

Maintenance and Support Services

Terms and Conditions

Effective Date: November 1, 2021

1. Definitions

- 1.1. **“Business Day”** means Monday through Friday in Customer’s local time zone.
- 1.2. **“Business Hours”** means 9:00 a.m. to 5:00 p.m. on Business Days.
- 1.3. **“Customer Representative”** means the individual employee of Customer that submits an Issue via email or the Support Portal.
- 1.4. **“Issue”** means a failure of the Supported Software to conform to the specifications set forth in the Documentation, resulting in the inability to use, or material restriction in the use of the Supported Software.
- 1.5. **“Maintenance Release”** means a revision of the Software made generally available by Akuity to its end user customers to correct Issues in the Software or to maintain the operation of the Software in accordance with the documentation. Maintenance Releases are denoted by a change to the third decimal place in the version number; e.g., 2.1.1, 2.1.2, 2.1.3, etc.
- 1.6. **“Support Services”** means the maintenance and support services purchased by Customer and described in this Maintenance and Support Services Policy..
- 1.7. **“Supported Software”** means the supported versions of “Akuity Enterprise” software and one or more of its underlying components as defined in the Agreement.
- 1.8. **“Update”** means either a software modification or addition that, when made or added to the Supported Software, corrects the Issue, or a procedure or routine that, when observed in the regular operation of the Supported Software, eliminates the practical adverse effect of the Issue on Customer.
- 1.9. **“Workaround”** means a procedure or routine that, when observed in the regular operation of the Supported Software, eliminates the practical adverse effect of the Issue on Customer.

2. Support Services

- 2.1. **Customer Support Channels.** Akuity shall provide the Support Services through its online Customer Support Portal (“Support Portal”) which enables submission of support requests at the times applicable to the level of support purchased by Customer. Following submission of an Issue, Akuity will communicate with Customer using email, the Support Portal, or video conferencing. During the submission process, Customer may assign a priority level to an Issue, however, Akuity may re-assign the priority level at its sole discretion. Any necessary telephone support discussions will be scheduled in advance at a time mutually agreed by the parties and for durations and at a frequency that is commercially reasonable for Akuity. Support Services will be provided in English.
- 2.2. **Hours of Operation.** Customers may submit support requests via the Support Portal and Akuity will assign resources to address Customer’s support requests during Business Hours in Customer’s Local Time.
- 2.3. **Maximum Number of Monthly Support Issues.** Customer’s number of support contacts and Maximum Monthly Issues is based on Customer’s subscription level as set forth in the table below:

Subscription Level	Number of Support Contacts	Maximum Monthly Issues
Enterprise 24 x 7	5	Unlimited

Mission Critical 24 x 7	Unlimited	Unlimited
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2.4. **Issue Prioritization & Akuity Actions.** Issues will be categorized by priority level in accordance with the following definitions, and Akuity will take the following corresponding actions:

Issue Priority Definitions & Akuity Actions		
Priority Level	Definition	Akuity Actions
1	A Priority One Issue means the (a) production system is severely impacted or completely shut down, or (b) production system operations or mission-critical applications are down.	Akuity will: (a) assign specialists to correct the Issue; (b) provide ongoing communication on the status of an Update or Issue resolution; and (c) simultaneously begin work to provide a temporary Workaround or fix.
2	A Priority Two Issue means (a) the production system is functioning with limited capabilities, (b) the production system is unstable with periodic interruptions, (c) there is an error in an application in development that is in final testing, facing a critical time frame of going into production use or (d) due to an Issue development efforts cannot proceed, for an application in development.	Akuity will: (a) assign specialists to correct the Issue; (b) provide ongoing communication on the status of an Update or Issue resolution; and (c) simultaneously begin work to provide a temporary Workaround or fix.
3	A Priority Three Issue means there (a) are errors with workaround solutions in fully operational production systems, (b) there are errors in non-critical functions, (c) there is a time sensitive concern affecting performance or deliverables, or (iv) a major subsystem under development cannot proceed due to an Issue.	Akuity will use resources available during local Business Hours until the Issue is resolved, or a workaround is in place. For Issues in Third Party Software, Akuity will use reasonable efforts to liaise with the applicable project steward.
4	A Priority Four Issue means there (a) is a need to clarify procedures or information in documentation, (b) there is a request for a product enhancement or new feature, (c) cosmetic or non-functional issues; or (d) Issues in Documentation.	Akuity will triage the request, provide clarification where possible, and may include a resolution in a future Maintenance Release.

