

USE OF SERVICES IN CONNECTION WITH USE OF SOFTWARE

Books and Standard ERP software

Special conditions of support services

valid since 1 April 2016

- 1) The Support Services include any other services provided by Excellent with regard to the Software or use of another service that do not form a part of any other service or which are referred to as such in the General Conditions, Special Conditions, pricelists or any agreement concluded between the Customer and Excellent. A Support Service is, for instance, adjusting software functionality, installation of software or its updates, software-related consultations, solving problems in connection with hardware or other software, where possible recovery of lost data, coding, project management, testing, training, seminars, etc.
- 2) When turning to Excellent with questions or problems with regard to use of the Software or other Services, the Customer recognizes that normally solving such problems is considered to be a paid Support Service.
- 3) Provision of the Support Services means using competences, possibilities and resources of Excellent for the benefit of the Customer: it is assessed by the time used and not by any specific result. Due to the nature of the Software related to the Support Services and/or other Services and their use, the results of provision of the Support Services are not related to the results of use of the Software and/or other Services. Each instance of the Support Services is considered to be provided independently, where it is provided in a technically accurate manner, regardless of whether or not it results in any desired changes in the functionality of the Software and/or other Services.
- 4) Generally, to order the Support Services the Customer submits to Excellent a request for the specific service, based on which Excellent prepares an offer. The respective offer indicates estimated content and scope of works. Depending on the nature of the Support Services (for instance, adjusting functionality of the Software), Excellent prepares a specification with regard to the works connected with the Support Services. The order is considered to be submitted, where the Customer approves the offer made by the Excellent. To receive the Support Service, the Customer may submit specific requests/orders to Excellent by telephone or by email; in such a case Excellent is not to prepare a separate offer. In such a case the agreement between the Parties with regard to the Support Services is considered to be concluded, where Excellent commences performance of the respective Customer's request/order.

5) Provision of the Support Service also includes such services that were not initially reflected in the Customer's order and/or in the offer of Excellent or in the work schedule or specification, but performance of which the Customer wishes or necessity of performance of which becomes apparent in the process of provision of the Services or Support Services. Provision of such additional Support Services by Excellent must not be separately approved by the Customer, while Excellent informs the Customer about provision of such Support Services the necessity of which becomes apparent in the process of provision of the Services or Support Services. In such cases the agreement with regard to provision of respective services is considered to be concluded by the Parties from the moment, when Excellent commences provision of the respective Support Service. While providing additional Support Services Excellent has the right to extend the work schedule with regard to the Services or Support Services where necessary (if such schedule is prepared at all), having informed the Customer accordingly. Where it does not contradict the nature of additional Support Services or these Special Conditions, the provisions with regard to the Support Services shall also be applied to the additional Support Services (including the pricelist of the Support Services).

6) Provision of the Support Services presupposes involvement of respective specialist(s) of Excellent. The Support Services are paid services the price of which is largely dependent on the time required for provision of the service (the total time spent by the specialists involved). Excellent has the right to receive the fee for the Support Services (including additional Support Services) based on the time required for performance of such Services and regardless of achieving the final result. The pricelist for the Support Services is available at www.excellent.ee/hinnakiri. VAT is added to the prices set out in the pricelist.

7) Depending on the nature and specifics of the Support Services, any assessment provided by Excellent with regard to the time required for provision of such Services before actual provision of the Services shall be considered approximate (i.e. not binding with regard to the final payment). Excellent shall indicate in the offer (where the offer is made) the initial price of the Support Services that is based on the approximate time required for provision of such Services. Where in the process of provision of the Service it becomes clear that more time is required for its performance than was initially estimated, the final price of the Support Services is calculated by multiplying the number of hours required for performance of the Services by the hourly price. Upon request of the Customer Excellent submits to the Customer the balance with regard to provided Support Services.

8) Where the pricelist of the Support Services does not indicate with sufficient accuracy all the price components required to determine the total price of the particular Support Service (for instance, the fee for a Support Service is calculated on the basis of the resources used), in determining the price of the component the Parties shall be guided by its standard price determined by Excellent based on the actual expenses incurred.

