



## Maintenance and Support Contract

The present Contract is concluded between UBIKA (registered in Nanterre Trade and Companies Register as no. 529 108 615) and the Client (defined hereinafter) for the Software defined hereinafter.

UBIKA and the Client are referred to hereinafter individually as a "Party" or jointly as the "Parties".

Whereas:

UBIKA has developed, sells and is the owner of a collection of software. UBIKA and the Client have concluded an End User License Agreement (hereinafter "EULA") for use of UBIKA's Software as referred to specifically in the EULA (hereinafter the "Software(s)").

The purpose of the present contract is to define the maintenance and support services provided by UBIKA for the Client's benefit for the Software referred to in the EULA (hereinafter the "Contract"). In the event of a contradiction between the provisions contained in the Contract and the EULA, the EULA shall take precedence.

### 1. Definitions

Under this Contract the following words shall have the following meanings:

- 1.1. The term "Anomaly" refers to an operational default of the Software preventing execution of all or some of its functionalities described in the Documentation, which is exclusively attributable to the Software, and is reproducible.
- 1.2. The term "Appliance" refers to the material or virtual computer hardware on which the Software provided by UBIKA under the EULA are executed, exclusively and solely, and in compliance with its provisions.
- 1.3. The term "Manufacturer" refers to the manufacturer of the servers and hardware hardware comprising the Appliance.
- 1.4. The term "Contract" refers to the present document and all Appendices and Documents appended hereto.



1.5. The term "Technical Environment" or "Environment" refers to the servers, operating systems, database management systems and network Software required to operate the Software.

1.6. The term "Force majeure" means circumstances outside UBIKA's reasonable control, as recognized by the French courts, including, but not exclusively: (i) explosions, fires, floods, earthquakes, epidemics or catastrophic meteorological conditions; (ii) acts of war, terrorism, insurrection, riot, rebellion or sabotage; (iii) acts by governmental authorities or courts, national state of emergency or amendments of laws; (iv) industrial conflicts, lockout or strike (whether or not these conflicts relate to the employees of a Party); (v) malfunctions or fluctuations of electrical current or of telecommunications services or hardware; or (vi) any event independent of UBIKA's will.

1.7. The term "Maintenance" means all operations enabling satisfactory operation of the Software to be maintained and to be re-established in accordance with the specific features described in the EULA, except for all other services, such as assistance with use of the Software, training of personnel, preventive maintenance consisting in intervening regularly to ensure satisfactory operation of the Software.

1.8. The term "Proposal" refers to the offer made by UBIKA describing the financial methods, and all other additional terms.

1.9. The term "Support" includes the services provided by UBIKA and defined in Appendix A of the Contract allowing satisfactory use of the Software(s).

## 2. Purpose of the contract

The purpose of the present Contract is to define the terms of implementation of the necessary means by UBIKA intended to provide the Client with the Maintenance and Support services defined in Appendix A.

## 3. Support or maintenance request

On a written request of the Client made using the subscribed means (email, telephone, or website), UBIKA's assistance service shall identify the requester by means of the reference number of Certificate RSM-XX-YY-NNNN and shall allocate a unique ticket number to the request. This ticket number must be quoted in all subsequent correspondence.

## 4. Assistance with use of the Software



With regard to the information provided by the Client, UBIKA shall strive remotely to provide the data, documents and links to additional information enabling the Client to ensure satisfactory operation of the Software(s).

## 5. Assistance through remote control of the client's information system

This service involves taking remote control of the Client's computer in the event of an Anomaly reported by it, via its Internet connection which must be fully operational, and which shall be its sole liability and responsibility. This assistance is limited to the Software provided by UBIKA under the EULA. To undertake this intervention the Client's Internet connection must be functional. To activate this assistance the Client must expressly request it beforehand in writing, through the Support ticketing system established by UBIKA. The purpose of this intervention is to provide remote help without physically visiting the Client's site. The Client must take all measures and make all arrangements to enable this intervention to be undertaken under conditions of maximum confidentiality and security. In particular, it must ensure that its Internet access and the computer on which the intervention is to take place include the minimum-security systems, in compliance with the state of the art. Concerning data stored on the controlled computer, it is the Client's responsibility to make an external backup beforehand of the said data, in order to limit risks of losses and deterioration, in accordance with article 9. Before the intervention, the Client must send UBIKA all information and all documents of use for the intervention, or which can influence the intervention. The Client is informed that remote control of a computer or information system is not without risks, which it accepts, and that it is therefore necessary, before any intervention, to take all measures, in particular backing up of data, in order to minimize consecutive damage.

