

Specific terms and conditions for software hosting

ementexx GmbH

1. Scope of application

- 1.1 The following specific terms and conditions for software hosting apply in addition to the general terms and conditions, and govern all contracts concluded between ementexx GmbH ("ementexx") and the customer ("customer") for the long-term provision (by ementexx) and use of software (by the customer).
- 1.2 These terms and conditions shall also apply to all future transactions involving software hosting services provided by ementexx under the terms of the contract, even if they are not expressly agreed upon again.
- 1.3 General terms and conditions of the customer that conflict or differ from these specific terms and conditions will only apply if they have been expressly agreed to in writing by ementexx. These specific terms and conditions shall apply even if ementexx provides the service to the customer while being aware of conflicting or deviating terms and conditions of the customer.

2. Subject matter of the contract

- 2.1 The subject matter of the contract is the provision of a data processing system to operate the ennox.banking software in accordance with the technical specifications set out in Annex 1 (hereinafter referred to as the "server") in a computer centre in the European Union, including the provision of storage space and an internet connection against payment of the agreed fee.
- 2.2 Ementexx shall regularly back up all data in the highly available infrastructure of the data processing system and allow a point-in-time recovery to any point in time in the last 35 days.
- 2.3 ementexx is entitled to bring the hardware and software used to provide its services in line with the latest technology standards. If such an upgrade results in additional requirements for the data stored by the customer, ementexx shall notify the customer of these additional requirements. Upon receipt of the notification, the customer shall promptly decide whether they will meet the additional requirements or whether they will operate the hardware based on the previous technical specifications.
- 2.4 Ementexx is not responsible for the specifications of the hardware and software used by the customer or the internet connection between the customer and the server provided by ementexx.

3. Availability

- 3.1 ementexx provides the above-mentioned services with an overall availability of 99.5% with respect to live operations. Availability is calculated on the basis of the time allotted to the respective calendar month within the contractual period minus the announced maintenance periods ("planned downtime"). ementexx is entitled to carry out maintenance work after giving prior notice; ementexx will preferably carry out maintenance work outside the usual business hours of ementexx. During maintenance work, the above-mentioned services will not be available or not available in full.
- 3.2 If ementexx falls short of the agreed availability under Section 3.1 during a calendar month, the customer may demand a refund from ementexx of 5% of the

remuneration to be paid in the respective month under this hosting contract for every 0.5% of the shortfall in availability, up to a maximum of 20% of the remuneration to be paid in the respective month under this hosting contract.

- 3.3 The right to pursue additional damages is excluded.

4. Administration of server and software ("managed server")

- 4.1 ementexx shall be responsible for the complete administration of the server, operating system, database as well as the ennox.banking software on behalf of the customer. This also includes the ongoing installation of updates and patches.
- 4.2 Ementexx will provide services referred to Section 4.1 above solely during its business hours.

5. Cooperation and other obligations of the customer

- 5.1 The customer undertakes not to use the storage space provided to store any illegal content that violates the laws, regulatory requirements or rights of third parties. The customer shall indemnify ementexx against any claims by third parties, including for the reimbursement of costs incurred as a result of the claim.
- 5.2 To access the software intended for the customer, the customer will receive a user ID and a password, which can be changed later.

6. Subcontractors

- 6.1 ementexx is entitled to use subcontractors to provide services in whole or in part.
- 6.2 ementexx is responsible for the provision of services irrespective of whether it provides the service directly or indirectly through subcontractors.

7. Remuneration

- 7.1 The customer shall pay ementexx a monthly fee in consideration of the services provided under the terms of the contract concluded between the parties. In all other respects, the remuneration will be based on the latest price list of ementexx.
- 7.2 ementexx is entitled to change the price list on which its services are based. ementexx will inform the customer about changes in the price list at least six weeks before the changes becoming effective in writing or electronic form. If the customer does not agree with the price list changes, they will be entitled to terminate the contract for cause as at the effective date of the changed price list. To be effective, any notice of termination must be served in writing. If the customer does not terminate the contractual relationship by the date the price change becomes effective, the price change will be deemed to have been accepted. When sending the price adjustment notification, ementexx shall draw the customer's attention to the consequences of the customer's behaviour.

