

Delthastar Software Distribution Subscription Agreement

Note

Version 1 - 2024-01-01

By subscribing to the Delthastar services (the “Services”) provided by Delthastar Technologies Inc. and its affiliates (collectively, “Delthastar”) in relation with Delthastar Software Distribution (the “Software”), hosted on Delthastar’s Cloud platforms (the “Cloud Platform”), you (the “Customer”) are agreeing to be bound by the following terms and conditions (the “Agreement”).

1 Term of the Agreement

The duration of this Agreement (the “Term”) shall be specified in writing on conclusion of this Agreement, beginning on the date of conclusion. It is automatically renewed for an equal Term, unless either party provides a written notice of termination minimum 30 days before the end of the Term to the other party.

2 Definitions

User

Any user account indicated as active in the Software, with access to creation and/or edition mode. Deactivated user accounts and accounts used by external people (or systems) who only have limited access to the Software through the portal facilities (known as “portal Users”) are not counted as Users.

App

An “App” is a specialized group of features available for installation in the Software.

Extra Module

An extra module is a directory of source code files, or a set of Python-based customizations created in a database, that adds features or changes the standard behavior of the Software. It may have been developed by the Customer, by Delthastar, or by third parties.

Covered Extra Module

A Covered Extra Module is an Extra Module for which the Customer chooses to pay a maintenance fee in order to get support, upgrade and bug fixing services.

Bug

Is considered a Bug any failure of the Software or of a Covered Extra Module that results in a complete stop, error traceback or security breach, and is not directly caused by a defective installation or configuration. Non-compliance with specifications or requirements will be considered as Bugs at the discretion of Delthastar (typically, when the Software does not produce the results or performance it was designed to produce, or when a country-specific feature does not meet legal accounting requirements anymore).

Covered Versions

Unless specified otherwise, the Services provided under this Agreement are applicable only to the Covered Versions of the Software, which include the 3 most recently released major versions.

Subscription Plan

A Subscription Plan defines a set of Apps, features and hosting solutions covered by this Agreement, and is defined in writing at the conclusion of this Agreement.

3 Access to the Software

The Customer can use the Software hosted on the Cloud Platform. The Cloud Platform is hosted and fully managed by Delthastar, and accessed remotely by the Customer.

For the duration of this Agreement, Delthastar gives the Customer a non-exclusive, non-transferable license to use (execute, modify, execute after modification) the Delthastar Software Distribution software, under the terms set forth in [9 Appendix B: Delthastar Software Distribution License](#).

The Customer agrees to take all necessary measures to guarantee the unmodified execution of the part of the Software that verifies the validity of the Delthastar Software Distribution usage and collects statistics for that purpose, including but not limited to the running of an instance, the number of Users, the installed Apps, and the number of lines of code of Covered Extra Modules.

Delthastar commits not to disclose individual or named figures to third parties without the consent of the Customer, and to deal with all collected data in compliance with its official Privacy Policy, published at <https://delthastar.com/privacy>.

Upon expiration or termination of this Agreement, this license is revoked immediately and the Customer agrees to stop using the Delthastar Software Distribution and the Cloud Platform.

Should the Customer breach the terms of this section, the Customer agrees to pay Delthastar an extra fee equal to 300% of the applicable list price for the actual number of Users.

4 Services

4.1 Bug Fixing Service

For the duration of this Agreement, Delthastar commits to making all reasonable efforts to remedy any Bug of the Software and Covered Extra Modules submitted by the Customer through the appropriate channel (typically, the web form or phone numbers listed on delthastar.com/help), and to start handling such Customer submissions within 2 business days.

As soon as the Bug is fixed an appropriate remedy will be communicated to the Customer. If the Customer is using a Covered Version, they will not be asked to upgrade to a more recent Covered Version of the Software as a remedy to a Bug.

When a Bug is fixed in any Covered Version, Delthastar commits to fixing the Bug in all more recent Covered Versions of the Software.

Both parties acknowledge that as specified in the license of the Software and in the [7.3 Limitation of Liability](#) section of this Agreement, Delthastar cannot be held liable for Bugs in the Software or in Covered Extra Modules.

4.2 Security Updates Service

Cloud Platform

Delthastar commits to apply the security remedies for any security Bug discovered in a version of the Software hosted on the Cloud Platform, on all systems under its control, as soon as the remedy is available, without requiring any manual action of the Customer.

4.3 Upgrade Services

Upgrade Service for the Software

For the duration of this Agreement, the Customer can submit upgrade requests through the appropriate channel (typically Delthastar's upgrade service website), in order to convert a database of the Software from any version of the Software to a more recent Covered Version (the "Target Version").

