improved version of a software product, during which errors were also remedied, e.g. modifications from 3.1 to 3.2. **Upgrades (Major Releases)** are further developed versions of the software and are made available to the customer for downloading and in addition transferred on a suitable data carrier (upon request) free of charge. In the case of a major release the version changes before the version point, e.g. 3.2 to 4.0.

(2) Programme extensions developed by the customer are not the subject of this agreement.

### § 3 Support services

(1) The customer is responsible for using a further developed version of the software used. The respective latest version of the EgoSecure software is available for downloading at [www.egosecure.com](http://www.egosecure.com).

(2) The obligation to provide support relates to the respectively latest version of all EgoSecure software products provided in fulfilment of this agreement. It finishes for an old version 12 months after the release of the further developed version by EgoSecure. Should the customer insist on the support of an older version and the technical framework conditions for the fulfilment of this service be rendered, EgoSecure can demand the remuneration of the additional costs caused by this (including the cost of providing the support environment required for this).

(3) The support includes the clarification of questions when using the supported products; the troubleshooting of operating errors or similar malfunctions, where this is possible via remote support; the temporary assistance (elaboration of bypass measures) in the case of malfunctions, where this is possible without modifications to the source code of the supported products. Support related to other software is not given within the scope of this agreement.

(4) EgoSecure makes the decision on whether a software error of the supported products exists. EgoSecure determines the reaction time, however assumes no guarantee that the solution of the problem will be implemented within the reaction time. The reaction times are defined according to the existing malfunction category.

### § 4 Support times and availability

(1) EgoSecure offers support at the following times:

Monday to Friday from 08:00 to 17:00 hours.

Support is not available on the federal public holidays of Baden-Württemberg. On 24th and 31st December of each year, support can only be contacted before 12:00 hours. EgoSecure gives advice and recommendations. The remedying of errors is not part of the support service.

(2) Every EgoSecure customer can make use of these services as follows:

- > via the homepage [www.EgoSecure.com](http://www.EgoSecure.com),
- > via e-mail to [contact@EgoSecure.com](mailto:contact@EgoSecure.com),
- > by phone under the number +49 (0)7243 / 35 495 – 0 and
- > by fax under the number +49 (0)7243 / 35 495 – 10

## **§ 5 Troubleshooting**

(1) Three troubleshooting categories are agreed for dealing with malfunctions during the determined support times, in order to determine priorities for the work of EgoSecure:

### **Category 1:**

Malfunctions severely restrict operation or even lead to breakdown:

EgoSecure will take action immediately, at the latest before 2 working hours within the determined support times have elapsed after the request.

### **Category 2:**

Malfunctions restrict operation not only insignificantly:

EgoSecure will take action as soon as possible, at the latest before 8 working hours within the determined support times have elapsed after the request.

### **Category 3:**

All other malfunctions:

EgoSecure will take action at a time acceptable to the customer.

(2) EgoSecure makes the decision regarding which troubleshooting category the problem is to be classified in. EgoSecure undertakes to comply with these reaction times, however assumes no explicit guarantee to have found the solution of the problem when the reaction time expires.

(3) If the customer has proof that he has issued a fault report to EgoSecure, EgoSecure is obliged to ring the customer back, if EgoSecure cannot process the malfunction immediately. If the customer's contact cannot be reached despite proof that EgoSecure attempted to call back twice, and if the customer himself does not get in touch again within 24 hours, EgoSecure is entitled to declare this fault report (ticket) as being settled to the customer in writing.

(4) In order to ensure that an efficient support service can be provided by EgoSecure, the customer names in writing two employees who are sufficiently qualified from a technical point of view as contacts for EgoSecure. The customer undertakes to indicate in writing the new contacts, should these contacts change. Should the customer not be able to name a sufficiently qualified employee, EgoSecure will offer training measures for familiarisation with the EgoSecure software. EgoSecure does not assure the short-term admission in a training programme.

(5) The customer is not entitled to request support services that go beyond questions related to the functionality of the supported programmes. EgoSecure will inform the customer of this immediately.

## **§ 6 Cause of errors at third parties**

(1) If EgoSecure takes action because of a fault report, and if it turns out that the cause of the error is the responsibility of a third party or the customer, in particular if it lies in a programme that was not developed by EgoSecure or supported by them, EgoSecure is entitled to subsequently request the reimbursement of incurred costs according to the respectively valid price list of EgoSecure.

