EVALUATION LICENCE AGREEMENT

between

zzz_test_admin

("XYZ" or "Customer")

and

EXASOL UK Limited

("EXASOL")

4th Floor, 33 Cannon Street

City of London, EC4M 5SB, UK

Status	Entwurf
Contract No	00015197.1
Valid to	4/6/2016
Contact person	Gunther Schweer
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1 Preamble

1.1 EXASOL Group develops, markets and supports the EXASOL database, a high-performance relational database management system and associated tools and drivers ("Software"). For evaluating the Software, EXASOL provides evaluation licenses, so that customers can run queries for evaluation purposes ("Proof of Concept" or "PoC").

To ensure an efficient and successful PoC process, EXASOL will guide Customer through the process and support Customer with services such as consulting, etc.

1.2 Contract partner description

1.3 Purpose of contract

In view of the aforesaid, the Parties now agree as follows:

2 Scope of the Agreement; Definitions

2.1 This document defines the agreement between EXASOL and Customer (hereinafter "Agreement") for the sub-licensing of Products by EXASOL and supply of services by EXASOL or another member of the EXASOL Group, as listed in the Annexes, and in accordance with the general contract terms and conditions specified in Annex 1.

Service description

2.2 Special Terms

2.3 Under this Agreement the following definitions shall apply:

a) "CA 2006" means the Companies Act 2006;

b) "Certified Environment" means a cluster setup (e.g. physical hardware, virtual machine setting or public hosting setup), which has been proven by EXASOL for compatibility with the Software. The details on such environments are published on the EXASOL web site;

c) "Customer Group" means the Customer and each other company which is for the time being (whether on or after the date of this Agreement) a Related Undertaking of the Customer;

d) "Documentation" means the documentation that describes how to use the Software and is provided by EXASOL in electronic and/or hardcopy form in English, specifically the EXASOL User Manual, the EXAClusterOS Reference and the EXAoperation User Manual;

e) Unless otherwise provided in the Annexes, "effective date" is the date when the latter of the two parties signs the Agreement;

f) "EXASOL Group" means EXASOL and each other company which is for the time being (whether on or after the date of this Agreement) a Related Undertaking of EXASOL;

g) "Holding company" means a holding company (as defined by section 1159 CA 2006) or a parent undertaking (as defined by section 1162 CA 2006);

h) "Subscription License" means the authorised use of the Software in accordance with the agreed parameters for using the Software, such parameters being set out in the Annexes to this Agreement;

i) "License Server" is the dedicated host (physical hardware or virtual machine) which controls the License and whose function is necessary to administrate the proper use of the Software in a Server Cluster, e.g. rebooting, installing updates and upgrades, etc.;

j) "Party" means EXASOL or Customer;

k) "Parties" means EXASOL and Customer;

l) "Product" or "Products" is the EXASOL Database , consisting of Software and Documentation, as modified or adapted by EXASOL from time to time;

m) "Server Cluster" means two or more Customer servers (physical hardware or virtual machine) including - if applicable - a License Server upon which the Software is installed and which are dedicated solely for the use of the Software;

n) "Services" has the meaning given in clause 3.1;

o) "Site" is a data centre where the "Server Cluster" is located;

p) "Software" means the EXASOL software, comprising EXASuite, EXACluster OS, EXAoperation and other related proprietary software, including 3rd-party software, e.g. drivers, clients and any patch, update, upgrade, modification or enhancement;

q) "Subscription" means a defined period of time during which Customer is licensed to use the Product at the Site and during which EXASOL will provide Services as defined under this Agreement;

r) "Subsidiary" means a subsidiary undertaking (as defined by section 1162 CA 2006) or a subsidiary (as defined by section 1159 CA 2006).

s) "Term" means the subscription period stated in the Annexes; and

t) "Working Hours" has the same meaning as Service Hours defined in Annex 1, Section 2.6.

2.4 Under this Agreement, unless the context requires otherwise:

a) the headings are inserted for convenience only and do not affect the interpretation of this Agreement;

b) references to clauses and Annexes are to clauses of, and annexes, to this Agreement, and references to a part or section are to a part or section of an Annex to this Agreement;

c) words importing the singular include the plural and vice versa;

d) references to a person include an individual, corporation, partnership, any unincorporated body of persons and any government entity;

e) any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;

f) the word company shall be deemed to include any partnership, undertaking or other body of persons, whether incorporated or not incorporated and whether now existing or formed after the date of this Agreement;

g) a reference to any statute or statutory provision includes any subordinate legislation made under it.

