

Agreement Terms – Software Service

For the contractually listed products, a Service and Support Agreement is concluded in accordance with the following terms and conditions. These constitute the basis and content of the Service and Support Agreement.

§1 Object of the Agreement

The object of this Agreement is the service for software products and the technical program support for the user described in §2.

The Agreement defines the numbers, licence numbers and descriptions of the individual software products, and the remuneration to be paid in accordance with §3, No. 1, hereinafter referred to as fixed rates. The appendices form an integral part of this Agreement.

In cases of system expansions, additional software licences will be included in the Agreement by addenda.

§2 Services

The services will generally be provided with priority during the normal working hours of SIGMA (currently Monday to Friday, 8.00am to 5.00pm).

In special cases, service and support can also be arranged outside of normal working hours.

1. Obligations under the Agreement

- Remediation of reproducible errors in the software being maintained and the documentation provided.
- Provision of adaptations to statutory changes and laws, etc., on data-storage media or remotely, which can have an influence on the agreed purpose of the software to be maintained. These adaptations will be made within the framework of our programme technology possibilities and within a reasonable time frame after notification by the manufacturer.

2. Services charged separately:

- On-call service outside of the normal working hours of SIGMA at the request of the client.
- Remediation of disruptions for which SIGMA is not responsible and that have not been caused by the functionality of the software products themselves. This includes in particular disruptions and damage caused by force majeure, actions of third parties and operating errors.
- Expenses for travel of SIGMA support staff to the client.
- Installation of software updates

3. Exclusion from services

- SIGMA does not provide any services under the following circumstances:
- Problems that occur because the client has made changes to the software
 - Problems resulting from independent installation, insufficient training, improper operating equipment, operating errors or defective hardware
 - SIGMA provides no legal or tax advice on the need for software changes.

§3 Remuneration

1. The services in accordance with §2 No. 2 that are not covered by the fixed rate will be charged at the respective SIGMA list prices applicable at the time of the service.
2. The basic fixed rate will be charged in advance for one calendar year and is payable at the beginning of the calculation period. All other amounts are payable immediately upon receipt of the invoice. For service and support agreements based on the "Terms and Conditions – Software Service", the following applies:

The contractor will invoice the service remuneration each year on the first of the calendar year, and the remuneration for other services upon provision of the services. All payments are to be paid in net with no deductions. Objections to invoices must be raised in writing within 14 days from the date of the invoice. Unless otherwise agreed, all prices are exclusive of VAT at the respective statutory rate. The same applies for new taxes with the exception of those on assets or income.

3. SIGMA reserves the right to change the fixed rates if the cost factors influencing the fixed rates change.

§4 Obligations of the client

1. The client undertakes to use and back up the programmes properly. The accessories used (e.g., data-storage media) must fulfil the corresponding quality requirements.
2. The client is obliged to implement a remote-support platform for the provision of services by SIGMA.
3. The client guarantees a hardware, database, operating-system version and Internet connection for remote support by SIGMA in accordance with the technical standards, and a valid licence for the use of browser software.

§5 Duration of the Agreement

1. This Agreement shall apply for the current calendar year at the time of signing and the following entire calendar year, and will be extended in each case by a further calendar year unless terminated by a registered letter from one of the two parties 6 months before expiry.
2. The parties can only terminate maintenance services for complete installations. Partial termination is not permissible. Further software licences acquired must be added to the maintenance services by an addendum.
3. In the event of a breach of essential provisions of the Agreement by one of the two partners to the agreement, the other partner to the agreement can demand, by means of registered letter, fulfilment of the agreement within an appropriate grace period with the warning of a penalty for failure to perform. If the request remains unsuccessful, the Agreement may be terminated after the expiry of the grace period with no observance of an additional deadline, provided that warning of this was given in the aforementioned letter.

§6 Guarantee

1. It is guaranteed that the software that is the object of this Agreement and its potential uses shall be maintained. In principle, the licensee can initially only demand a repair under the guarantee.

If the repair is not carried out within a reasonable period, or if it is unsuccessful and the client has set SIGMA a deadline to rectify the deficiency with a warning of a penalty for failure to perform, the client may terminate the Agreement or demand a reduction of the remuneration until the deficiency is rectified.

2. All further claims of the client are excluded, in particular liability for consequential damages. The client shall indemnify SIGMA against claims of third parties that exceed the scope of liability under this Agreement.

3. The client must inform SIGMA of any damage or defects immediately upon becoming aware of them, and do everything reasonable on its part to mitigate the damage to the extent possible.
4. The guarantee shall become void if the client modifies or extends the software products without consent from SIGMA, or if there are interventions by staff not authorised by SIGMA.

§ 7 General

1. The client agrees that, in the context of the business relationship, SIGMA may store and process personal data within the meaning of data-protection legislation, to the extent that this is appropriate within the framework of the execution of this Agreement.
2. Rights arising from this Agreement may not be transferred without the written consent of SIGMA. The rights and obligations of SIGMA arising from this Agreement may be transferred to others. In such cases, SIGMA guarantees the client the proper fulfilment of all obligations under this Agreement.
3. Claims on the part of SIGMA may only be offset with counterclaims that are legally established and undisputed.
4. The sole place of jurisdiction is Chemnitz.
5. Future agreements are only binding in writing, in the form of an addendum to this Agreement. If one or more provisions of this Agreement is unenforceable, this shall not affect the validity of the remaining provisions of the agreement. An unenforceable provision must be replaced by an enforceable provision that approximates as closely as possible the commercial purpose of the unenforceable provision.