

RCDevs SpanKey Enterprise Software Support and Maintenance Agreement

Version 1.1 (effective from May 2018)

This RCDevs SpanKey Enterprise Software Support and Maintenance Agreement (this "Agreement") is executed by and between RCDevs SA having his principal place of business at 1 Avenue du Blues, L-4368, Belvaux, Luxembourg ("RCDevs") and the Licensee, here below collectively and individually referred to as the "Parties" or "Party".

The purpose of this Agreement is to define the support and maintenance services to be delivered from RCDevs to the Licensee for the RCDevs SpanKey Software.

The support and maintenance terms hereafter are subject to the applicable terms and conditions of the relevant RCDevs Enterprise Software License Agreement (the "Software License Agreement") for the software tools laid down in clause 2.1 of the present Agreement ("Software"). These terms and conditions shall not be applicable to any RCDevs demonstration and testing Software, provided to the Licensee without a proper Software License Agreement ("Evaluation Products").

Licensee may contact RCDevs technical support at:

RCDevs SA, 1 Avenue du Blues, L-4368 Belvaux, Luxembourg

Telephone : +352 26 17 61 21

Fax : +33 (0)9 72 14 52 97

Email : support@rcdevs.com



RCDevs SA

R.C.S Luxembourg N° B 175 104 - VAT ID : LU25945722 - Business licenses : 10033512/0

Place of business : 1, Avenue du Blues, L-4368 Belvaux - Luxembourg

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1. Contractual Basis

1.1. Preamble

RCDevs is a company developing and distributing computer software products and providing customer services. This Agreement regulates the support and maintenance for the products licensed by the Licensee. Any counter-confirmation or general terms and conditions of business of contractual Parties are hereby explicitly objected to. The foregoing shall also apply if the submission of offers or acceptance of offers by contractual Parties is made making reference to any prior-ranking applicability of their own general terms and conditions of business.

1.2. Definitions

"Helpdesk" means providing access to expert resources through the helpdesk service by telephone, mail and/or e-mail.

"Error" means that the Software when used in the operating environment and otherwise according to the instructions of RCDevs, does not operate materially in essential parts as defined in Software Documentation.

"Workaround" or "Workarounds" means a change in the procedures followed or data supplied to avoid an Error without substantially impairing the Licensee's use of the Software.

"Fix" or "Fixes" means the repair or replacement of object or executable code versions of the Software to remedy an Error.

"Update" or "Updates" shall mean a minor release of the Software consisting primarily of bug fixes and Error corrections. Updates do not include new or additional functionality.

"New Version" shall mean a release of the Software including new or additional functionalities.

"Documentation" means the then-current, generally available, written user manuals and online help and guides for any Software and/or any related hardware provided by RCDevs ("Hardware").

"Product" or "Products" means Hardware and/or Software. Products do not include Evaluation Products.

"Service Request" shall mean a ticket that has been opened, documented, and is being managed by RCDevs in response to the Licensee's Error Report.

"Concurrent Clients" shall mean the number of client hosts which are able to use the Software functionalities at the same time.

"Servers" shall mean a single user computers and/or a network servers having the Software installed and running.

“Licensee” is the person or the company to whom the license is granted.

1.3. Assignment of Rights and Obligations

RCDevs may transfer any of the rights and obligations under this Agreement to third parties at any time and is entitled to use agents for fulfillment of RCDevs' contractual obligations with the prior written consent of the Licensee, so long as such third parties have executed confidentiality agreements that protect Licensee's confidential information from unauthorized use and disclosure.

2. Content of Services

2.1. Support and Maintenance Services

RCDevs shall provide support and maintenance services for the Software as follows:

Software: RCDevs SpanKey Server (“SpanKeyServer”), RCDevs SpanKey Client (“SpanKeyClient”), Web-Based LDAP Administrator (“WebADM”), User Self-Service Desk (“SelfDesk”) and Token Self-Registration (“SelfReg”).

All support and maintenance services are provided remotely from RCDevs' premises.