2.5 To the extent that there is an inconsistency between the terms of:

a) this Agreement (excluding the Annexes) and the Annexes, the former shall prevail; and

b) any other document referred to in this Agreement, this Agreement shall prevail,

except to the extent the prevailing document (as determined by a) or b) above) expressly provides otherwise.

3 Evaluation Subscription License Grant

3.1 Under this Agreement, and in consideration of payment of the Subscription Fee by Customer set out in the Annexes, EXASOL grants to Customer the right to use and operate the Product for evaluation purposes for the Term (as further described in the Annexes).

3.2 The Subscription License parameters may be extended during the initial Term and during any subsequent Term only upon express written agreement by the Parties.

3.3 The fee for extending the RAM-usage of the Subscription License will be the same as agreed for the then-current Term and the Subscription Fee will be increased on a pro-rated basis for the portion of the Term remaining at the time the License is extended.

3.4 Any extended License will terminate on the same date as the underlying Subscription.

3.5 In relation to the scope of use:

a) for the purposes of clause 3.1, "use or operation" of the Software shall be restricted to the use of the Software in object code form for evaluation purposes of the Customer Group;

b) the Customer shall not use, and shall procure that each member of the Customer Group shall not use, the Products other than as specified in clause 3.1 without the prior written consent of EXASOL; and

c) except as expressly stated in this clause 3 or Annex 1 of this Agreement, or in the Documentation, the Customer has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Software in whole or in part except to the extent that any reduction of the Software to human readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Software with the operation of other software or systems used by the Customer, unless EXASOL is prepared to carry out such action at a reasonable commercial fee or has provided the information necessary to achieve such integration within a reasonable period, and the Customer shall request EXASOL to carry out such action or to provide such information before undertaking any such reduction.

3.6 The Customer shall not use, and shall procure that each other member of the Customer Group shall not use, any such information provided by EXASOL or any other member of the EXASOL Group, or obtained by the Customer or each other member of the Customer Group, during any such reduction permitted under clause 3.5(c) to create any software whose expression is substantially similar to that of the Software nor use such information in any manner which would be restricted by any copyright subsisting in it.

4 Services

4.1 The PoC will be supported by the "EXASOL Presales Consulting" department. After the PoC, Customer and EXASOL will hold a final meeting (in person or online) to discuss the process and results of the PoC and the next steps.

4.2 Prerequisites for an efficient execution of the POC are adequate preparation and planning with a definition of test data sets including transfer data formats, objectives and test scenarios. EXASOL Presales Consulting will already support Customer in this regard.

4.3 EXASOL shall have no obligations to provide the Services where faults arise from:

a) misuse, incorrect use of or damage to the Products from whatever cause (other than any act or omission by EXASOL);

b) the combination, operation or use of the Products with equipment, software or data not supplied or expressly approved in writing by EXASOL, if such faults would have been avoided by use of other equipment, software or data;

c) any breach of the Customer's obligations under this Agreement howsoever arising; or

d) a modification of Products that is not done or expressly authorized in writing by EXASOL.

5 Payment Terms

5.1 The Customer shall pay to EXASOL the Subscription Fees. Subscription fees due are as specified in the Annexes. Subscription payment obligations are non-cancellable and fees paid are non-refundable. Quantities purchased cannot be decreased during the relevant Subscription Term.

5.2 Tayments that are not Subscription-based are determined by unit pricing and quantities as specified by the respective service description in the Annexes.

5.3 All subscription fees are due in advance at the beginning of each subscription period and become payable by Customer on receipt of invoice from EXASOL. Other payments are due for payment thirty (30) days from receipt of invoice from EXASOL.

5.4 EXASOL shall present invoices in UK pounds (£). Customer is responsible for all relevant taxes and duties arising from or in connection with its business.

5.5 If Customer fails to pay invoices when due then EXASOL is entitled to charge default interest at one percent (1%) per month on unpaid balances.

6 Term and Termination

6.1 Except as otherwise agreed between the Parties, the Evaluation Period is limited to a maximum of 4 weeks. The Evaluation Period starts from the moment the Software is provided. The Evaluation Period can only be extended by mutual agreement. If an indefinite period was agreed between the parties - respectively after expiry of a minimum term agreed - the Agreement can be terminated by both parties by giving written notice within one month to the end of a month.

6.2 Either party may terminate this Agreement if the other Party materially and/or wilfully breaches any of its obligations hereunder and fails to cure such breach within thirty (30) days after written notice.

