

IBExpert Contract Terms for the Maintenance of Software and Support Services

(General Terms and Conditions Maintenance)

I. Scope of application

The following terms and conditions of IBExpert ("IBExpert") for the maintenance of software ("General Terms and Conditions Maintenance") apply to all contractual relations with customers in connection with the provision of software maintenance and support services and are an integral part of the contract unless otherwise agreed in writing in an individual agreement between IBExpert and the customer.

The General Terms and Conditions for Maintenance supplement the IBExpert Standard Business Terms ("General Terms and Conditions") and the IBExpert Contract Terms for the Lease of Software ("General Terms and Conditions for Software Lease"), both of which are an integral part of the contract in addition to the General Terms and Conditions for Maintenance.

II. Subject matter of the contract

2.1 IBExpert shall assume the maintenance of the software programs described in more detail in the order confirmation. Unless otherwise agreed, IBExpert shall perform the following maintenance services for these software programs:

2.1.1 Brief telephone consulting and support for all questions related to operation, installation and other application support via email ("Support").

2.1.2 Supply of the respective program version currently marketed by IBExpert by remote data transfer (Internet download).

2.2 The scope of the aforementioned maintenance services is described in detail below. All other services not indicated below shall not be owed by IBExpert, but must be ordered and paid for separately.

2.3 IBExpert shall endeavor to adapt the software programs to be maintained to changing legal regulations within the framework of IBExpert's operational and economic capabilities and within a reasonable period of time. This shall not apply in the case that such adaptation involves unreasonable work for IBExpert. In such a case IBExpert shall effect the adaptation only in return for appropriate additional remuneration.

III. Support

3.1 IBExpert shall perform electronic brief consulting and support services related to all questions regarding operation, installation, application problems or other cases of difficulties related to program operations of the software programs to be maintained. The brief consulting service is available to the customer by email during IBExpert's normal working hours outside the statutory public holidays of Lower Saxony, Germany, from Monday to Friday from 9:00 am to 5:00 pm.

3.2 Consulting and/or support in accordance with the above clause is any problem-related answer on the part of IBExpert to the description of a software-related problem of the customer in connection with the software programs described in more detail in the order confirmation. The reply to the respective inquiry will be made by email.

IV. Supply of current program versions

4.1 IBEExpert shall provide the customer with all new program versions of the software programs to be maintained via electronic data interchange (Internet download) provided that they are currently marketed by IBEExpert and are available. This shall not apply to extensions of the software programs to be maintained, which IBEExpert offers and markets separately as a new and independent product, and to new developments of the software programs with identical or similar functions on a different technological base.

4.2 The new program versions are transferred, at the discretion of IBEExpert on a data medium or via remote data transmission (Internet download). If IBEExpert transfers the new program version to the customer via remote data transmission, IBEExpert shall endeavor to ensure the availability of the new version on a server for downloading by the customer. The functional scope of the new version is detailed in the documentation provided, and/or on other separate information from IBEExpert.

V. Other services

5.1 At the customer's request, IBEExpert shall perform further services which are connected with the software programs to be maintained, but which are not included in the services described in the previous subsections, in return for an additional remuneration to be agreed upon. This shall apply in particular to the following services if they cannot be provided by the brief telephone consulting and support ("Support"):

5.1.1 individual elimination and analysis of defects in the software programs to be maintained;

5.1.2. local services by IBEExpert at the customer's site, in particular work on the customer's IT system;

5.1.3 services in connection with software programs not covered by this contract;

5.1.4 services that are performed outside IBEExpert's normal working hours at the request of the customer;

5.1.5 services that are necessary due to improper handling of the maintained software and/or breaches of obligations on the part of the customer, such as failure to comply with user manuals, irrespective of whether they are due to the customer, his vicarious agents or other persons not authorized by IBEExpert;

5.1.6 services that become necessary due to force majeure or other circumstances for which IBEExpert is not responsible;

5.1.7 services that are necessary in connection with the installation of a new program version purchased by the customer, especially instruction and training regarding these software programs;

5.1.8 services resulting from altered or new customer requirements. These include in particular advising the customer on the adaptation and creation of application software and/or on general computer-technical issues that are not related to the software programs to be maintained;

5.1.9 updating of earlier customer-specific customizations, settings and extensions that are necessary for their preservation after any change of the version.

5.2 IBEExpert shall not be required to perform services that are not part of the subject matter of this contract, in particular the above-mentioned services. However, IBEExpert shall endeavor within the range of its operational capabilities to support the customer to the extent necessary for reasonable economic use of the software programs being maintained.

