

Software Maintenance Agreement

1. Subject of the Contract

1.1 Content and Scope

Under this Agreement the Supplier will provide the services described to maintain the licensed materials as specified in License Mail under the usage and operating conditions set out therein.

1.2 Subcontractor

The Supplier is entitled to use subcontractors to fulfill his obligations under this Agreement. The Supplier shall be liable for the acts and omissions of the subcontractors in accordance with Section 7.4.

2. Type and Scope of Services

2.1 Maintained Software Versions

Unless otherwise agreed, the Services shall refer to the latest and the previous version of the Software used by the Customer in accordance with usage and operating conditions described in below.

2.2 Service Categories and Hours

In this Section is specified which Services are to be provided under an agreed fixed price and/or against reimbursement on a time and material basis.

The Services shall be provided during the Service Hours. "Service Hours" shall mean the periods of time during which the Supplier is accepting incident reports and is performing Services.

<input type="checkbox"/>	Phone information service (hotline) for application problems
<input type="checkbox"/>	Supplying generally available patches or workarounds for the correction of reproducible software errors reported and documented by the Customer (e.g. patches)
<input type="checkbox"/>	Supplying generally available technical updates, improvements and bug-fix versions of the software under maintenance
<input type="checkbox"/>	Developing patches or workarounds to correct software problems, including updating of the corresponding documentation
<input type="checkbox"/>	Supplying new versions (releases) of the software with new or extended functions, features or capabilities

2.3 Response Time

In the event of problems that significantly impair the Customer's business, provision of software maintenance services during the agreed availability period will commence within four hours after receipt of the trouble report. On request of the Customer and subject to the

applicable rates for overtime, evening work and Sunday work, the staff of the Supplier may extend the performance of software maintenance services begun during the availability period outside normal working hours.

In all other cases the response time is one working day.

2.4 Service Hours

Service Hours are dependent upon the level of Support Services the customer has purchased.

The Service Hours for standard support consists of normal working days at the place of business of DataGovernance Technologies, Monday to Friday from 8 a.m. to 5 p.m.

For Enterprise Support customers the service hours are 24 hours a day and 7 days a week.

3. Customer Cooperation

3.1 Extent of the Customer's Cooperation

The Customer shall establish the organizational and technical requirements for the Supplier to be able to deliver the Services. These shall namely include:

- a) granting access to the IT system and ensuring the availability of experts, workspaces and work equipment as required. Any remote access shall be set out in individually depending incidents and service expert;
- b) installation and operation of the communication connections Teamviewer or Webex;
- c) compliance with the conditions set out in technical prerequisites as written online and the software documentation regarding use and operation of the Software;
- d) documentation of emergency situations and error reports in accordance with the support manual as documented online;
- e) supporting the Supplier in analyzing the causes and conditions of a defect as well as in testing patches to a suitable and reasonable extent;
- f) implementation of patches and workarounds;
- g) backup of the Software and data;
- h) further obligations specified in support manual

3.2 Failure to Cooperate

If the Customer fails to establish the requirements pursuant to Section 3.1 for reasons attributable to the Customer, the Supplier shall be released from its obligations under this Agreement until the requirements have been established and shall be entitled to invoice to



the Customer any additional efforts on a time and material basis.

3.3 *Reporting Process*

As specified in support manual.

3.4 *Third Party Software*

The parties warrant that they are authorized to use and modify the software of third party right holders; the Customer namely warrants to be authorized to entrust the Supplier with providing the maintenance services for such software and that the Supplier will not infringe any third party rights by providing the Services.

4. Remuneration/Invoicing

4.1 *Remuneration, Pricing Changes and Invoicing*

The remuneration for maintaining the software, the conditions for changes to its pricing and the details on invoicing shall be set out in contract or customer offer.

4.2 *Expenses, Additional Costs, Taxes and Duties*

The Supplier shall be entitled to separately invoice any costs and expenses incurred in connection with the performance of the Agreement (e.g. travel and accommodation costs of its personnel, data communication costs) as well as the taxes, duties and fees, particularly VAT, imposed as a result of signing and performing the Agreement.

4.3 *Time and Material Services*

The software maintenance services not included in the fixed price fee will be billed to the Customer on a time and material basis according to the currently applicable rates and conditions of the Supplier.

4.4 *Pricing Adjustments*

The fixed price fees and the rates for time and material services may be adjusted by the Supplier once per calendar year, subject to a term of notice of at least three months.

4.5 *Invoicing*

The maintenance services are invoiced annually in advance.

4.6 *Payment Terms*

All invoices shall be paid strictly net by the Customer within payment terms indicated on the invoice to the account specified by the Supplier.

Invoices which are not challenged in writing within the payment period shall be deemed approved.

Upon expiration of the payment period, the Supplier shall be entitled, without prior reminder, to charge interest on all outstanding payments at the statutory default interest rate. In addition, the Supplier shall be entitled to

discontinue the Services until the Customer has settled the outstanding amount.

4.7 *Offsetting of Claims*

Claims may only be offset by a contracting party with claims which have been acknowledged in writing by the other party or which have been finally awarded by a court.

5. Intellectual property rights

The intellectual property rights to the services provided under this Agreement shall belong to the Supplier; the Customer shall be entitled to use them in accordance with the conditions of the respective license agreement.

6. Warranty

6.1 *General*

The Supplier shall provide the Services by properly qualified specialized personnel subject to the standard of care customary for its business operation with the aim of maintaining the Software in a suitable condition for the intended use in accordance with the usage and operational conditions set out in prerequisites and product documentation both available online and of fixing the Software errors as quickly as possible.

6.2 *Special Provisions*

The license notification may include additional provisions regarding compliance with specific availability of the Software, specific response and reaction times to reported defects, an escalation procedure or other special measures necessary to maintain or restore operability, etc.