6.3 Upon termination, all rights granted to Customer hereunder shall terminate and Customer shall cease using the Product, and within five (5) days of termination shall delete the Software from the Server Cluster and return the Software and Documentation to EXASOL.

7 Confidential Information

7.1 Each Party shall protect against any unauthorised disclosure of the information of the other Party and/or its Related Undertakings which is clearly designated in writing as being confidential or is by its nature evidently confidential (hereinafter referred to as "Confidential Information") by using the same degree of care as it takes to preserve and protect its own Confidential Information of a similar nature but in no event shall this be less than a reasonable degree of care. In the event of oral disclosure of Confidential Information, such information shall be treated in accordance with the terms of this clause from the time of disclosure. The obligation in this Clause 7.1 shall continue for the duration of the Agreement and, in the absence of any other agreement, for five (5) years thereafter.

7.2 Neither Party shall be required to treat as confidential any information that prior to disclosure was already in the receiving party's possession without restriction, is already in the public domain, is independently developed by it, or is lawfully obtained from third parties without restriction on disclosure.

7.3 For the avoidance of doubt, each Party shall be entitled to disclose the Confidential Information of the other Party and/or its Related Undertakings to those employees, sub-contractors and agents of it or its Related Undertakings who need to know the information in order that they can properly benefit from their rights under this Agreement.

7.4 In the event of termination of this Agreement, the receiving Party shall, on the written request of the disclosing Party, destroy or return to the disclosing Party all Confidential Information received during the term of this Agreement together with all partial or complete copies thereof.

8 Warranty, Liability

For the avoidance of doubt, each Party shall be entitled to disclose the Confidential Information of the other Party and/or its Related Undertakings to those employees, sub-contractors and agents of it or its Related Undertakings who need to know the information in order that they can properly benefit from their rights under this Agreement.

8.1 Except as set out in this Clause 8, the warranty provided by EXASOL with respect to EXASOL's Products, the Documentation, and other information furnished by EXASOL shall be limited to the scope specified in Annex 1 and these express obligations and warranties are (to the fullest extent permitted by law) in lieu of and to the exclusion of any other warranty, condition term or undertaking of any kind (including those implied by law) relating to anything done under or in connection with the Agreement, the Products and the Services.

8.2 EXASOL warrants that (i) the Products and the media on which the Products are delivered is free from defects and viruses and/or other malicious code; (ii) any Services to be provided under this Agreement shall be provided in accordance with reasonable care, skill and diligence and in accordance with accepted industry practice; and (iii) it shall use its commercial best endeavours to comply with the Response and Processing Times set out in Annex 1 to this Agreement.

8.3 Nothing in this Agreement limits or excludes:

a) a Party's liability (i) to the extent that it cannot be legally limited or excluded by law (ii) for death or personal injury arising out of its negligence or that of its Personnel or (iii) for fraud or fraudulent statement;

b) EXASOL's liability for (i) breach of warranty in respect the infringement of intellectual property rights (ii) breach of warranty in respect of Software defects (iii) breach of confidence (iv) failure to comply with any of its data protection obligations under applicable law or (iv) the indemnification obligations in Section 1.5 of Annex 1 hereof.

8.4 Subject to clause 8.3, EXASOL, and its Related Undertakings and licensors shall not be liable, whether for breach of contract, in tort (including negligence, for breach of statutory duty or otherwise for any loss of profit or loss of anticipated profit, loss of revenue, loss of anticipated savings, loss of contract, business or opportunity, loss of goodwill, loss of data or for any indirect, incidental, consequential, special, or punitive damages arising from this Agreement and/or its execution unless otherwise provided for howsoever caused, whether or not reasonably foreseeable, reasonably contemplatable, or actually foreseen or actually contemplated, by that Party at the time of entering into this Agreement.

8.5 Subject to clause 8.3, the total liability of EXASOL, its Related Undertakings and its licensors, whether for breach of contract, in tort (including negligence), for breach of statutory duty or otherwise, arising under or in connection with this Agreement, shall not exceed the total fees paid by the Customer in the 12 months immediately prior to the claim under this Agreement.

9 Rights of third Parties

9.1 Except as provided in clause 8 and this clause 10, a person that is not a Party to this Agreement shall have no rights pursuant to the Contracts (Rights of Third Parties) Act 1999 to enforce rights or benefits under this Agreement.

9.2 In addition to the Parties, each of the Party's Related Undertakings may enforce the provisions of clause 8 and this clause 10. The Parties agree that no consent from the Party's Related Undertakings is required to vary or rescind this Agreement (whether or not that varies or extinguishes rights or benefits in favour of such third parties).