## 6. Limits of maintenance

UBIKA's Maintenance obligations shall be met in connection with a use of the Software deemed normal; all interventions caused by the following are consequently excluded, but not exclusively:

- 6.1 accident, degradation, or theft,
- 6.2 fire, flood, power outage, lightning, or any other case of Force majeure,
- 6.3 movement of hardware not explicitly authorized by UBIKA



- 6.4 power supply not in accordance with the hardware's technical specifications,
- 6.5 alteration or modification of the Software or hardware not approved by the UBIKA or falling under the provision of Section 6.2 of the EULA,
- 6.6 usage not in accordance with the documentation provided in connection with this Contract and the EULA
- 6.7 failure to apply new versions and patches made available by UBIKA

## 7. Software maintenance

UBIKA makes available to the Client, on its website, all patches, and all new versions of its Software.

Members of personnel of the Client who have registered themselves on UBIKA's website will be informed of the new versions and will be able to download them from this website.

The Client must apply all new patches and/or new versions of the Software judged necessary and made available by UBIKA for satisfactory operation of the Software.

UBIKA cannot guarantee portability of new Software versions on hardware which are no longer under warranty.

UBIKA shall not undertake any corrective maintenance operations for obsolete versions and versions which are declared to be in an end-of-life condition.

## 8. Term

The Term of the Contract is defined by the Proposal.

## 9. Managing backups

The Client undertakes to make the necessary backups of the data, and to store and archive the said backups in a secure, protected environment.

The Client also undertakes to make additional backups before any manipulation when resolving Anomaly(ies).

## 10. Divisibility

If one of the provisions of this Contract is found to be invalid the other provisions of this Contract shall remain valid and shall continue to be binding on the Parties.



If one of the provisions of this Contract is found to be invalid or illegal or cannot be made the subject of a claim in performance in a jurisdiction, the validity, legality, and enforceable character of this provision in another jurisdiction shall not be affected thereby.

#### 11. Force majeure

UBIKA shall not be liable for non-performance of its obligations when this non-performance is due to a case of Force majeure.

If a case of Force majeure arises the Contract shall be suspended until disappearance, extinction, or cessation of the case of Force majeure. However, if it is not possible to resume performance of the Contract within a period of thirty (30) days from the occurrence of the case of Force majeure, the Parties shall meet to discuss an amendment of the Contract.

If this discussion does not reach a successful outcome the Contract shall be terminated as of right, without compensation on either side, by the first Party to take this measure, and by registered letter with acknowledgement of receipt sent to the other Party.

#### 12. Non-waiver

The fact that a Party may not have required compliance with or performance of one of the provisions of the Contract shall under no circumstances mean that this Party has waived the benefit of this provision and shall not affect the validity of this Contract in whole or in part, or the Parties' right to request performance of each provision.

#### 13. Integrality

This Contract and its appendices constitute the Parties' entire agreement, and replace all communications, representations, or prior agreements, whether written or verbal.

#### 14. Interpretation

This Contract shall be interpreted and performed in a spirit of good faith and equity.

#### 15. Price and financial methods



The Client shall pay UBIKA the price defined in the Proposal. The Price is given in Euros, excluding taxes, and excluding any costs. VAT shall be applied at the rate in force on the invoice date.

Unless otherwise indicated in the Proposal, invoices relating to the services defined in the present Contract shall be produced on a flat-rate, monthly basis, payable in advance, for a sum defined in the Proposal, in accordance with the financial methods stipulated in the Proposal. Invoices are due and payable within thirty (30) days of the invoice date. Unpaid sums shall bear interest at a rate equal to three times the French legal interest rate until payment in full, with the understanding that after thirty (30) days of non-payment UBIKA may suspend performance of the Contract.

The fee sum may be increased pro rata on the anniversary date of the Contract by Software of the following formula:

$$R = R0 \times S/S0$$

where:

R = fee after revision.

R0 = initial fee.

S = the most recent SYNTEC index on the revision date.

S0 = SYNTEC index known on the effective date of the contract

## 16. Services not included

When interventions which are not covered by the services chosen by the Client must be performed by UBIKA the latter shall submit an estimate to the Client beforehand.

All physical travel by UBIKA to go to the Client's site in connection with Maintenance or Support is considered to be a service not included in the Contract within the meaning of the present article and must therefore be estimated and billed on a separate basis.

If, at the Client's express, written request, and subject to UBIKA's prior acceptance, UBIKA accepts to intervene outside the hours stipulated in the Contract, and more specifically outside habitual working hours, or during public holidays, an estimate shall be produced beforehand by UBIKA.

## 17. Client's obligations

The Client undertakes to give UBIKA the information it requires to perform the services stipulated in the Contract in a timely manner, and at a reasonable



frequency which is compatible with UBIKA's requests, and, more generally, for all information and documents required for performance of the Contract.

For the term of the present Contract the Client undertakes in particular:

17.1 To inform UBIKA immediately in writing, by order of priority, of any observed malfunctions.

17.2 To place the hardware and hardware relating to execution of the Software in a geographical, physical, and technical environment in accordance with the regulations in force, and with any manufacturers' instructions and specifications, in particular in respect of safety and security.