## **§ 7 Payment modalities**

(1) The invoicing and payment of the services is carried out in advance.

## **§ 8 Warranty**

(1) Where the services supplied have defects, these are to be remedied. The warranty period is one year from delivery. The customer undertakes to carry out an examination upon delivery of the services. The examination consists in particular of the completeness of the data carriers and the functionality of the essential programme functions. The customer undertakes to examine the software for obvious defects. Obvious defects, in particular the absence of data carriers or manuals as well as considerable, easily visible damage to the data carrier, are to be reported to EgoSecure in writing within two weeks from the date of delivery. Defects that are not obvious must be reported to EgoSecure within two weeks after recognition by the customer.

(2) The defects, in particular the experienced symptoms, are to be described as precisely as possible. In the case of violation of the examination and notification obligation, the supplied service is deemed to be approved in view of the defect concerned.

(3) Defects that have been notified in writing after expiry of the complaint deadline can be taken into account and remedied by EgoSecure during the production of the next version. An entitlement to this does not exist.

(4) Should the defect reported belatedly not have been remedied in the next version, the customer obtains a new right to report faults after receiving the next version, which however is restricted to a period of 14 days. EgoSecure has the right to undertake three attempts at rectification in the case of a defect.

(5) EgoSecure also has the right to perform a substitute delivery as rectification attempt. An appropriate deadline is granted for rectifications, of at least 2 weeks. EgoSecure reserves the right to request a longer rectification period, in case a longer processing period is necessary because of the complexity of the defect. The customer is to be informed immediately in this case. Should three attempts at rectification be unsuccessful, the customer is entitled to a reduction of the agreed remuneration price or to withdraw. Guarantees are explicitly not granted.

### **§ 9 Liability**

(1) EgoSecure is liable without restriction only for intent and gross negligence also of his legal representatives and executives. For the culpability of other vicarious agents, liability is limited to five times the annual maintenance charges and to damages that must be typically foreseen within the scope of this agreement.

(2) EgoSecure is only liable for minor negligence, if an obligation is violated, where compliance is of particular importance for achieving the objective of the agreement (cardinal obligation). In the event of the violation of a cardinal obligation, the limitation of liability according to paragraph 1 of this liability regulation is applicable.

(3) The liability for loss of data is restricted to the typical recovery expenses, which would have been incurred if backups had been made at regular scheduled intervals in accordance with the risk involved. The quoted liability restrictions do not apply for claims based on injury to life, limb or health or for claims that are obligatorily due to the customers according to the product liability law.

### **§ 10 Provisions for licence purchasing**

(1) An increase in the number of licences for the products is possible at any time. Modifications of the number of licences must be notified by the customer in every case to EgoSecure immediately, at the latest however 5 days after installation, by presenting the invoice copy.

(2) This agreement is not affected by a licence purchase. The purchase is confirmed by invoice and delivery note and is invoiced up to the end of the first acquired package.

### **§ 11 Contract commencement and termination**

(1) The contract period of the Upgrade and Support Package results from the respective invoice and has a minimum term of one year. It is extended automatically after this always by one year ("contract year").

(2) The contract can be terminated in writing by the customer to the end of a contract year at the sales partner or directly at EgoSecure. The notice period is three months to the end of the respective contract year.

(3) The right of extraordinary termination remains unaffected.

(4) The customer has an extraordinary termination right in the event of an increase of the maintenance costs. EgoSecure will inform the customers of this right separately in the case of the corresponding increase.

### **§12 Final provisions**

(1) All agreements that include a modification, amendment or more precise definition of these agreement conditions, as well as particular assurances and arrangements are to be recorded in writing. If they are explained by representatives or support staff of EgoSecure, they are only binding if EgoSecure declares their written approval.

(2) If the customer is a businessman or registered trader, a legal entity under public law or a public law trust, the place of jurisdiction for any disputes arising from the contractual relationship shall be Karlsruhe. EGOSECURE is also entitled to file a suit at the customer's headquarters. At the same time the exclusive applicability of German law is agreed. Pursuant to Art. 6 CISG the applicability of UN sales law is explicitly excluded.