For the Cloud Platform, upgrade requests are submitted directly from the control panel of the Cloud Platform, and do not require any data upload.

This service provided through an automated platform in order to allow the Customer to perform unattended upgrades once a previous version of the Customer's database has been successfully upgraded for a Covered Version.

The Upgrade Service is limited to the technical conversion and adaptation of the Customer's database to make it compatible with the Target Version, the correction of any Bug directly caused by the upgrade operation and not normally occurring in the Target Version, and the conversion of the source code and data of Covered Extra Modules for the Target Version.

It is the responsibility of the Customer to verify and validate the upgraded database in order to detect Bugs, to analyze the impact of changes and new features implemented in the Target Version, and to convert and adapt for the Target Version any third-party extensions of the Software that were installed in the database before the upgrade (e.g. non-covered Extra Modules). The Customer may submit multiple upgrade requests for a database, until an acceptable result is achieved.

4.4 Cloud Hosting Services

For the duration of this Agreement, when the Customer chooses to use the Cloud Platform, Delthastar commits to providing at least the following services:

- Hosting in Tier-III data centers or equivalent, with 99.9% network uptime
- Grade A SSL (HTTPS) Encryption of communication
- Fully automated, verified backups, replicated in multiple regions
- Disaster Recovery Plan, tested regularly

The details of the Cloud Hosting Services are described on the Service Level Agreement page at <https://delthastar.com/cloud-sla>.

4.5 Support Services

Scope

For the duration of this Agreement, the Customer may open an unlimited number of support tickets free of charge, exclusively for questions regarding Bugs (see [4.1 Bug Fixing Service](#)) or guidance with respect to the use of the standard features of the Software and Covered Extra Modules.

Other assistance requests, such as questions related to development or customizations may be covered through the purchase of a separate service agreement. In case it's not clear if a request is covered by this Agreement, the decision is at the discretion of Delthastar.

Availability

Tickets can be submitted via the web form or phone numbers listed on delthastar.com/help, subject to local opening hours.

5 Charges and Fees

5.1 Standard charges

The standard charges for the Delthastar subscription and the Services are based on the number of Users and the Subscription Plan used by the Customer, and specified in writing at the conclusion of the Agreement.

When during the Term, the Customer has more Users or uses features that require another Subscription Plan than specified at the time of conclusion of this Agreement, the Customer agrees to pay an extra fee equivalent to the applicable list price (at the time of the deviation from the specified number of Users or Subscription Plan) for the additional Users or the required Subscription Plan, for the remainder of the Term.

In addition, services for Covered Extra Modules are charged based on the number of lines of code in these modules. When the Customer opts for the maintenance of Covered Extra Modules, the charge is a monthly fee per 100 lines of code (rounded up to the next hundred), as specified in writing at the conclusion of the Agreement. Lines of code will be counted with the `cloc` command of the Software, and include all text lines in the source code of those modules, regardless of the programming language (Python, Javascript, XML, etc.), excluding blank lines, comment lines and files that are not loaded when installing or executing the Software.

When the Customer requests an upgrade, for each Covered Extra Module that has not been covered by a maintenance fee for the last 12 months, Delthastar may charge a one-time extra fee for each missing month of coverage.

5.2 Renewal charges

Upon renewal as covered in section [1 Term of the Agreement](#), if the charges applied during the previous Term are lower than the most current applicable list price, these charges will increase by up to 7%.

5.3 Taxes

All fees and charges are exclusive of all applicable federal, provincial, state, local or other governmental taxes, fees or charges (collectively, "Taxes"). The Customer is responsible for paying all Taxes associated with purchases made by the Customer under this Agreement,

except when Delthastar is legally obliged to pay or collect Taxes for which the Customer is responsible.

6 Conditions of Services

6.1 Customer Obligations

The Customer agrees to:

- pay Delthastar any applicable charges for the Services of the present Agreement, in accordance with the payment conditions specified at the signature of this contract ;
- immediately notify Delthastar when their actual number of Users exceeds the number specified at the conclusion of the Agreement, and in this event, pay the applicable additional fee as described in section [5.1 Standard charges](#);
- take all measures necessary to guarantee the unmodified execution of the part of the Software that verifies the validity of the Delthastar Software Distribution usage, as described in [3 Access to the Software](#) ;
- appoint 1 dedicated Customer contact person for the entire duration of the Agreement;

When the Customer chooses to use the Cloud Platform, the Customer further agrees to:

- take all reasonable measures to keep their user accounts secure, including by choosing a strong password and not sharing it with anyone else;
- make a reasonable use of the Hosting Services, to the exclusion of any illegal or abusive activities, and strictly observe the rules outlined in the Acceptable Use Policy published at <https://delthastar.com/acceptable-use>.