17.3 To make available to UBIKA the means required enabling it to perform the service, in particular, if applicable, remote access, transfer of emails, etc.

17.4 To give UBIKA the possibility of questioning one or more competent members of the Client's personnel who have experienced the difficulties in question.

17.5 To allow free remote access to the machine where the incident occurred, and free provision of the machine time required to correct the said incident, during UBIKA's working days and hours

17.6 Not to allow repairs or interventions of any kind whatsoever to be undertaken on the hardware which is subject to Maintenance by one of its employees, a third party or a technical service other than that of UBIKA, without UBIKA's prior, written authorization. Any external intervention would result in the Client losing the benefit of Maintenance cover.

In a general sense, the Client undertakes to comply with and to implement without delay all instructions given by UBIKA in connection with Maintenance and Support.

## 18. Liability

UBIKA shall be liable only for direct damage caused to the Client within the meaning of article 1231-4 of the Civil Code. Whatever the circumstances may be, UBIKA shall not in any way be liable: (i) for damage attributable to any breach of the Contract by the Client or resulting from an act of a third party; (ii) for damage caused by flaws or defects in the hardware and/or software and/or networks and/or all other elements provided by the Client to UBIKA or used by it, and not supplied by UBIKA; and (iii) for all other services performed by the Client or by a third party.

UBIKA's complete liability for any breach of the Contract is limited, all damages combined, to fifteen percent (15%) of the Price (excluding VAT) paid by the Client under the Proposal.





The Parties expressly acknowledge and accept that the prices agreed in the Contract reflect the distribution of the risk between the Parties and the resultant limitation of liability. They also acknowledge and accept that the value of the cap negotiated and accepted between them on the terms stipulated in the present article is not trivial and does not contradict the scope of the essential obligation given by UBIKA in the Contract. The stipulations of the present article shall survive expiry and termination of the Contract for any reason whatsoever due to actions generating liability occurring in the term of the Contract.

## 19. Confidentiality

The terms and conditions of the present Contract are confidential and shall not be communicated in whole or in part to third parties by a Party to the Contract, without the other Parties' agreement.

The Parties undertake to keep strictly confidential all technical or commercial information relating to, and acquired in connection with, their activities relating to the present Contract.

Information or knowledge which, without a Party being at fault, has come into the public domain, shall cease to be confidential.

## 20. Termination and Modification of the Contract

20.1. If one of the Parties does not meet its obligations under the Contract, and does not remedy this within a period of thirty (30) days from receipt of the registered letter providing information of the breach in question, the other Party may terminate the Contract as of right, by registered letter on receipt, although no loss may be able to be claimed and, in respect of UBIKA, without prejudice for payments for the products and/or services provided under the EULA.

20.2. UBIKA is constantly innovating, changing, and improving. UBIKA will inform the Client a reasonable amount of time in advance of any modifications to this Contract. The Client continued use of the Services after the effective date of any such modification means that the Client agrees to the Contract as modified.

## 21. Protection of personal data

The Parties shall comply with all applicable laws in respect of protection of personal data, and in particular with EU Regulation no. 2016/679 known as the "GDPR". Each Party shall confirm that it shall obtain the necessary consents from its employees, contractors and third parties to processing of the other





Party's personal data in relation to all processing of personal data, if applicable, under the present Contract.

Case in which UBIKA is the data controller. Under the present Contract UBIKA processes the Client's personal data for the purposes of managing client relations, for the term of the Contract. The recipients of this collected data are UBIKA's internal departments and its service-providers, all of which are established within the European Union. The Client has a right to view, correct, object to, limit and delete personal data relating to it, and also a right of portability of its data. To exercise these rights, or for more information concerning this processing, a request may be made to the following address [gdpr@ubikasec.com](mailto:gdpr@ubikasec.com).

Cases in which UBIKA is a subcontractor. The Client is considered as the sole data controller, within the meaning of the GDPR, in respect of the data processed in connection with use of the Software(s), meaning that it alone is constrained, in respect of this data, to comply with the above-mentioned regulations, and in particular to comply with all mandatory prior formalities to be exercised with the CNIL which are incumbent on it. If personal data is processed on the Client's behalf by UBIKA, and pursuant to article 28 of the GDPR, a supplementary document must be concluded between the Client and UBIKA, at the Client's request, stipulating in particular the subject of the processing, its duration, the nature and purpose of the processing, the type of personal data and the categories of persons concerned, and the obligations and rights of the data controller.

## 22. Court and applicable law

The present Contract is governed by French law. All disputes relating to interpretation or performance of the present Contract shall be brought before the Courts of Nanterre, even in the event of multiple defendants or impleader, and even in the event of urgent or protective proceedings, emergency proceedings or ex parte proceedings.

## Appendix A

The brochure describing Support Services is available on the support portal.