9.3 The Customer and its Related Undertakings shall only be entitled to recover loss and damage incurred or suffered by the Customer or any of its Related Undertakings from EXASOL. The Customer shall not, and shall procure that its Related Undertakings shall not, bring any claim, whether for breach of contract, in tort (including negligence), for breach of statutory duty, or otherwise, against any other member of the EXASOL Group under or in connection with this Agreement.

10 Final Provisions

10.1 Customer shall not assign, sub-license (other than to other members of the Customer Group in accordance with this Agreement) or transfer any rights granted hereunder to any third party without EXASOL's prior written consent. This Agreement shall be binding on, and shall enure for the benefit of, the successors and permitted assigns of a Party.

10.2 Any modification or deletion of the provisions of this Agreement shall not be enforceable unless such modification or deletion is expressly agreed in writing and signed by both parties. No failure to exercise or enforce any right or remedy hereunder shall be construed or operate as a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No waiver of any breach of any terms or conditions hereof shall be deemed to be a waiver of any further breach of the same or any other provisions of this Agreement.

10.3 No Party shall be in breach of this Agreement or otherwise liable for any delay or failure in performance of its obligations hereunder if such delay or failure is due to reasons beyond its reasonable control, including acts of God, natural disasters or other force majeure events.

10.4 Nothing in this Agreement shall be construed as constituting a partnership between the Parties nor, except as expressly provided, shall it constitute, or be deemed to constitute, a Party the agent of the other Party for any purpose or authorise a Party to enter into any commitments for or on behalf of the other Party.

10.5 This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

10.6 If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any jurisdiction in connection with its performance, such provision shall be deemed deleted to the minimum extent necessary and otherwise continue in full force and effect.

10.7 This Agreement shall constitute the entire agreement between the Parties hereto regarding the subject matter hereof and supersedes all prior agreements, promises, assurances, warranties and representations between the Parties. Each Party acknowledges that, in entering into this Agreement, it does not rely on, and shall have no remedies in respect of, any statements, promises, assurances, warranties, representations or understandings (whether oral or written, and whether made innocently or negligently) made by or on behalf of the other Party (or any of its representatives) that are not set out in this Agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement. Nothing in this clause 11.7 shall limit or exclude any liability for fraud.

10.8 This Agreement and any dispute or claim arising out of it or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England.

10.9 All disputes between the Parties in connection with this Agreement shall first be discussed in good faith between the Parties in order to try to find an amicable solution. The parties irrevocably agree that if no amicable settlement can be reached, then the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

In witness whereof, the Parties have caused this Agreement to be signed by their legal representatives.

Date: _____   Date _____

zzz_test_admin   EXASOL UK Limited

Signature: _____   Signature: _____

Name: _____   Name: _____

Annex 1. General Contract Terms and Conditions "Evaluation License"

1   GENERAL PROVISIONS

1.1   EXASOL Licence

In consideration of the payment of the Fee by the Customer, Customer is granted a non-exclusive, perpetual right under its licence (including the right to grant sub-licences to other members of the Customer Group) to use the Products in accordance with the agreed usage parameters and these terms and conditions. Unless otherwise agreed the licence can be used for commercial purposes. If and in as far as Customer is granted a development licence or a test licence, then commercial use of the software is not permitted; the Software may then only be used for development and test purposes. Certain EXASolution® sub-components (e.g. libraries) may be subject to the GNU General Public Licence. The licence terms can be accessed under www.fsf.org/licensing/licenses/gpl.html.

1.2   Restrictions and Conditions

Customer acknowledges that the Software may not be operated without the Licence Server and that the Licence Server administrates the implementation of the Licence in the Server Cluster and for this reason the Server Cluster must be dedicated for running the Software.

1.3   Warranty

EXASOL warrants that the Software, when properly used, will operate in all material respects in conformity with the Documentation and this Agreement. Except as set out in this Agreement, in the event of non-conforming Software Customer's sole remedy and EXASOL's exclusive liability shall be, as applicable and at EXASOL's option, replacement of the affected Software or parts of Software at no additional charge, or a refund of the Fees paid. THIRD PARTY SOFTWARE (EXCLUDING EXASOL's RELATED UNDERTAKINGS SOFTWARE) IS PROVIDED "AS IS" WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE. EXASOL DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND WHETHER ARISING BY STATUTE OR IN LAW WITH RESPECT TO THE SOFTWARE AND DOCUMENTATION. NO WARRANTY IS MADE REGARDING THE RESULTS OF THE SOFTWARE OR THAT ALL ERRORS IN THE SOFTWARE WILL BE CORRECTED, OR THAT THE SOFTWARE'S FUNCTIONALITY WILL MEET ALL CUSTOMER'S REQUIREMENTS. CUSTOMER ACKNOWLEDGES HIS RESPONSIBILITY TO REGULARLY AND INDEPENDENTLY BACK UP DATA MAINTAINED ON THE CLUSTER USING THE SOFTWARE. THE PROPER BACK UP FREQUENCY SHALL BE DETERMINED BY THE CUSTOMER WITH RESPECT TO THE RELATIVE IMPORTANCE AND VALUE OF THE DATA IN QUESTION.

