

MANYDESIGNS Technical Support

Terms of Service

Version 1.0 – February 27, 2013

This Agreement applies to the provision of support (“Support”) to be provided by MANYDESIGNS, whose primary place of business is Via Gabriele D'Annunzio, 2/51 – 16121 Genova (GE) – Italy to the purchaser (“Customer”) of the Support. By purchasing the Support or by contacting Support, the Customer agrees to these Terms of Service.

1. Definitions

“Supported Products”. The Supported Products are Portofino version 4.0.5 or later made available by MANYDESIGNS.

“Supported Platforms”. The list of Supported Platforms is available and kept updated at the following URL:

<http://www.manydesigns.com/en/portofino/docs/reference/installation/supported-platforms>

“Support Incident”. A Support Incident is a specific, discrete problem whose origin can be isolated to a single cause.

"Computing Environment" means either (i) a single physical computer, computer partition, or blade computer or (ii) two or more physical computers, computer partitions, or blade computers that are linked by a network and that operate together on the same workloads as if they were a single physical computer.

“Installation”. An Installation of a Supported Product on one Computing Environment.

“Supported Installation”. An Installation for which Support is provided under this Agreement.

“Support Plan”. A Support Plan is a commercial package of Support. Support Plans are provided in single, multiple or unlimited Support Incident packages and for a limited or unlimited number of Supported Installations. A comparison of Support Plans is provided in Appendix A.

“General Availability Distribution”. A General Availability Distribution is a version of the Supported Products made available by MANYDESIGNS publicly.

“Hot Fix”. A Hot Fix is a version of the Supported Products made available by MANYDESIGNS to Customer in response to a Support Incident.

2. Provision of service

MANYDESIGNS will provide Support to Customer for the Supported Installations of the Supported Products on the Supported Platforms, under a Support Plan, subject to the terms of this Agreement.

Under a Support Plan with a limited number of Support Incidents, each new Support Incident contact made by Customer will decrease the remaining number of eligible Support Incidents.

Under a Support Plan with an limited number of Supported Installations, the Customer must clearly identify and describe the Supported Installations in the order form or before raising the first Support Incident.

3. Resolution of Support Incidents

MANYDESIGNS will make reasonable efforts to resolve a Support Incident but does not guarantee that Support Incidents will be resolved. A Support Incident is resolved when Customer receives one of the following:

- (a) information that resolves the problem;
 - (b) information on how to obtain a software solution that resolves the problem;
 - (c) notice that the problem is caused by a known, unresolved issue with the Supported Product;
 - (d) notice that the problem is caused by a known, unresolved issue with a third-party component or library included in the Supported Product;
 - (e) notice that the problem is caused by an issue or an incompatibility with the Supported Platforms.
- MANYDESIGNS, at its sole discretion, will determine what constitutes a Support Incident and if a Support Incident is resolved.

In the case of (c), MANYDESIGNS will resolve the issue with the Supported Products at no additional cost for Customer, and make the improved Support Products available in the next General Availability Distribution or, if the Support Plan includes the Hot Fix option, in a Hot Fix made available to Customer.

4. Exclusions

MANYDESIGNS will not provide Support relating to problems arising from:

- (a) the use of the Supported Products on platforms other than the Supported Platforms,
- (b) the use of the Supported Products on Installations other than the Supported Installations,
- (c) issues relating to the use of third-party software not included in the Supported Products,
- (d) the use of a modified version of the Supported Products,
- (e) a failure of hardware, equipment, networking or software not covered by this Agreement.

MANYDESIGNS will not perform or provide activities relating to software design, software development or training.

5. Disclaimer of warranty and limitation of liability

The Support is provided on an "as is" and "as available" basis without warranty, express or implied, of any kind or nature, including, but not limited to, any warranties of performance or merchantability or fitness for a particular purpose, including without limitation that MANYDESIGNS does not warranty that the Support will be error-free, complete, or correct. MANYDESIGNS is not liable for any loss or damage, direct or indirect, arising from the use of Support, however caused.

Customer acknowledges that the Support is not intended for use in connection with any high risk or strict liability activity (including, without limitation, air or space travel, power plant operation, or life support or emergency medical operations) and that MANYDESIGNS makes no warranty and shall have no liability in connection with any use of the Support in such situations.

This agreement is without prejudice to the Customer's statutory rights, if any.

6. Remote access

MANYDESIGNS may provide Support via Internet remote access, whereby it will access, and if permitted by Customer, control and gather information on Customer's computer through the installation of remote access software. MANYDESIGNS will only access, control and gather information on Customer's computer that it reasonably believes is necessary to analyze and provide assistance for the Support Incident.

7. Intellectual property

Customer grants MANYDESIGNS the right to use any information provided by Customer to MANYDESIGNS in relation to the use of the Supported Products for the purpose of developing and improving the Supported Products, the Support service, or documentation.

8. Entire agreement

This agreement represents the entire agreement between MANYDESIGNS and the Customer and supersedes all previous agreements or representations whether written or oral. Any changes to this agreement must be approved in writing by both parties.

9. Term and termination

Unless terminated earlier in accordance with this section, the term of this agreement begins on the date MANYDESIGNS accepts a commercial order made by Customer for the provision of Support under this Agreement and will continue for a term of twelve (12) months or until all purchased Supports Incidents are used, whichever occurs first.

This Agreement may be terminated by either party if the other party commits a material breach. Either party will have thirty (30) calendar days following receipt of written notice to remedy any material breaches.

Clauses 5, 7, 8 and 10 shall survive any termination of this Agreement.

10. Applicable law

This agreement is subject to the laws of Italy and the parties irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of Genoa, Italy.

Appendix A: Comparison of Support Plans

	Single incident	5 incidents pack	20 incidents pack	Yearly plan	Yearly plan + SLA
Number of Support Incidents	1	5	20	Unlimited	Unlimited
Method of access	Email	Email	Email	Email	Email
Method of response	Email/phone	Email/phone	Email/phone	Email/phone	Email/phone
Availability of core Portofino engineers	Yes	Yes	Yes	Yes	Yes
Target response time	Next business day	Next business day	Next business day	Next business day	SLA (*)
Business hours response (**)	Yes	Yes	Yes	Yes	Yes
24x7x365 response	No	No	No	No	Yes
Bug fix priority	Yes	Yes	Yes	Yes	Yes
Hot Fixes	No	No	No	No	Yes
Number of Supported Installations	Unlimited	Unlimited	Unlimited	1	1
Support language	English	English	English	English	English
Validity	1 year	1 year	1 year	1 year	1 year

(*) SLAs must be specified in the order form

(**) 9am-5pm Central European Time, Monday to Friday, excluding MANYDESIGNS holidays