

## Service Level Agreement

This agreement (the Agreement) is made and entered into this Date:  
\_\_\_\_\_ by

and between CRMADDON Factory GmbH, Am Bächle 12, 86488 Breitenenthal, Germany,  
(CRMADDON), and

\_\_\_\_\_(Client).

### WITNESSETH

WHEREAS, CRMADDON is a provider of hosted application solutions, and WHEREAS, Client wishes to contract with CRMADDON for such services. NOW THEREFORE, in consideration of the mutual promises contained herein, CRMADDON and Client agree as follows:

#### 1. DESCRIPTION OF SERVICES

CRMADDON shall, in accordance with the terms and conditions of this Agreement, provide the Hosting Services described in Schedule A attached hereto and made a part hereof. The parties may amend or change the Description of Services only by mutual written agreement.

##### 1.1 Database Security

Database servers will never be available directly from the web and will have no external (Internet) IP addresses; the database servers will be located in a DMZ area on a background private network within the hosting facility.

All CRMADDON Firewall services are hardware/mechanical firewall services with built-in NAT technology. Databases are only accessible to authenticated users through the web application server that communicates with the databases on the background private network.

Client understands and agrees that occasional temporary interruptions of any Internet Services may occur as normal events in the provision of the Internet Services. CRMADDON agrees to exercise reasonable care to prevent such occurrences; however, under no circumstances will CRMADDON be held liable for any financial or other damages due to such interruptions.

##### 1.2 Database Ownership:

Client shall retain ownership at all times of the data and the database structure that constitute the database hosted by CRMADDON. CRMADDON shall maintain the data and the database in a confidential manner as set forth in Section 10.

Upon demand or Termination of this Agreement, CRMADDON will, at Client's direction, either return all copies of the data and the database to Client or certify the destruction of the data and the database. CRMADDON will be under no obligation to return Client's data until all monies owed CRMADDON have been paid by Client.

### 1.3 Backup and Maintenance.

Backups will be performed nightly by an automated software system.

Once these backup files are created they are moved to internal CRMADDON backup servers, and then replicated to external CRMADDON servers located within a separate hosting facility. Backups are accessible via the web by authenticated users of the database who have permission to access the backup files. As part of the backup routine, databases are compressed and re-indexed nightly.

### 1.4 End User License Agreements.

Client understands that CRMADDON is simply a hosting service for the Hosted Software and must conform to any changes or modifications within the software or EULA agreement as set forth by the Manufacturer of the product. Should the Software Manufacturer modify any legal or financial agreement, CRMADDON reserves the right to change this agreement to reflect those modifications.

Once the Software Manufacturer releases the next inline release for the current version, all new users will be required to on-board the CRMADDON hosting system in that current version. Should a user fail to upgrade to the next inline release, their service will be interrupted. CRMADDON will archive their database and provide it as a backup for downloading purposes.

## 2. CHARGES FOR SERVICES

### 2.1 Service Charges

- a) Charges for Hosting Services (Service Charge) are accumulated for the full service Term and paid per the terms of this Agreement. Client agrees to pay for all charges attributable to its use of Services from CRMADDON pursuant to this Agreement.
- b) Service Charges are contracted at the amount(s) and Term specified in Attachment A, and Section 3 of this Agreement and only subject to change with Notice per the terms and conditions as provided for herein. Special charges may apply for oversized databases, multi-database systems and instances of non-cancellation/non-use "Parking" fees.

Database Size – Databases and their supplemental folders with a total size of 250 MB or less shall be included within the base hosting fees outlined above. The size of client's database files are monitored, and should they exceed 250 MB, shall incur additional monthly hosting fees as outlined below:

Included within the standard hosting fees:

One (1) database with up to 5 users: Base size not to exceed 250MB  
Databases with greater than five (5) users will be allowed an additional 50 MB per user within the standard hosting fees.

Example: 1 database with 30 users would be allowed 1.5 GB of files within the standard hosting fees.

