

General Terms and Conditions for Software Maintenance

Preamble

This software maintenance contract contains the regular delivery of software updates and regulates the access to the ImageWare Components support hotline. Without this software maintenance contract there is no entitlement to the services of the software manufacturer or supplier.

§ 1 Scope of Contract

- (1) The following terms apply to all maintenance and lease contracts between ImageWare Components GmbH, henceforth referred to as IWC, and the customer. Even if contradicting general terms and conditions of the customer exist, the terms and conditions of IWC will apply exclusively. No delivery, service or offer is made by IWC to other than their own terms and conditions.
- (2) This contract applies to the maintenance of the above-mentioned products.
- (3) For public clients the VOL/B applies in addition.
- (4) If hardware is delivered with the named products within a system configuration, a separate hardware maintenance contract must be signed.

§ 2 Scope of Service

- (1) Telephone Support
Telephone support is included for the installation of new software, the analysis of operator and system errors and resolution of these.
- (2) Improved and enhanced software
New and/or improved versions of the software will be made available to the customer without delay as soon as they have been tested and released by IWC. New or improved software is made available only by e-mail or FTP. If the customer so wishes, the software can be delivered on CD and will be charged at the prices in the IWC price list valid at the time
Resolution of Errors
 - a) As a rule, IWC will begin with the resolution of errors within 8 hours (reaction time) after receipt of an **exact description of the error**
 - b) If an error is discovered in the delivered software, IWC will inform the customer within 3 working days how long the resolution of the error is expected to take.
 - c) All services for **error resolution** are provided by telephone or e-mail only.

§ 3 Exclusions

- (1) The following are not included in the maintenance:
 - a) Work outside the service times.
 - b) The resolution of problems caused by operator errors, inappropriate handling, attempts by the customer or third parties to perform a repair, or other circumstances outside the influence of IWC.
 - c) Services, e.g. training, installation, configuration of systems or system components, programming, individual customizations, consulting and backup or recovery of data
 - d) Maintenance of modules or modifications not listed in the maintenance certificate.
 - e) Errors caused by the operating system or by wrong configuration of the operating system and/or drivers.
- (2) Further services can be supplied by IWC as the customer wishes. All personnel, traveling and material costs incurred during such services will be charged by IWC at the valid rate at that time.

§ 4 Availability of Maintenance

- (1) Maintenance and telephone support services are available on working days Monday to Friday between 9:00 and 17:00
- (2) If clause §4 No. 1 is extended or restricted by the parties, this must be explicitly noted.

§ 5 Obligations of the Customer and Conditions of Service

- (1) Problems and errors must be reported immediately after their occurrence to IWC on the support form, stating the number of the contract, serial number, version, counter values and an exact description, so that IWC can localize the problem.
- (2) The customer will keep the technical documentation of all connected devices and components at hand, which is needed for the localization of problems.
- (3) The customer will adhere to the manufacturers' installation and operation instructions and use only the accessories, consumables and replacement parts recommended or approved by the corresponding manufacturer.
- (4) The customer is obliged to install all updates of firmware and software made available by IWC, as only the current and the previous version are maintained.
- (5) The obligation to resolve errors applies to the latest released version. It ends for an older version 6 months after release of a newer version. Errors that do not seriously impede the use of a program need only be resolved with the delivery of a future planned release. The obligation to resolve errors is void for programs that the customer modifies or otherwise changes.

§ 6 Commencement, Duration, Cancellation

- (1) The contract is valid for an unlimited period. For lease contracts maintenance is restricted to the duration of the lease.
- (2) The contract can be cancelled by either party with a notice period of 6 weeks, initially to the end of the stated minimum period, thereafter to the end of each further 12-month period.
- (3) If the contract for the purchase or lease of the product that is to be maintained is prematurely cancelled during the period of the maintenance contract, then this maintenance contract is cancelled without notice at the same time. The customer receives a credit for the remaining maintenance costs.
- (4) If the customer defaults on payments, IWC can refuse to perform the services for the remainder of the contract period or cancel the contract without notice.
- (5) IWC can cancel the contract in extraordinary circumstances. These are, for example, breach of the software license and usage agreements, the opening of bankruptcy or insolvency proceedings in or out of court.

§ 7 Payment

- (1) Payment is due and will be billed for each contract period in advance. The prices are exclusive of VAT. The payment conditions are within 10 days net. Further services, or services not covered, will be billed separately according to the IWC services price list valid at the time.
- (2) If payment is delayed, the customer will pay interest at the rate of 1% per started month. IWC reserves the right to claim further damages.

§ 8 Non-Disclosure

- (1) Both parties agree to keep all knowledge of company secrets and confidential information obtained during the contractual relationship in confidence for an indefinite period of time.
- (2) The customer consents to the data needed for the execution of the contract being stored, processed and archived electronically.

§ 9 Authentication

If the technical support is accessed by telephone, IWC reserves the right to ask for the maintenance contract number in order to confirm the identity and authorization of the caller. Support requests by fax or e-mail must contain the contract number. If the customer cannot authenticate himself, IWC can refuse to provide service until authentication takes place.

§ 10 Liability

- (1) Claims must be issued to IWC without delay. IWC will provide improvements to meet justified claims.
- (2) In all circumstances, the customer himself is responsible for the update and backup of his data and systems. When maintenance activities are performed by IWC or new software is made available, it is assumed that current backups of the data and systems exist. This also applies to data and system data that are not local but kept in a network.
- (3) IWC is only liable for damages of any kind resulting from this contract up to a maximum of one year's fees. IWC is only liable for intentional or grossly negligent acts.
- (4) IWC is not liable for loss of profit, hindrance of savings, direct damage and/or consequential damages.

§ 11 Type of Contract, Transferability, Written Agreements

- (1) This maintenance contract is a fixed price contract in the sense of §631 BGB (German civil law). Unless otherwise specified, this law applies.
- (2) IWC can transfer the rights and obligations of this contract singly or permanently to a qualified third party.
- (3) The customer may only transfer his rights and obligations from this contract to third parties with the prior agreement of IWC.
- (4) There are no subsidiary agreements to this contract. Changes or additions must be made in writing to become legally binding. This applies especially to the waiver of the requirement of the written form.

§ 12 Final Clauses

- (1) If individual clauses of these terms and conditions become invalid, this does not invalidate the entire contract.
- (2) In the event of one of the above terms becoming invalid, this will not affect the validity of the remaining terms. In this case, the invalid term will be replaced by a different, legally valid term with the same meaning.
- (3) This contract is made according to the laws of the Federal Republic of Germany.
- (4) The exclusive place of jurisdiction for any legal disputes between IWC and their customers is the location of IWC.