9) In order to solve problems in connection with the Support Services, the Customer shall remain reasonably accessible for Excellent and answer any related questions Excellent may

have. The Customer shall without delay and free of any charge submit to Excellent necessary, accurate and sufficient information.

10) In the process of provision of the Support Services no delivery/acceptance of the Support Services or their results take place, except where it is required by the content and nature of the Support Services.

11) The Customer shall without delay review the Support Service and its results or where necessary delegates performance of such review to specialists.

12) The reasonable time when the Customer shall inform Excellent about any deficiencies discovered with regard to the works performed in the context of the Support Services, shall be three (3) business days. Each discovered deficiency shall be described in detail and accurately.

13) The Support Services provided to the Customer and their conditions are connected with use of the Software. It is impossible to completely exclude technical errors and bugs in the Software (including adaptation of its functionality) or related to its use and actions of users and/or during use of the Support Services and/or results of such use. The Customer agrees that functioning of the Software and/or the Support Services and/or achievement of the goals of the Software and/or the Support Services to a significant extent depends on the actions and the degree of care of the Customer (including the used hardware, skills and competences, backup copies, notification about the problems, internal work regulations, etc.), as well as on actions of third parties (for instance, communication service providers) and other software used on computers of the Customer.

14) Where the Parties do not agree differently, Excellent has the right to issue to the Customer invoices for provision of the Support Services as follows: - for large-scale and/or long-term Support Services (including additional Support Services) on the last business day of each month with regard to the works performed/services provided by that time; - for other Support Services (including additional Support Services) immediately after provision of such services, but not later than once (1) a month with regard to the works performed/services provided by that time

15) Excellent shall issue invoices to the Customer as e-invoices or in PDF format. The Customer shall pay the invoices within seven (7) days after their receipt. The payment is considered to be performed on the day of transfer of the respective sum to the current account of Excellent.

16) As the result of use of the Support Services the Customer may have to use other paid Services (for instance, use of additional Modules). In such a case Excellent provides these Services to the Customer according to the current pricelist. Where the Parties do not agree differently, the Customer has no right to use results of respective Services before concluding a contract with regard to provision of such additional Services.

- 17) Excellent has the right to suspend provision of the Support Services, where the Customer delays payment of Excellent invoices. Excellent shall not be liable for any consequences of suspension of provision of the services for such reason.
- 18) Excellent has the right to terminate the agreement for provisions of the Support Services, where the Customer delays payment to Excellent for more than thirty (30) calendar days.
- 19) The Customer has the right to terminate the agreement for specific Support Services, where Excellent fails to perform its contractual obligations in thirty (30) days after receipt from the Customer of a written demand to stop breach of the respective obligations.
- 20) End of provision of the Support Services shall not release the Customer from performance of obligations that can be implied to remain in force upon the end of provision of the service. End of provision of the Support Services shall not release the Customer from performance of financial obligations in connection with the contract. The Customer also has no right to demand partial or full return of the sums paid for the Support Services.
- 21) Excellent does not bear liability of the manufacturer of the Software.
- 22) Where the Parties do not agree differently, Excellent has the right to use subcontractors in provision of the Support Services.
- 23) Risk of accidental destruction or damage of the results of the Support Services is transferred to the Customer from the moment of provision of respective Support Services.
- 24) Failure of any provision of the General and/or Special Conditions to comply with the law or other legal acts shall not affect validity of other provisions. Upon discovery of noncompliance of the provision with the law or another legal act, the Parties shall at the earliest opportunity replace it with a similar lawful provision. Where the Parties fail to reach an agreement with regard to replacement of the provision, it is implied that Excellent did not conclude the Support Services contract upon such conditions, except where Excellent confirms differently.
- 25) These special conditions complement provisions of the general conditions (i.e. Software license agreement for Hansaworld software and Subscription agreement for Hansaworld services available at: www.excellent.ee/tingimused). In case of discrepancies between the special conditions and the general conditions, the general conditions shall take precedence.
- 26) In case of any discrepancies between different language versions of these special conditions, the Estonian version of the conditions shall take precedence.