- Web support: RCDevs shall provide the Licensee with access to RCDevs' online resources, offering the Licensee the ability on a 24x7 basis (24 hours a day, seven days a week) to download Documentation, patches and bug fixes. RCDevs' on-line Web resources are currently hosted at the following Web address: <http://www.rcdevs.com/>.
- Email access to Helpdesk: RCDevs provides the Licensee with Email support for general questions related to installation, configuration and use of the Software. Helpdesk is provided by contacting the support Email address at support@rcdevs.com and according to RCDevs' support team's availability. RCDevs will use best efforts to respond to Helpdesk requests but does not provide any guaranteed response time nor service availability other than as set forth in Section 2.2 below.
- Provision of known Error corrections by delivery of available Fixes via electronic communication and for download via the RCDevs Internet Member portal (<http://www.rcdevs.com/>).
- Provision of available minor Updates (bundling of several Error corrections in one version) for download via the RCDevs Internet Member portal (<http://www.rcdevs.com/>).
- Provision of available medium upgrades (New Version with additional / enhanced functions) for download via the RCDevs Internet Member portal (<http://www.rcdevs.com/>).
- Provision of available major upgrades (New Version with substantially enhanced volume of functions).

- Information via electronic communication (e-mail) when new minor/medium/major updates are available.

The support and maintenance services apply to the Software and any applicable Updates, but not to any new Products of the same product family or other products from RCDevs. The granting of rights of use and the delivery of the relevant license files for all minor, medium and major upgrades shall be limited to the number and type of products, as well as the terms of use thereof, for which this Agreement has been concluded.

RCDevs will provide Licensee reports of known Errors, "bugs", incompatibilities and other known defects in the Software, together with known Updates, Workarounds, corrections and planned corrections thereof.

RCDevs will provide software support and maintenance services for any previous version of the Software for no longer than twelve (12) months from publication of the New Version. This time period may be extended by RCDevs at its sole discretion.

Error correction shall mean the use of good-faith and best commercial efforts to correct Errors and shall comprise inspection of Errors in the Software. Errors shall be reported by the Licensee's contact persons in electronic or paper format including the following information ("Error Report"):

- Description of the Error, expected behaviors and description of the configuration and steps taken to reproduce the Error, if possible;
- Product, version number and operating system used;
- Customer ID, Company, Contact Person, mail address, e-mail address, telephone and fax numbers; and
- Licensee's opinion on the level and/or severity of the Error.

All reporting shall be in writing by mail, e-mail or fax. Telephone may be used as a complement to written report.

Before the Error Report is sent to RCDevs, the Licensee shall:

- Check that the Error has not previously been reported;
- Verify that a proper Agreement is in place for the affected RCDevs Software; and
- Use all best efforts to verify that the Error can be reproduced.

If the Error concerns RCDevs "WebADM" software or any other RCDevs software related to "WebADM", the Licensee should generate an electronic support ticket file from the "WebADM" customer support ticket system, and provide it as part of the support request.

If RCDevs believes that a problem reported by the Licensee is not due to an Error in the Software, RCDevs will so notify the Licensee. At that time, the Licensee may (i) instruct RCDevs to proceed with problem determination at his possible expense as set forth below or (ii) instruct RCDevs that he does not wish the problem pursued at his possible expense. If the Licensee requests that RCDevs proceed with problem determination at his possible expense and RCDevs determines that the error was not due to an Error in the Software, the Licensee shall pay RCDevs, at RCDevs' then-current consulting rates, for all work performed in connection with such determination after the date of Licensee's instruction to RCDevs to proceed with problem determination at his possible expense, plus reasonable related expenses incurred therewith.

RCDevs shall have the right to invoice the Licensee at RCDevs' then-current consulting rates, for Software repair, support and maintenance in case the Error is not covered by this Agreement, subject to the terms of the immediately preceding paragraph.

2.2. E-mail Support

For the term of this Agreement, RCDevs shall provide e-mail support in the following manner: Queries for specific technical problems and failures are possible at any time. For this purpose, the Licensee will generally send a message indicating the exact problem description and a classification in the following priority and error levels:

- Level A Error (system does not work): means an Error, which (i) renders the Software inoperative; or (ii) substantially degrades performance; or (iii) causes any major feature to be unavailable or substantially impaired; or (iv) causes a complete failure of the Software. Level A Error will prohibit the Licensee from using complete Software or its main functions.
- Level B Error (system works with limited functions): means an Error, which degrades the performance of the Software or restricts the Licensee's use of the Software. Level B Error will prohibit the Licensee from using one or more of the functionalities of the Software that cannot be considered as main functionalities, or other problems having moderate impact on Software.
- Level C Error (system basically working with errors/problems with specific functions): means an Error, which causes only a minor impact on the use of the Software. Level C Errors will be minor, not belonging to Level A or Level B.