When a client's database and related files exceeds their allotted quota, there will be an additional charge of \$10 per 500 MB of additional space.

Client will be notified of such overages and given 14 days to reduce the files size before incurring the additional charges.

- c) CRMADDON may also provide consulting, support, and training services for Client on a per request basis.

## 2.2 Changes to Service Charges

- a) Service Charges, as indicated in Schedule A are subject to thirty (30) days prior Notice of change when such change is unrelated to changes in Services delivered (i.e. Users, applications, etc.) as listed in Attachment A or referenced attachments or addendums. Changes would take effect at the beginning of the next calendar quarter.
- b) Changes in Services delivered under this Agreement may result in changes to Service Charges. Such changes to Service Charges will be applied as follows:
  - i. An increase in Services that results in an agreed upon increase in Service Charges will be applied and begin in the month in which said changes are implemented.
  - ii. A decrease in Services that results in an agreed upon decrease in Service Charges will be applied and begin in the following quarter.

## 3. TERM

- a) The term of this Agreement (Term) shall commence upon the date of its execution by both parties (Agreement Date) or the date of database placement, whichever comes first and, shall expire upon the completion of the first three months following commencement date of Services (Service Date).
- b) This Agreement shall automatically renew for additional Term (either 3 month or 12 months). (Subsequent Term(s)) if not otherwise terminated as provided for in this Agreement. All Subsequent Terms are the same as the original agreement, and as such, require prior Notice of termination per Section 7.2 below, to avoid penalties.
- c) Service Charges and/or any changes in Service Charges at renewal are subject to Notice as provided for in Section 2 of this Agreement.
- d) If this Agreement is terminated, CRMADDON will stop providing Services subject to the terms of this Agreement.

## 4. BILLING

The initial payment for Service Charges equals the prorated portion of the current calendar quarter. The Payment is due no later than ten (10) business days prior to the scheduled date for the commencement of Service. In the event this Agreement is automatically renewed for Subsequent Terms the Payment is due no less than ten (10) business days prior to the scheduled commencement of said Subsequent Terms.

## 5. INVOICES

After the initial payment, CRMADDON will invoice Client for services either every 3

months, or annually. CRMADDON shall receive from Client, payment for all hosting services invoices at least 10 days prior to start of new term, after which such payment will be considered past due. Client shall pay, in the sole discretion of CRMADDON, a late fee of one and one-half percent (1½%) per month (18% per annum) or the maximum rate allowed by law, if lower, on past-due amounts for each calendar month, or portion thereof, that such past due amount remains outstanding. Client, if applicable, will pay collection costs and attorney fees. CRMADDON will have no obligation to perform any Services when any amount required to be paid by Client remains past due and unpaid for more than 10 days.

Invoices for work other than hosting done for Client by CRMADDON shall be due upon receipt and shall be considered past due 10 days past the invoice date. At CRMADDON's discretion it may require consulting or training work to be paid for in advance of delivery of service. Once an invoice is past due, Client shall pay, in the sole discretion of CRMADDON, a late fee of one and one-half percent (1½%) per month (18% per annum) or the maximum rate allowed by law, if lower, on past-due amounts for each calendar month, or portion thereof, that such past due amount remains outstanding. Client will pay collection costs and attorney fees associated with collection of past due amounts.

CRMADDON will have no obligation to perform any Services when any amount required to be paid by Client remains past due and unpaid subject to the terms of this Agreement.

## 6. TERMINATION

### 6.1 Termination by CRMADDON

CRMADDON may, without cause, at any time, terminate all or part of this Agreement for Services by providing no less than thirty (30) days prior written Notice to Client. In such case, Client's liability to CRMADDON with respect to such termination shall be the payment of all invoiced amounts for Services provided through the Termination Date.

CRMADDON will refund to Client any Pre -Paid Service Charges in excess of charges for Services provided.

In the event such Notice is given by CRMADDON, Client may terminate this Agreement, by providing written Notice, without penalty, including but not limited to, the Termination Fee. This provision does not affect or waive any other Client obligations under this Agreement, including but not limited to, all invoiced amounts for Services provided through the Termination Date.

