

IT2018 EOY – SPECIAL TERMS AND CONDITIONS FOR SOFTWARE MAINTENANCE

1 SCOPE OF APPLICATION

- 1.1 These special terms and conditions shall apply to software maintenance services.
- 1.2 In addition to these special terms and conditions, the IT2018 YSE general terms and conditions shall apply. In case of discrepancy between these special terms and conditions and the IT2018 YSE general terms and conditions, these special terms and conditions shall take precedence.

2 DEFINITIONS

- 2.1 **New version of software** means software enhanced with new functional features.
- 2.2 **Software maintenance release** means an update of a software version made for use by several customers and which contains corrections of commonly known errors. A software maintenance release may also contain new functional features.
- 2.3 The software contains an error if it does not substantially operate as described in the specifications, or if it does not otherwise correspond to what the parties have agreed in writing.

3 GENERAL RESPONSIBILITIES OF THE SUPPLIER

- 3.1 The supplier undertakes to (a) have the maintenance service performed by personnel acquainted with the software; and (b) perform the maintenance service in conformity with the agreement within the agreed time schedule and with due care and the professional skills required for the maintenance service.
- 3.2 The maintenance service shall be performed using the supplier's working methods.
- 3.3 The supplier shall duly document the measures performed in connection with the maintenance service and, at the customer's request, specify the measures performed.
- 3.4 If it is agreed in writing that the maintenance service shall be wholly or partly performed as remote support, the supplier shall for its own part and at its own expense maintain the data communication connection, equipment, software and data security required for the remote support.
- 3.5 The supplier shall inform the customer in writing of the supplier's contact person and other contact details for the purpose of the customer's contact requests relating to the maintenance services and any changes thereto.

4 GENERAL RESPONSIBILITIES OF THE CUSTOMER

- 4.1** The customer shall ensure that the persons performing the maintenance service have access to the customer's equipment and software in accordance with the agreed instructions and provisions in order to perform the maintenance service. The customer shall at the supplier's request provide to the supplier the instructions and other documentation that are in the possession of the customer and applicable to the software for the performance of the maintenance service.
- 4.2** The customer shall at the supplier's request provide the supplier free of charge with the working space, media and other supplies and information related to the use of the equipment and software which the supplier reasonably requires for the maintenance service.
- 4.3** In connection with the error report, the customer must describe, and in connection with the performance of the maintenance service upon request demonstrate or describe, how the error occurs. The customer's representative shall at the supplier's request be available during the performance of the maintenance service.
- 4.4** If it is agreed in writing that the maintenance service shall be wholly or partly performed as remote support, the customer shall for its part and at its own expense maintain the data communications connection, equipment, software and data security required for the remote support.
- 4.5** Unless otherwise agreed in writing, the customer shall be responsible for the installation of the software maintenance releases and new versions of software to the operating environment of the customer.
- 4.6** The supplier shall be contacted in all matters related to the maintenance service by the customer's contact person specified in the agreement or appointed otherwise in writing.

5 SUBJECT TO THE MAINTENANCE AND INTELLECTUAL PROPERTY RIGHTS

- 5.1** The parties shall define the subject of the maintenance in writing. The subject of the maintenance shall be referred to as the software in these special terms and conditions.
- 5.2** Unless otherwise agreed in writing, the copyright to the new versions of software, software maintenance releases and other changes to the software shall be the property of the party to whom copyright to the software belongs and the usage licence shall be determined in accordance with the original licence terms agreed between the parties for the software in question.

6 CONTENTS OF MAINTENANCE SERVICE AND SERVICE LEVELS

- 6.1** The parties shall agree in writing the content and service level of the maintenance service and possible consequences of any deviation from the service level. If the content and service level of the maintenance service have not been agreed, the supplier's maintenance terms and conditions from time to time in force take priority and the manufacturer's maintenance terms and conditions then in force are applied secondarily.
- 6.2** The correction of a software error may also be done by providing a workaround or by providing the customer with written instructions on how to bypass the error, if this can be done without causing additional costs and substantial inconvenience to the customer, or by providing the customer with a software maintenance release in which the error is corrected or bypassed.

- 6.3** The software maintenance provided against a recurring charge does not cover software changes or repair of an error caused by (a) use contrary to the agreement or the written instructions given by the supplier, (b) a non-supplier product or (c) a change or correction made by the customer or a third party.
- 6.4** If it is established that the correction of error reported by the customer is not covered by the recurring charge, the supplier shall be entitled to charge for diagnosis and location of the error in accordance with the agreed pricing principles. In addition, the supplier shall be entitled to charge the customer for such agreed corrections of errors as are not covered by the recurring charge.
- 6.5** If the supplier provides the customer with a software change, it shall at the same time deliver to the customer the corresponding changes to the documentation related to such software.

7 VALIDITY AND TERMINATION

- 7.1** The agreement on maintenance service contracted for a fixed period shall expire without separate notice upon expiration of the time period.
- 7.2** Unless otherwise agreed in writing, the agreement on maintenance service contracted until further notice may be terminated by the customer by giving 3 months' written notice, and by the supplier by giving 6 months' written notice. The period of notice shall be calculated from the last day of the month during which the notice of termination was given.
- 7.3** If the customer has acquired the licence to use the software from the supplier, the agreement on maintenance service shall, however, expire without separate notice at the latest on the same date as the licence expires.
- 7.4** If the customer has paid the maintenance fee for a certain period of time in advance and the agreement terminates prematurely for a reason not attributable to the customer, the customer shall be entitled to receive by way of refund the portion of the advance payment which corresponds to the time period not realised.

8 TERMINATION ASSISTANCE UPON TERMINATION OF THE AGREEMENT

- 8.1** On expiration or termination of the agreement, the supplier shall reasonably contribute in the transition of the maintenance service to another supplier. Unless otherwise agreed in writing, the obligation to contribute ends after 3 months from the expiration or termination of the agreement. The agreed pricing principles shall apply to services relating to the supplier's obligation to contribute to the transfer.
- 8.2** The obligation to contribute to the transfer mentioned in section 8.1 shall not apply if the agreement is terminated due to a material breach by the customer. The supplier shall, however, also have the obligation to contribute to the transfer mentioned in section 8.1 in a situation referred above in this section 8.2, if the customer settles all amounts due to the supplier and provides an acceptable guarantee for further payments under the agreement.