RCDevs ensures the following response times (via telephone or e-mail):

- Level A: Response within the next working day (Monday – Friday, 9 a.m. until 5 p.m. Luxembourg local time excluding Luxembourg public holidays). RCDevs shall allocate resources to work continuously during normal office hours to solve the problem as soon as possible and provide a Fix for the Error. If the Error can be circumvented by a Workaround, this will be communicated to the Licensee, and the Error will be re-classified accordingly.

- Level B: Response within the working day after next (Monday – Friday, 9 a.m. until 5 p.m. Luxembourg local time excluding Luxembourg public holidays). RCDevs shall exercise commercially reasonable efforts to provide a Fix for the Error.
- Level C: Response within the next five days (Monday – Friday, 9 a.m. until 5 p.m. Luxembourg local time excluding Luxembourg public holidays). RCDevs may include the Update or Fix for the Error in the next Update or New Version of Software.

Exclusively applicable is the local time at the seat of RCDevs. Exclusively applicable regarding holidays are the legal holidays at the seat of RCDevs.

RCDevs may supply solutions for reported Errors either in the form of a Workaround, a Fix, an Update or a New Version of the Software, whichever is necessary.

2.3. Telephone Support

For the term of this Agreement, RCDevs shall provide telephone support in the following manner: Queries for specific technical problems and failures are possible at any time. For this purpose, the Licensee will generally leave a message indicating the exact problem description and a classification in the above Error levels.

Telephone support queries shall be accompanied with the corresponding e-mail support request as defined in clause 2.2.

2.4. Subject Matter of Support Services

The subject matter of support services in clauses 2.2 and 2.3 above is the help with installation or operation problems and alleged program Errors. Installation services or other support services at the Licensee's location are not a subject matter of this Agreement.

SMS or e-mail messages delivery problems encountered by the Licensee when using SMS or e-mail message delivery to the end-users in the Software are not a subject matter of this Agreement. RCDevs does not provide SMS or e-mail delivery services for his customers and does not provide any kind of guaranty for the use of such external services. The Licensee shall have a service-level agreement with its SMS or e-mail provider which if exists, is not a subject matter of this Agreement.

The hardware devices used by the Licensee with the Software are not a subject matter of this Agreement.

2.5. Number of Servers and Concurrent Clients

The terms of this Agreement are applicable under the condition that the number of Servers and of Concurrent Clients in use in the Software at any one time does not exceed the number of Maximum Servers and of Maximum Concurrent Clients specified in the relevant invoice for the support and maintenance services (“Invoice”).

If the number of Servers and/or Concurrent Clients exceeds the numbers specified in the Invoice, the terms of this Agreement shall become inapplicable until a new invoice is generated according to the new Licensee’s requirements, and during this period, RCDevs reserves himself the right not to provide the support and maintenance services.

The Licensee shall notify RCDevs for extending the number of Maximum Servers and/or Maximum Concurrent Clients for the current Agreement and a new invoice shall be generated accordingly and paid by the Licensee.

3. Payments

Any and all support and maintenance services under this Agreement shall be compensated for by means of an annual flat rate. The fees are due for payment annually in advance upon invoicing by RCDevs.

If the support and maintenance services expire or are terminated, and the Licensee subsequently seeks to reinstate support and maintenance services, the Licensee shall pay: (a) the cumulative support and maintenance services fees applicable for the period during which support lapsed; and (b) the annual support fees for the current period. By paying the fees, the Licensee agrees to be bound by the terms and conditions of the present Agreement.

4. Contact Persons

Both Parties shall appoint a contact person within their respective organisation to serve as primary contacts and to coordinate the Software support and maintenance. The Licensee's support inquiries will be initiated primarily through these contacts and through other Licensee representatives when the above procedure is not practicable. Primary contacts may be amended from time to time by the Parties.

In addition, the Licensee may designate in writing to RCDevs up to three (3) appropriate and knowledgeable persons to serve as the Licensee’s liaisons with RCDevs and through whom contacts and questions shall be presented to RCDevs. The Licensee’s liaison persons may be changed by the Licensee by providing written or e-mail notice to RCDevs.