### 6.2. Termination by Client

Client may, without cause select not to renew this Agreement, by providing no less than thirty (30) days written notice to CRMADDON prior to the start of the next calendar quarter. In such case, Client's liability to CRMADDON with respect to such termination shall be the payment of (i) all invoiced amounts for Services provided through the date of termination. (Termination Date). If notice is not provided 30 days prior to the first day of the next Term, Client shall be liable for the following Term, even if client terminates use of services prior to the end of the following quarter. CRMADDON will be under no obligation to return Client's data until all monies owed CRMADDON have been paid by Client.

## 7. CONFIDENTIAL INFORMATION

### 7.1 Confidential Information:

In connection with the performance of Services hereunder, it may be necessary for each party (the Disclosing Party) to disclose or make available to the other (the Receiving Party) certain confidential information or materials which the Disclosing Party considers to be confidential and proprietary (collectively, Confidential Information). Each Receiving Party agrees that it will maintain the confidentiality of all Confidential Information of the Disclosing Party by using the same degree of care that it takes to hold in confidence its own proprietary information and materials of a similar nature, and shall not use the Confidential Information of the Disclosing Party for any purpose whatsoever, except as expressly contemplated under this Agreement, as may otherwise be provided for in writing between the parties, or as required by law. However, neither party shall be required to keep confidential any data or information which is or becomes publicly available without fault on the part of the Receiving Party, is already in the Receiving Party's possession prior to receipt from the Disclosing Party, is independently developed by the Receiving Party outside the scope of this Agreement and without reference to the Confidential Information of the Disclosing Party, or is rightfully obtained from third parties. Each party shall disclose the Confidential Information of the other only to those of its employees, contractors, and agents having a need to know such Confidential Information and shall take all reasonable precautions to insure that its employees, contractors, and agents comply with the provisions of this Section.

#### 8. OWNERSHIP OF DATA AND DATABASE

Client shall retain ownership at all times of the data and the database structure that constitute the database hosted by CRMADDON. CRMADDON shall maintain the data and the database in a confidential manner as set forth in Section 9. Upon demand or Termination of this Agreement, CRMADDON will, at Client's direction, either return all copies of the data and the database to Client or certify the destruction of the data and the database. CRMADDON will be under no obligation to return Client's data until all monies owed CRMADDON have been paid by Client.

#### 9. NON-SOLICITATION of CRMADDON staff and Contractors

As CRMADDON has a substantial investment in relationships with employees and contractors, and Client may come to know, by introduction or otherwise, said employees and or contractors, Client agrees not to solicit, employ or contract with any CRMADDON employee or contractor, whether for Client's benefit or otherwise, without CRMADDON's express written consent, while this Agreement is in effect and for (1) year following termination of this Agreement. This provision also applies to any individuals or companies who were CRMADDON employees or contractors within the one (1) year period immediately preceding any solicitation or offer of contracting or employment, whether during any Term of this Agreement or subsequent to termination of this Agreement. Should Client breach this Agreement, it shall pay to CRMADDON an amount equal to three times the compensation paid by CRMADDON to that employee or contractor during the last year of the employee/contractor's relationship with CRMADDON.

#### 10 SURVIVAL:

The obligation of confidentiality and limitation of use shall survive the termination of the Agreement for a period of two (2) years.

#### 11. LIABILITY AND INDEMNIFICATION

##### 11.1 General Intent

The parties' their affiliates', officers', and directors' entire liability under the Agreement is

limited as set forth in this Section 11.

#### 11.2 Limitation of CRMADDON's Liability

CRMADDON's liability for damages arising out of this Agreement or CRMADDON's provision of the Services, including but not limited to, mistakes, omissions, interruptions, delays, conduct or errors, or other defects, representations, use of Services or arising out of the failure to provide Services, whether caused by acts of commission or omission, regardless of the form of action, and whether in contract, tort (including negligence), warranty or any other legal or equitable grounds, shall not exceed the aggregate charges paid by client to CRMADDON for Services under the Agreement for the most recent consecutive twelve (12) month period. Such amount together with termination pursuant to Section 8 shall be the sole remedies of Client and the sole liability of CRMADDON under the Agreement.

