

# Support Conditions privacyIDEA

by

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(in the following referred to as “Provider”)

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# 1 Subject Matter of the Agreement

- 1 The terms of this agreement (in the following referred to as “Agreement”) shall apply to the provision of support services for the software privacyIDEA by the Provider in accordance with the support certificate.
- 2 The Provider shall provide the support services according to commonly accepted business standards and with personnel qualified to provide the agreed service.
- 3 These Agreement terms shall apply exclusively. Agreement terms set by the Customer do not apply; the Provider hereby expressly objects to all Customer declarations with reference to his own terms to the extent that such terms contain provisions different from or contradictory to these Agreement terms.

## 2 Cooperation

- 4 The parties will name contact persons in the support certificate.
- 5 The Customer will submit all requests in relation to the services which are to be provided to the responsible contact person named by the Provider and will not give any instructions to any other person employed by the Provider. The Customer does not enter into an employment relationship with the Provider’s employees, even if employees provide services in the Customer's premises.

## 3 Support Services

- 6 Support is provided in the levels *Small Business*, *Enterprise* and *Provider*.
- 7 Depending on the support certificate support is granted for one productive installation or for all installations in the datacenters under the direct control of the customer.
- 8 Support within the meaning of this Agreement contains the following services; depending on the support certificate:
  - o Scope of the services
    - Support in a support case or regarding questions of basic use and configuration

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- Providing an incident reporting system to be used by the Customer
  - Analysis of reported malfunctions
  - Provision of workarounds, bug fixes and hot fixes, restoration of functionality by fixing malfunctions
  - Packages *Enterprise* and *Provider*: Consulting
- o The support does not include services such as:
- Providing training courses
  - Extended discussions of usage or integration (if no consulting is included in the support level)
  - Initial installation
  - Ordering, installation and integration of third-party products
  - Support and maintenance for integrated third-party products

9 Each support (“Support Case”) requires Customer’s report of a malfunction via the path defined in the support certificate by email or phone (“initial report”). The Provider shall react within the reaction time, as agreed in the support certificate.

10 Malfunction within the meaning of this Agreement, means that the software does not fulfill the contractual functions. The malfunction is deemed to be

- o Critical:

The malfunction leads to a complete failure of the software or is critical to Customer’s business.

- o Medium:

Restricted use of the software is possible, if necessary after implementing a workaround.

- o Low:

The malfunction does not affect any system- or business-relevant function of the software. It is possible to continue working without hindrance.

11 The Provider offers the following support packages: *Small Business*, *Enterprise*, *Provider*.

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Customer chooses a package in the order form.

12 Support services within the meaning of this Agreement do not include hardware delivery or hardware maintenance.

## 4 Customer Obligations to cooperate

13 The Customer shall support the Provider in the provision of the contractual services to an adequate extent. In particular, he will provide the required information and documents in a complete and timely manner.

14 To the extent reasonably expected, the Customer will take the necessary measures to identify, localize and document malfunctions. The Customer shall implement the measures recommended by the Provider for fixing malfunctions.

15 The Customer shall install all updates, upgrades, patches and bug fixes which are delivered by the Provider.

16 The Customer is responsible for the necessary and sufficient data backups.

## 5 License to process Data

17 The Customer hereby grants the Provider the right to process, copy and use all Customer data, and amend the data structure or format to the extent necessary, appropriate or useful for providing the services under this Agreement.

## 6 Remuneration

18 Amount, due date and method of payments for services provided under this Agreement are specified in the offer and the order confirmation. The costs of materials used to provide services will be remunerated separately.

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## 7 Rights in case of Defects of Services

19 Defects of the services provided under this Agreement must be notified in writing and not later than one week after the defects become known to the Customer, and with an appropriate description of the error symptoms, evidenced by written recordings, hard copies or other documents demonstrating the defects. The notification of the defect should enable the reproduction of the error.