5. Licensee Obligations

5.1. Documenting Errors

To guarantee the best level of efficiency, the Licensee shall use good-faith, reasonable efforts to isolate and document Errors to enable RCDevs to fulfill his obligations herein. Once a Service Request has been initiated, The Licensee will be asked to provide necessary Error data which may include but not be limited to, applicable identification number for Software or Hardware, description of Error, any error messages, and any requested support files. Only the compliance with this obligation to cooperate as an essential contractual performance will enable the provision of all support services in a timely and due manner.

5.2. Maintaining Product Integrity

The Licensee will follow RCDevs best practices guidelines as defined in the Documentation, which include maintaining an onsite disaster recovery for each server to enable RCDevs to restore the appliance in accordance with the Licensee's configuration. The Licensee agrees to not install any third party non-certified software without notification to, and prior authorization by, RCDevs technical support in order to ensure RCDevs's ability to maintain accurate records of the Licensee's existing environment.

6. Additional Exclusions

RCDevs shall have no obligation to maintain or support Software in the following conditions:

- Altered, damaged or modified Software;
- Software problems resulting from inaccurate storage of the Software or problems caused by the Licensee's negligence, abuse or misapplication, insufficient or incorrect maintenance performed by third parties, use of Software for other than intended purposes or other causes beyond the foreseeable control of RCDevs;
- Software installed on any computer hardware and/or software system that is not supported by RCDevs and Software. RCDevs shall not be responsible for server hardware failures and the disturbance caused by external devices or software to the Software;
- Software installations using an amount of Servers and/or Concurrent Clients exceeding the limitations in the Invoice (Maximum Servers and/or Maximum Concurrent Clients).

In addition, support excludes any Error for which a correction is available in a subsequent Software version than that currently operated by the Licensee and which has been made available to the Licensee by RCDevs.

7. Warranty

7.1. Services Warranty

RCDevs warrants during the term of support and maintenance that such support and maintenance services shall be performed in a workmanlike manner consistent with generally accepted industry standards. Notwithstanding anything to the contrary contained herein, RCDevs does not warrant or represent that all Errors can or will be corrected. If RCDevs fails to comply with the foregoing warranty, RCDevs shall use commercially reasonable efforts to re-perform the nonconforming support and maintenance services within a reasonable time, or if after reasonable efforts RCDevs is unable to perform the support and maintenance services as warranted, the Licensee shall be entitled to recover the portion of the support and maintenance fees paid to RCDevs that corresponds to the nonconforming support and maintenance services.

7.2. Disclaimer Of Warranties

EXCEPT AS EXPRESSLY STATED IN THIS WARRANTY SECTION, RCDEVS PROVIDES SUPPORT AND MAINTENANCE SERVICES "AS IS" AND MAKES NO OTHER EXPRESS WARRANTIES, WRITTEN OR ORAL, AND ALL OTHER WARRANTIES ARE SPECIFICALLY EXCLUDED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE.

7.3. LIMITATION OF LIABILITY

EACH PARTY AND ITS THIRD PARTY SUPPLIERS SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, DATA OR DATA USE INCURRED BY THE OTHER PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S AND ITS THIRD PARTY SUPPLIERS' LIABILITY FOR DAMAGES HEREUNDER SHALL IN NO EVENT EXCEED AN AMOUNT EQUAL TO 5.000 EUROS. THE PARTIES AGREE TO THE ALLOCATION OF LIABILITY RISK, WHICH IS SET FORTH IN THIS SECTION.

7.4. Software Licenses

All Software Versions or other enhancements, modifications or fixes to the Software provided to the Licensee pursuant to this Agreement constitute RCDevs Software licensed to the Licensee under any applicable Software License Agreement between RCDevs and the Licensee. This Agreement is not an amendment to any such Software License Agreement but is a separate binding agreement that incorporates terms of any such Software License Agreement relating to license and ownership rights, use limitations, limitation of liability, and confidentiality and non-

disclosure obligations. Additionally, this Agreement incorporates by reference any “Miscellaneous” or “General” provisions of any such Software License Agreement in their entirety.