8. Data protection and data security, data processing on behalf of the customer

- 8.1 Both parties shall observe the applicable data protection laws and regulations, in particular, those applicable in Germany, and shall commit their employees involved in the hosting contract to maintain data secrecy, provided they are not already required to do so.
- 8.2 If the customer collects, processes or uses personal data, it is their responsibility to ensure they are entitled to do so under applicable laws and in particular, data protection regulations; the customer shall indemnify ementexx against any third-party claims in the case of any violations.
- 8.3 By virtue of the will of the parties, this hosting agreement shall contain the written data processing contract required under Article 28 of the General Data Protection Regulation (GDPR), which will set out the rights and obligations of the parties related to data processing.

9. Claims for defects (guarantee)

- 9.1 ementexx guarantees the functionality and operational readiness of the agreed services.
- 9.2 If ementexx falls behind with the first operational provision of the agreed services, the liability shall be based on Section 8 of the general terms and conditions. The customer is entitled to withdraw from the contract if ementexx does not meet a two-week grace period set by the customer, i.e. does not provide the full agreed functionality of the services within the grace period.
- 9.3 If ementexx does not comply with the agreed services in whole or in part after the operational provision of the agreed services, the monthly usage fee is reduced in accordance with the provisions regarding availability shortfalls as set out in Section 3.
- 9.4 The customer shall promptly notify ementexx of any defects. The claims for defects are subject to a limitation period of one year.
- 9.5 Where ementexx takes action based on an error report, but the error fails to materialise, ementexx will be entitled to demand reimbursement of any incurred expenses; this does not apply if the customer could not have reasonably been aware that this was not a defect, the error is not reproducible or otherwise demonstrable as a defect.
- 9.6 Any errors that occur will be assigned to an error class by mutual agreement. If an agreement cannot be reached, ementexx will decide on the error classification at its own discretion.
- 9.7 Error classes within the meaning of the above provisions are as follows:
- Class 1 error: The software cannot be used at all or only to a very limited extent or essential agreed service specifications are unavailable.
 - Class 2 error: While the core functionality of the software is provided, a sub-module is reporting one or several significant errors that prevent or significantly restrict work with this module.
 - Class 3 error: While the core and main functionality of the software is provided, there are errors or missing agreed specifications in sub-functions or sub-modules that do not fall into error class 2.
 - Class 4 error: Errors or unavailability of agreed service specifications which only marginally affect the functionality of the software (e.g. spelling errors on the screen or in printouts).

- 9.8 ementexx guarantees the following response times within the business hours of ementexx:

- Class 1 error: 2 hours
- Class 2 error: 4 hours

The response time starts upon receipt of an email message sent to support@ementexx.com.

- 9.9 The following, in particular, will not be regarded as an error:
- any fault caused by improper handling of the software;
 - where the cause of an error is not in the software, but other circumstances outside the sphere of influence of ementexx (e.g. system crash, etc.)
- 9.10 If ementexx has provided troubleshooting services after the notification of an error and if there is no material defect, the customer has to cover the resulting costs. The calculation of the costs is based on the remuneration rates of ementexx valid at the time of the service provision.
- 9.11 Where ementexx takes action based on an error report, but the error fails to materialise, ementexx will be entitled to bill the customer separately for any resulting costs incurred; this does not apply if the customer could not have reasonably been aware that this was not a defect, the error is not reproducible or otherwise demonstrable as a defect.

10. Contract period, termination

- 10.1 The software hosting agreement shall commence upon provision of the software to the customer ("start date") and shall run for an indefinite period of time.
- 10.2 The software hosting contract can be terminated by either party by giving a 3 months' notice with effect from the end of a calendar year, but only after 3 years have elapsed (minimum contract term).
- 10.3 In the event of a licence upgrade or custom further development of the hosting software, the agreed minimum term set out in Section 10.2 shall start to run again from this date.
- 10.4 The foregoing is without prejudice to the right to terminate the agreement for good cause. Good cause is any circumstance that renders the continuation of the contractual relationship until its expiry or termination with notice in good faith unreasonable for the party wishing to terminate the agreement. Good cause is given, in particular:
- if the other party culpably breaches one of its material obligations under this contract and does not remedy the breach after having been given a reasonable time to do so;
 - if one party takes actions that are likely to cause significant damage to the reputation of the other party.
- 10.5 Any notice of termination must be sent by registered letter and must be received by ementexx at the latest on the third working day of the first month of the period of notice.
- 10.6 After termination of the contractual relationship, ementexx shall make the content stored in the storage space provided to the customer available on a data carrier or for download using a remote data transmission. Any rights of retention of ementexx remain unaffected.