20 If the defect of the services has resulted in a critical or medium malfunction, the Provider is responsible for it and the defect is not fixed within a first time limit, and Customer has set Provider a reasonable second time limit without success, then Customer may terminate this Agreement.

## 8 Liability and Damages

21 The Provider shall be liable for losses under the terms of this Agreement only in accordance with the provisions set out under (a) to (e):

22 (a) Provider shall be liable with no restrictions for losses caused intentionally or with gross negligence by Provider, its legal representatives or senior executives or its assistants in performance.

23 (b) Provider shall be liable with no restrictions for death, personal injury or damage to health caused by intent or negligence of Provider, its legal representatives or assistants in performance.

24 (c) Provider shall be liable for losses arising from the lack of any warranted characteristics up to the amount which is covered by the purpose of the warranty and which was foreseeable by Provider at the time the warranty was given.

25 (d) Provider shall be liable in accordance with the Product Liability Act in the event of product liability.

26 (e) Provider shall be liable for losses caused by breach of primary obligations by Provider, its legal representatives or assistants in performance. Primary obligations are such basic duties which form the essence of the Agreement, which were decisive for the conclusion of the Agreement and on the performance of which Customer may rely. If Provider breaches primary obligations through simple negligence, then its ensuing liability shall be limited to the amount which was foreseeable by Provider at the time the respective service was performed.

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27 The Provider shall be liable for loss of data only up to the amount of typical recovery costs which would have arisen had proper and regular data backup measures been taken by the Customer.

28 Any further liability of Provider is hereby excluded.

## 9 Agreement Term and Termination

29 The terms of this Agreement are specified in the support certificate.

30 The right to an extraordinary termination for good cause is reserved for both parties if the respective statutory requirements are met. A good cause for the Provider is given in particular if the Customer is in default for more than two months with remuneration payment, despite payment reminder. If the Provider is terminating this agreement he will pay a pro-rated refund to the customer of already paid remuneration. If the Customer is responsible for the cause for termination, the Customer is obliged to pay the Provider the agreed remuneration less expenditures which the Provider did not incur until the date on which the Agreement would have ended at the earliest in the event of an ordinary or regular termination.

31 As a precondition for the termination to become effective, Notices of termination must be made in writing including Telefax and email.

32 After the termination of the Agreement, the Provider shall return to the Customer all documents and data carriers provided by the Customer and still in the Provider's possession, and delete the data stored insofar as Provider is not legally bound to retain it.

## 10 Confidentiality

33 The parties shall permanently keep secret all information about the respective other party which have become known or will become known in connection with this Agreement and marked as confidential or to be seen as confidential because of its nature (in the following "Confidential Information"), unless the respective other party has expressly agreed to the disclosure or use in writing or the information has to be disclosed due to the law, court decisions or an administrative order.

34 Information does not constitute Confidential Information within the meaning of lit. 33 if it

- was already known to the other party and the information was not subject to a confidentiality obligation,
- is publicly known or becomes known without a violation of the confidentiality obligation which was assumed,
- is disclosed to the other party by a third party without violation of a confidentiality Agreement.

35 The obligation from lit. 33 shall remain in effect after this Agreement has ended.

## 11 Assignment

36 The assignment of the rights and obligations from this Agreement is only admissible with the prior written consent of the Provider.

## 12 Miscellaneous

37 This Agreement and its amendments as well as all declarations under the Agreement must be made in writing unless another form is agreed or legally stipulated (“Textform” including email and fax).

38 The Agreement is subject to the laws of the Federal Republic of Germany, the United Nations Convention on Contracts for the International Sale of Goods is excluded.

39 The place of jurisdiction for all disputes arising from this agreement is Kassel or the domicile of the defendant.

40 If any provision of this Agreement is invalid, this does not affect the validity of the remaining provisions. In that case, the parties will cooperate in order to replace invalid provisions by such provisions which most closely match the invalid provisions.

41 The Provider is entitled to entrust third parties with the fulfillment of the duties under this Agreement.

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