6.2 No Soliciting or Hiring

Except where the other party gives its consent in writing, each party, its affiliates and representatives agree not to solicit or offer employment to any employee of the other party who is involved in performing or using the Services under this Agreement, for the duration of the Agreement and for a period of 12 months from the date of termination or expiration of this Agreement. In case of any breach of the conditions of this section that leads to the termination of said employee toward that end, the breaching party agrees to pay to the other party an amount of EUR (€) 30 000.00 (thirty thousand euros).

6.3 Publicity

Except where notified otherwise in writing, each party grants the other a non-transferable,

non-exclusive, royalty free, worldwide license to reproduce and display the other party's name, logos and trademarks, solely for the purpose of referring to the other party as a customer or supplier, on websites, press releases and other marketing materials.

6.4 Confidentiality

Definition of "Confidential Information":

All information disclosed by a party (the "Disclosing Party") to the other party (the "Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. In particular any information related to the business, affairs, products, developments, trade secrets, know-how, personnel, customers and suppliers of either party should be regarded as confidential.

For all Confidential Information received during the Term of this Agreement, the Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own similar Confidential Information, but not less than reasonable care.

The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure, to the extent permitted by law.

6.5 Data Protection

Definitions

"Personal Data", "Controller", "Processing" take the same meanings as in the Regulation (EU) 2016/679 and the Directive 2002/58/EC, and any regulation or legislation that amends or replaces them (hereafter referred to as "Data Protection Legislation")

Processing of Personal Data

The parties acknowledge that the Customer's database may contain Personal Data, for which the Customer is the Controller. This data will be processed by Delthastar when the Customer instructs so, by using any of the Services that require a database (e.g. the Cloud Hosting Services or the Database Upgrade Service), or if the Customer transfers their database or a part of their database to Delthastar for any reason pertaining to this Agreement.

This processing will be performed in conformance with Data Protection Legislation. In particular, Delthastar commits to:

- (a) only process the Personal Data when and as instructed by the Customer, and for the purpose of performing one of the Services under this Agreement, unless required by law to do so, in which case Delthastar will provide prior notice to the Customer, unless the law forbids it ;
- (b) ensure that all persons within Delthastar authorised to process the Personal Data have committed themselves to confidentiality ;
- (c) implement and maintain appropriate technical and organizational measures to protect the Personal Data against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure ;
- (d) forward promptly to the Customer any Data Protection request that was submitted to Delthastar with regard to the Customer's database ;
- (e) notify the Customer promptly upon becoming aware of and confirming any accidental, unauthorized, or unlawful processing of, disclosure of, or access to the Personal Data ;
- (f) notify the Customer if the processing instructions infringe applicable Data Protection Legislation, in the opinion of Delthastar;
- (g) make available to the Customer all information necessary to demonstrate compliance with the Data Protection Legislation, allow for and contribute reasonably to audits, including inspections, conducted or mandated by the Customer;
- (h) permanently delete all copies of the Customer's database in possession of Delthastar, or return such data, at the Customer's choice, upon termination of this Agreement, subject to the delays specified in Delthastar's [Privacy Policy](#) ;

With regard to points (d) to (f), the Customer agrees to provide Delthastar with accurate contact information at all times, as necessary to notify the Customer's Data Protection responsible.

Subprocessors

The Customer acknowledges and agrees that in order to provide the Services, Delthastar may use third-party service providers (Subprocessors) to process Personal Data. Delthastar commits to only use Subprocessors in compliance with Data Protection Legislation. This use will be covered by a contract between Delthastar and the Subprocessor that provides guarantees to that effect. Delthastar's Privacy Policy, published at <https://delthastar.com/privacy> provides up-to-date information regarding the names and purposes of Subprocessors currently in use by Delthastar for the execution of the Services.

6.6 Termination

In the event that either Party fails to fulfill any of its obligations arising herein, and if such breach has not been remedied within 30 calendar days from the written notice of such breach, this Agreement may be terminated immediately by the non-breaching Party.

Further, Delthastar may terminate the Agreement immediately in the event the Customer fails to pay the applicable fees for the Services within 21 days following the due date specified on the corresponding invoice, and after minimum 3 reminders.