6.3 *Exclusion*

The Supplier cannot warrant that the license material can be used without interruptions and errors in all of the Customer's intended combinations with all data, IT systems and other programs, or that the Services will prevent other defects from emerging.

The following items are NOT supported:

- Operating systems and third-party applications
- Alterations or revisions to the Software made by the customer or third parties
- Use of the Software in a manner other than as authorized in the applicable license agreement
- Continued support for issues which Data-Governance Technologies has provided corrections not implemented by the customer
- Free software products and tools
- Any migration services
- Issues of performance when the environment does not meet prerequisites as



provided to Customer, or as set forth online.

7. Liability

7.1 Extent

The liability of the Supplier for direct damages incurred by the Customer resulting from or in connection with the fulfillment of this Agreement, irrespective of its legal basis (such as default, non or incorrect performance, breach of duty, warranty), shall be excluded.

7.2 Prevented Performance

The Supplier shall not be held liable if it is prevented from performing the Services in a timely and appropriate manner due to reasons beyond its control. The deadlines for performing such Services shall be extended based on the duration of the impact of the circumstances that are beyond Supplier's control.

7.3 Exclusion

Any liability or responsibility of the Supplier arising out of or in connection with the incorrect or delayed cooperation of the Customer, for data loss and for indirect or consequential damages, such as loss of profits, non-realized savings, additional expenses of the Customer or third party claims, shall be excluded.

7.4 Liability for Agents

The Supplier shall be liable for the actions and omissions of its agents as it is liable for its own actions and omissions.

7.5 Additional Liability

Any further liability provided by mandatory law shall remain reserved at all times.

8. Commencement, Term and Termination

8.1 Commencement

This Agreement shall become effective on the date specified in license notification email.

8.2 Term

Unless otherwise agreed in purchase order and confirmation, this Agreement shall remain in force for an initial term of one year.

8.3 Ordinary Termination

The Supplier may terminate this Agreement after expiration of the initial term and each further fixed term by giving six months' notice. The Customer may exercise a corresponding termination right by giving six months' notice.

8.4 Extraordinary Termination

Each contracting party shall have the right to terminate this Agreement with immediate effect if the other party is in material breach of material provisions of the Agreement or continues to breach such provisions despite having received a written warning sent by reg-

istered mail and providing a reasonable grace period. In the event of the Customer defaulting on payment, the Supplier may terminate this Agreement or the corresponding maintenance annex by registered mail only after having granted a reasonable final deadline to settle the outstanding amount while threatening to enforce such right to rescind.

9. Miscellaneous

9.1 Confidentiality

Both contracting parties shall, both in respect of themselves and their agents, mutually protect the confidentiality of all non-public documents and information regarding the business of the other contracting party which becomes available to them through the preparation and implementation of this Agreement, including the content of the maintenance annex. This obligation shall apply as long as a legitimate interest exists in this respect, even after termination of the contractual relationship.

9.2 Data Protection

The contracting parties acknowledge that the conclusion and performance of this Agreement may lead to personal data of the contracting parties, their employees, subcontractors etc. being processed. They hereby agree that such data can be used for the management of their business relations and can be disclosed for such purpose to third parties, such as – without limitation - manufacturers, subcontractors, intellectual property rights holders, in Switzerland or abroad. In such cases, the contracting party disclosing the data shall ensure that data protection is guaranteed by taking appropriate organizational, technical and contractual precautions.

9.3 Export Control

The contracting parties are aware that the export of IT resources (in particular hardware and software, but also related know-how) from Switzerland may be subject to export control and the parties shall comply with the respective provisions.

9.4 Force Majeure

The parties shall be released from their obligations to perform under this Agreement for as long and insofar as the non-fulfillment of obligations is the result of the occurrence of a force majeure event. Force majeure events shall include e.g. war, strikes, unrest, expropriation, storms, floods and other natural disasters as well as other circumstances not attributable to the parties. Each contracting party shall inform the other contracting party immediately and in writing about the occurrence of a force majeure event.

10. Final provisions

10.1 Entire Agreement

This Agreement shall govern the relationship between the contracting parties in relation to the subject matter of the Agreement in its entirety and shall replace any negotiations and correspondence made prior to the conclusion of the Agreement. In case of discrepancies, the most recent validly agreed provisions of the annexes shall take precedence over these provisions contained herein.

10.2 Form

This Agreement and any amendments and supplements shall be made in writing in order to be valid. This formal requirement may only be waived by written agreement.

10.3 Notices

Any notices required to exercise rights and obligations under this Agreement shall be issued in writing, transmitted by letter or fax/email with subsequent confirmation letter, to the address of the contracting party specified on the front page of the Agreement.

10.4 Severability

If individual provisions or parts of this Agreement prove to be void or ineffective, the validity of the remaining parts of the Agreement shall not be affected. In such a case, the contracting parties shall amend the Agreement in such way that the purpose of the void or ineffective part is achieved as best as possible.

10.5 Assignment and Transfer

This Agreement may only be assigned or transferred to third parties with prior written consent of the other contracting party, such consent only to be refused for good cause.

10.6 Copies of the Agreement

This Agreement and all maintenance annexes shall be issued in two copies and each contracting party shall receive one copy.

10.7 Applicable Law

This Agreement shall be governed by Swiss law, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods dated 11 April, 1980.

10.8 Dispute Resolution

Both contracting parties shall attempt in good faith to reach an amicable solution to any disputes relating to this Agreement.

10.9 Place of Jurisdiction

If the contracting parties fail to resolve differences amicably despite respective efforts, the competent court at the domicile of the Supplier shall have exclusive jurisdiction over any disputes arising from or in connection with this Agreement. The Supplier however reserves its right to bring an action against the Customer at the Customer's domicile.