8. Performance of the Agreement

8.1. Commencement and End

This Agreement enters into force at the date written in the Invoice (the “Effective Date”). The initial term of this Agreement is written in the Invoice (the “Initial Term”). This Agreement is terminated on the day of expiration of the Initial Term unless the Parties prolong its effect on mutual consent before the day of expiration. The Licensee may renew this Agreement on an annual basis by paying RCDevs the applicable Software support and maintenance renewal fees, unless RCDevs notifies the Licensee at least 60 days before the expiration of the Initial Term or any Renewal Term of its intent not to renew the support and maintenance services.

Upon payment of the renewal fees, this Agreement is automatically renewed for a period (The “Renewal Term”) written in the relevant invoice for the Software support and maintenance services’ renewal. If not explicitly written, the Renewal Term is one (1) year and commences at the delivery date of the relevant renewal invoice.

8.2. Termination for Breach

This Agreement may be terminated by either party prior to the end of the Initial Term or any Renewal Term if the other party is in material breach of any term or condition of this Agreement and such breach is not remedied for a period of thirty (30) days after the party in breach has been notified in writing of such breach by the other party.

8.3. Termination of Software License Agreement

Support and maintenance services for the Software shall automatically terminate upon the termination of the Licensee’s right to use the Software pursuant to the applicable Software License Agreement.

In the event that the applicable Software License Agreement terminates prior to expiration of the current Agreement, the Licensee shall have no right to a refund of any previously-paid support and maintenance services, provided however that if Licensee terminates the applicable Software License Agreement because of RCDevs’ breach of that agreement, then Licensee will be entitled to a pro-rata refund of the annual fees paid for support for the support term in which the termination becomes effective.

9. General Provisions

9.1. Choice of Law and Venue

This Agreement shall be construed in accordance with, and governed by Luxembourg law and any dispute arising out of this Agreement shall be submitted to the Luxembourg competent courts. Should Luxembourg law make reference to foreign jurisdictions, this reference is excluded. The application of the UN Sales Convention is explicitly excluded.

9.2. Interpretation of the Agreement

If any of the provisions of this Agreement should be or become invalid, ineffective or unenforceable, that will not affect the effectiveness of the remaining provisions. The same applies to omissions in individual provisions and/or parts of this Agreement. In such a case the Parties shall replace the cancelled or incomplete provision by another, legally effective provision meeting the purpose of the cancelled provision to the largest extent possible.

9.3. Entire Agreement

This Agreement represents the single and entire Agreement applying to the maintenance and support services for the Software between the Licensee and RCDevs and supersedes all prior and contemporaneous agreements, representations, and undertakings of the parties, whether oral or written, with respect to such subject matter. Notwithstanding the foregoing, this Agreement may be superseded by the existing enterprise license agreement for the Software between the Licensee and RCDevs.

9.4. Confidentiality

The Parties undertake obligations, that any and all business and other facts, information, solutions or data which are characteristic to one or both of the Parties and of which disclosure to the public or of which acquisition or use by unauthorized persons are likely to hurt or imperil the rightful financial, economic or market interests of the Parties - provided the given Party has taken all of the necessary steps to keep such information confidential - shall be treated as business secret by the Parties and none of the Parties are authorized to release business secrets to third parties.

During the term of this Agreement, RCDevs will collect some personal data such as the name, electronic email and address of some representatives of Licensee as required by law or for legitimate business purposes and in compliance with the EU General Data Privacy Regulation coming into force May 25, 2018. Licensee expressly consents to the collection and processing of such information by RCDevs. This information will not be transferred to any third party or processed by RCDevs for any other purposes than the ones for which the data was initially collected. In accordance to the law, RCDevs will delete this data in a reasonable delay after the end of any business relationship with the Licensee and will only retain the data as long as necessary for the provision of services to the Licensee under this Agreement or as otherwise

RCDevs SA

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required by law. Any person concerned by such private data collection can contact RCDevs anytime at privacy@rcdevs.com to access, modify or delete one's information.

10. Amendments to this Agreement

We may at any time amend, delete or add to this Agreement (a "Change") by giving notice of such Change by posting a revised version of this Agreement on the RCDevs website. A Change will be made unilaterally by us and you will be deemed to have accepted the Change after you have received notice of it. We will give you 2 months' notice of any Change with the Change taking effect once the 2 month notice period has passed, except the 2 month notice period will not apply where a Change is required by law or relates to the addition of a new service, extra functionality to the existing Service or any other change which neither reduces your rights nor increases your responsibilities. In such instances, the Change will be made without prior notice to you and shall be effective immediately.