VI. Customer's obligations to cooperate

6.1 The customer shall support IBEExpert in every respect in fulfilling the contractual maintenance services free of charge. In particular,

- the customer shall appoint a responsible party in writing during the term of the contract who possesses all decision-making powers and authorizations necessary for the purposes of implementation of this agreement;
- install the new program versions received from IBEExpert according to IBEExpert's instructions;
- keep all data used or obtained in connection with the maintained software programs in machine-readable form as a backup copy, enabling a full reconstruction of lost data at a reasonable expense;
- keep new versions of the operating system, database or other third-party software required for application of the software programs available at the customer's expense to the extent this is necessary for the creation and/or use of a new program version of the software programs to be maintained;
- provide suitable and trained personnel for the installation and startup of new program versions.

6.2 The above-mentioned obligations to cooperate are major contractual duties. In the event of repeated or serious breach of obligations, IBEExpert is entitled to terminate the service contract by giving two weeks' notice to the end of the month.

VII. Payment, billing

7.1 The amount of the payment to be made by the customer for the maintenance services is based on the order confirmation and/or IBEExpert's prevailing current price list. All prices are quoted net, without any deductions and exclusive of the statutory value added tax.

7.2 IBEExpert retains the right to adjust the fee rates for the provision of maintenance services to meet the competitive and business management conditions and requirements. IBEExpert shall be entitled to adjust the maintenance fee by prior written notification. Such adjustment shall be permissible at the earliest 12 months after conclusion of the maintenance contract, and it must not exceed the remuneration of the preceding 12 month-period by more than 10 %.

7.3 If errors occur during the warranty period of a software program transferred and to be maintained by IBEExpert and this error falls under IBEExpert's warranty, the services performed within the framework of this maintenance agreement in connection with the elimination of the error shall not be charged to the customer or be partially reimbursed, in so far as the customer explicitly claims subsequent remedy in accordance on his legal warranty claim.

7.4 Invoicing shall be carried out in one amount upon completion of the maintenance agreement for the remaining term until 31 December of the calendar year and is due for payment immediately. Thereafter further invoicing shall be carried out as of 1st January of each calendar year in one amount and is due for payment immediately.

7.5 Support services offered at actual time expenditure will be charged as prepaid Standard Hotline packages, and are billed on a prepayment basis.

VIII. Defective performance

8.1 As far as IBEExpert is obliged to supply new program versions to the customer, the warranty provisions stipulated in the Terms and Conditions for Software shall apply mutatis mutandis in case of defectiveness of these software programs.

8.2 For the consulting and support services provided within the framework of the "Support", IBEExpert shall be liable for the punctual and proper implementation, but not for economic or other performance success aims of the customer.

8.3 Should IBEExpert provide consulting and support services as part of this support, based on files supplied by the customer, IBEExpert is not liable for the correctness or for the completeness of the data. The customer takes full responsibility for the decision as to whether this data is accurate and complete and

whether its use is appropriate for its intended purposes. This also applies if IBExpert has reorganized or modified such data as part of its technical application support (para. 2.1). IBExpert accepts no liability, either direct or indirect, for damages of any kind arising from the use of this information. Paragraph 7 of the General Conditions of IBExpert (General Terms and Conditions Services) and the corresponding subsequent provisions remain unaffected.

IX. Contractual period, termination

9.1 The duration of the Maintenance Contract shall be until the end of the year following the conclusion of the contract and it shall be extended from year to year for a further year unless notice of termination is given in writing by posted letter three months' prior to the lapse of the initial contract term or of the extended contract term. A transmission of the notice of termination by telecommunication services or electronic means (such as e.g. by email) is not sufficient to comply with the afore-mentioned written form stipulation.

9.2 The right of extraordinary termination for compelling reasons shall not be affected. In particular IBExpert shall have the right of extraordinary termination if the customer is in default of payment of the fee by more than two (2) months.

X. Rights of use

10.1 IBExpert shall grant the customer the rights of use of the new program versions transferred within the framework of this maintenance agreement to the extent that they exist with respect to the software programs with which they are properly used or which are to be replaced by them. The Terms and Conditions for Software Lease shall apply mutatis mutandis.

10.2 The right of use of software programs that are technically replaced by the new program versions shall expire within two weeks after the customer productively utilizes the supplied program versions, but at the latest one calendar month after receipt of the supplied program versions by the customer. The customer has the right to make one copy of the technically replaced software programs in each case for archiving purposes.

XI. Validity of the Standard Business Terms and the General Terms and Conditions Software Lease

The general provisions regarding e.g. the conclusion of the contract, delivery, remuneration and terms of payment, retention of title and reservation of rights, liability, statute of limitation, place of jurisdiction, etc. contained in IBExpert's General Terms and Conditions shall apply mutatis mutandis to contractual relationships within the framework of performance of maintenance services unless these General Terms and Conditions Maintenance contain any diverging provisions. If new program versions are transferred to the customer within the provisions of the maintenance services, IBExpert's Contract Terms for the Lease of Software (General Terms and Conditions Software Lease) shall apply mutatis mutandis.

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