Note: Issues with Third Party Software will be classified as Priority Three or Priority Four Errors only.

2.5. **Responses.** A “Response” is an initial reply to a reported Issue. “The Target Initial Response Times” shall be measured by the elapsed time between Akuity’s receipt of a reported Issue and the time Akuity begins to address such Issue by responding and initiating communication with Customer about the Issue. The actual time required to fully resolve the Issue, if full resolution occurs, may be longer than the Target Initial Response Time. Customer understands and agrees that full resolution of an Issue is not guaranteed and may not occur.

Target Initial Response Times		
Issue Priority Level	Enterprise 24 x 7	Mission Critical 24 x 7
1	4 hours	1 hour
2	1 Business Day	4 hours
3	2 Business Days	1 Business Day
4	3 Business Days	2 Business Days

2.6. Updates and Maintenance Releases

- 2.6.1. Akuity will use commercially reasonable efforts to provide an Update or Workaround designed to solve or bypass a reported Issue, in accordance with the tables in sections 2.4 and 2.5 above.
- 2.6.2. If an Issue has been corrected in a Maintenance Release for Customer’s installed version, Customer must install and implement the applicable Maintenance Release. An Update or Workaround may be provided in the form of a temporary fix, procedure or routine, to be used until a Maintenance Release containing an applicable Update is available.
- 2.6.3. Akuity will make Maintenance Releases available to Customer if, as and when Akuity makes any such Maintenance Release generally available to its customers.

2.7. Customer Responsibilities. Akuity’s obligation to provide Support Services is conditioned upon Customer satisfying the following responsibilities:

- 2.7.1. Customer has made reasonable efforts to resolve the Issue before reporting the Issue to Akuity, including having the Issue reviewed by the Customer Representative;
- 2.7.2. Customer has provided Akuity with sufficient information, including any reproducible test cases requested by Akuity;
- 2.7.3. Customer has installed all Maintenance Releases;
- 2.7.4. Customer has procured, installed and properly maintained all equipment, telephone lines, communication interfaces and other hardware necessary to operate the Supported Software;
- 2.7.5. Customer has designated personnel resources to provide necessary diagnostic information until an Update or Workaround is made available;
- 2.7.6. Customer agrees to receive communications via e-mail, telephone, and other formats, regarding the support services (such as communications concerning support coverage, Issues or other technical issues and the availability of new releases of the Software and training options).

2.8. Escalation. If Customer does not receive Akuity’s Response within the applicable Target Initial Response Time, Customer may escalate the Issue per the following escalation process:

Escalation Level	Resolution Owner	Escalation Trigger	Escalation Path
1	Akuity Manager, Customer Operations	Response is not received within the Estimated Initial Response Time	Customer to send email to escalations@akuity.io
2	Akuity Director of Customer Operations	Response is not received within twice the Estimated Initial Response Time	Customer to call +1-510-771-7837

3. Exclusions

Notwithstanding anything to the contrary in this Support Services Policy or the Agreement, Akuity is not obligated to address an Issue when:

- 3.1. the Supported Software has been changed or modified (except if by Akuity or under the direct supervision of Akuity) or damaged;
- 3.2. the Issue is caused by Customer's negligence, a hardware malfunction, the configuration of the platform or data center, network latency or causes beyond the reasonable control of Akuity;
- 3.3. the Issue is caused by any software not licensed or delivered through Akuity;
- 3.4. Customer has not installed and implemented all available Maintenance Release(s) for the Supported Software;
- 3.5. Customer has not paid the Support Services fees when due; or
- 3.6. Customer has already submitted the Maximum Monthly Issues in the then-current calendar month.

4. Changes to Support Services

These Maintenance and Support Services Terms may be updated from time to time in Akuity's sole discretion, provided that any such updates will not materially reduce the level of Support Services during Customer's subscription term.