#### 11.3 Indemnification by Client

Client shall indemnify, defend and hold CRMADDON, its affiliates and their respective officers, directors, employees, agents and subcontractors harmless from all claims, losses, damages, expenses (including attorney's fees and court costs) or liability arising from

- a) any claims made against CRMADDON by any person other than Client in any way relating to this Agreement or the Services, other than such claims that result solely from CRMADDON's willful misconduct or gross negligence, or
- b) the breach of the Agreement by CRMADDON.

#### 11.4 Indemnification by CRMADDON

CRMADDON shall indemnify, defend and hold Client and its officers, directors, employees, agents and subcontractors harmless from all claims, losses, damages, expenses (including attorneys' fees and court costs) or liability arising from claims by third parties that result solely from CRMADDON's willful misconduct or gross negligence, subject to the limitation that the aggregate of all amounts paid by CRMADDON pursuant to this Section shall not exceed the aggregate charges paid by Client to CRMADDON for Services under the Agreement for the most recent, consecutive twelve (12) month period.

#### 12. WARRANTIES

CRMADDON MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED EITHER

IN FACT BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE. IN NO EVENT SHALL CRMADDON BE LIABLE FOR LOSS OF DATA, LOSS OF PROFITS, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE PERFORMANCE OF SERVICES PROVIDED HEREIN.

#### 13. APPLICABLE LAW

This Agreement shall be construed in accordance with the laws of Missouri. The parties mutually acknowledge and agree that this Agreement relates solely to the performance of services (not the sale of goods) and shall not be governed by the Uniform Commercial Code of any State having jurisdiction.

14. FORCE MAJEURE.

Neither CRMADDON or Client shall be liable for any delay, failure in performance, loss or damage due to fire, explosion, power blackout, earthquake, flood, weather, terrorism, strike, embargo, labor disputes, acts of civil or military authority, war, acts of God, acts of regulatory or governmental agencies, or other causes beyond such party's reasonable control, whether or not similar to the foregoing; provided, however, that in the case of an event of the type contemplated in the Section 14, Client should not be excused from paying amounts due with respect to the period prior to such event.

15. ASSIGNMENT.

This Agreement may not be assigned, transferred, or pledged by the client without written consent from CRMADDON.

16. NOTICES

Any notice or demand which under the terms of this Agreement or under any statute must be given or made by CRMADDON or Client shall be in writing and shall be given or made by postage prepaid U.S. Mail addressed to the respective parties as follows:

CRMADDON Factory GmbH Am Bächle 12 86488 Breienthal Germany	Client Information
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Either party may change the Notice address or addressee by giving Notice thereof to the other party. Notices may be given by first class U.S. Mail (postage pre-paid, registered and with receipt requested), nationally recognized express courier, confirmed facsimile, personally, or by hand. Notices shall be deemed to have been given on the date of delivery when delivered personally or by facsimile, on receipt if delivered by express courier or by hand, and three (3) business days after delivery to the United States Postal Service if mailed.

17. ARBITRATION

Any dispute or difference arising out of or in connection with this contract shall be resolved by binding arbitration, using a single arbitrator to be agreed upon between the parties. Should the parties fail to agree upon an arbitrator within fourteen days after either party has given to the other a written request to concur in the appointment of an arbitrator, each party shall select an arbitrator, and those two arbitrators shall together select an arbitrator to be used by the parties. It is agreed that the location of the arbitration will be in the county and state of CRMADDON's main office of record. Authorized representatives of CRMADDON and Client do hereby execute this Agreement including any appendices attached hereto and made a part hereof.

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CRMADDON Factory GmbH

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Date Name of the Client