Surviving Provisions:

The sections “[6.4 Confidentiality](#)”, “[7.2 Disclaimers](#)”, “[7.3 Limitation of Liability](#)”, and “[8 General Provisions](#)” will survive any termination or expiration of this Agreement.

7 Warranties, Disclaimers, Liability

7.1 Warranties

Delthastar owns the copyright or an equivalent on main part of the code of the Software, (other parts of the Software are licensed under Odoo Community Edition License)[\[1\]](#) and confirms that all the software libraries required to use the Software are available under a licence compatible with the licence of the Software.

For the duration of this Agreement, Delthastar commits to using commercially reasonable efforts to execute the Services in accordance with the generally accepted industry standards provided that:

- the Customer provides adequate troubleshooting information and any access that Delthastar may need to identify, reproduce and address problems;
- all amounts due to Delthastar have been paid.

The Customer’s sole and exclusive remedy and Delthastar’s only obligation for any breach of this warranty is for Delthastar to resume the execution of the Services at no additional charge.

[\[1\]](#)

See Appendix A [Odoo Community Edition License](#)

7.2 Disclaimers

Except as expressly provided herein, neither party makes any warranty of any kind,

whether express, implied, statutory or otherwise, and each party specifically disclaims all implied warranties, including any implied warranty of merchantability, fitness for a particular purpose or non-infringement, to the maximum extent permitted by applicable law.

Delthastar does not warrant that the Software complies with any local or international law or regulations.

7.3 Limitation of Liability

To the maximum extent permitted by law, the aggregate liability of each party together with its affiliates arising out of or related to this Agreement will not exceed 50% of the total amount paid by the Customer under this Agreement during the 12 months immediately preceding the date of the event giving rise to such claim. Multiple claims shall not enlarge this limitation.

In no event will either party or its affiliates be liable for any indirect, special, exemplary, incidental or consequential damages of any kind, including but not limited to loss of revenue, profits, savings, loss of business or other financial loss, costs of standstill or delay, lost or corrupted data, arising out of or in connection with this Agreement regardless of the form of action, whether in contract, tort or otherwise, even if a party or its affiliates have been advised of the possibility of such damages, or if a party or its affiliates' remedy otherwise fails of its essential purpose.

7.4 Force Majeure

Neither party shall be liable to the other party for the delay in any performance or failure to render any performance under this Agreement when such failure or delay finds its cause in a case of *force majeure*, such as governmental regulations, fire, strike, war, flood, accident, epidemic, embargo, appropriation of plant or product in whole or in part by any government or public authority, or any other cause or causes, whether of like or different nature, beyond the reasonable control of such party as long as such cause or causes exist.

8 General Provisions

8.1 Governing Law

This Agreement and all Customer orders will be subject to Belgian law. Any dispute arising out of or in connection with this Agreement or any Customer order will be subject to the exclusive jurisdiction of the Nivelles Business Court.

8.2 Severability

In case any one or more of the provisions of this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Agreement and any application thereof shall be in no way thereby affected or impaired. Both parties undertake to replace any invalid, illegal or unenforceable provision of this Agreement by a valid provision having the same effects and objectives.

9 Appendix A: Odoo Community Edition License

Odoo Community Edition is licensed under [LGPL version 3](#) (also known as LGPLv3).

See also the [GPL FAQ](#) and the [compatibility matrix](#).

10 Appendix B: Delthastar Software Distribution License

Delthastar Software Distribution is licensed under the Delthastar Software Distribution License v1.0, defined as follows:

Delthastar Software Distribution License v1.0

This software and associated files (the "Software") can only be used (executed, modified, executed after modifications) with a valid Delthastar Subscription for the correct number of users.

With a valid Partnership Agreement with Delthastar Technologies Inc., the above permissions are also granted, as long as the usage is limited to a testing or development environment.

You may develop modules based on the Software and distribute them under the license of your choice, provided that it is compatible with the terms of the Delthastar Software Distribution License (For example: LGPL, MIT, or proprietary licenses similar to this one).

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THE SOFTWARE IS PROVIDED "AS IS", WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON INFRINGEMENT. IN NO EVENT SHALL THE AUTHORS OR COPYRIGHT HOLDERS BE LIABLE FOR ANY CLAIM, DAMAGES OR OTHER LIABILITY, WHETHER IN AN ACTION OF CONTRACT, TORT OR OTHERWISE, ARISING FROM, OUT OF OR IN CONNECTION WITH THE SOFTWARE OR THE USE OR OTHER DEALINGS IN THE SOFTWARE.