If upon request or demand by the Customer EXASOL undertakes work of any substantial form for identifying, locating and repairing errors, which does not fall within EXASOL's sphere of responsibility (as set out in part 2 "MAINTENANCE" below), EXASOL shall be entitled to invoice Customer for such work at EXASOL then current rates. EXASOL shall seek written permission from the Customer prior to commencing work of this nature.

1.4 Infringement Indemnification

If a claim is made or an action brought that the Software infringes a patent, or any copyright or trade secret, EXASOL will indemnify the Customer and its Related Undertakings in respect of such claim and resulting costs, damages and reasonable attorneys' fees finally awarded or agreed to in settlement, provided that (a) Customer promptly notifies EXASOL in writing of the claim, and (b) EXASOL has sole control of the defense and all related settlement negotiations. Customer may be represented by separate counsel at its own expense. EXASOL's obligations under this Section are conditioned on Customer's agreement that if the Software, or the use or operation thereof, becomes, or in EXASOL's opinion is likely to become, the subject of such a claim, EXASOL may at its expense, either procure the right for Customer to continue using the Software or, at EXASOL's sole option, replace or modify the same so that it becomes non-infringing (provided such replacement or modification does not materially adversely affect Customer's intended use of the Software as contemplated in the Documentation). If neither of the foregoing alternatives is available on terms which are commercially acceptable in EXASOL's reasonable judgment, Customer will return the Product on written request by EXASOL and EXASOL will credit or (at Customer's option) refund to Customer, all upfront licence fees paid for such Product during the one (1) year period immediately prior to such infringement claim, less depreciation on a straight line basis over an assumed five year life. Neither EXASOL nor any of its Related Undertakings shall have liability for, and Customer shall indemnify, defend and hold EXASOL and its Related Undertakings harmless from, any claim based upon (i) the combination, operation or use of the Products with equipment, software or data not supplied or expressly approved in writing by EXASOL, if such claim would have been avoided by use of other equipment, software or data, (ii) the use of any version of the Products other than a current, unaltered release, if such infringement would have been avoided by the use of a current, unaltered release; or (iii) a modification of Products that is not done or expressly authorized in writing by EXASOL. THE FOREGOING STATES THE ENTIRE REMEDY OF CUSTOMER AND ITS RELATED UNDERTAKINGS THE SOLE OBLIGATION OF EXASOL AND ITS RELATED UNDERTAKINGS WITH RESPECT TO INFRINGEMENT CLAIMS.

1.5 Intellectual Property

Title to the Products, including the Software and Documentation, and copyrights and all other intellectual property rights in the Products, belong and shall at all times belong to EXASOL or the relevant third party owners (including EXASOL's Related Undertakings) and Customer shall have no rights in or to the Products other than the right to use and operate in accordance with the terms of the Agreement nor to take any action inconsistent with such title. The Software and Documentation are protected by copyright laws and international treaties.

2 CONSULTING SERVICE

2.1 Service Provision

2.1.1 The PoC will be supported by the "EXASOL Presales Consulting" department. After the PoC, Customer and EXASOL will hold a final meeting (in person or online) to discuss the process and results of the PoC and the next steps.

2.1.2 If nothing stating otherwise, EXASOL is not required to provide a certain result within the scope of consulting, and does not have any obligation concerning the achievement of any objectives that the Customer may be pursuing.

2.1.3 EXASOL is entitled to utilize sub-contractors for the purposes of fulfilling the contract as long as the Customer has been notified in advance.

2.2 Error Correction, Communication

2.2.1 EXASOL will correct reported errors in the Software at its discretion within reasonable time. As the mere provision of the Software is free of charge, there is no entitlement of Customer for any error correction or maintenance of the Software.

2.2.2 The PoC, including the possible correction of any errors, will be supported by the EXASOL Presales Consulting department. The aforementioned department will be exclusively responsible regarding any communication related to the PoC including error reports, support queries etc.

Stand 12/30/2016