

General Terms and Conditions for the Maintenance of Software of Axivion GmbH

as of July 2016

1. Object and Scope of Maintenance

- 1.1 The object of the maintenance services is the software supplied to the customer on the basis of the *General Terms and Conditions for Deliveries and Services* (GTC) of Axivion GmbH ("Axivion"). The exact designation of the supplied software in respect of which maintenance services according to these *General Terms and Conditions for the Maintenance of Software* (GMT) are provided ("Software") is stated in the confirmation of the order by Axivion. With respect to the right to use the Software the *General Terms and Conditions for Software Licenses* (GLT) of Axivion apply.
- 1.2 Maintenance of the Software by Axivion includes the following services:
- Support service (see no. 2, below);
 - Update service (see no. 3, below).
- 1.3 Axivion shall not provide maintenance services for third-party components or modules ("Third-party Software") provided with the Software free of charge, in particular Open Source Software that can be used in connection with the Software provided by Axivion.
- 1.4 These GMT shall also apply to later versions of the Software supplied to the customer by Axivion in the context of the update services according to no. 3.1 below, unless otherwise agreed on the occasion of the supply of the respective later version. After a new version has been released, the maintenance services for the respective previous version will be continued for a period of six months.

2. Support Service

- 2.1 The Axivion Support Service will be available to the customer for purposes of recording notifications of failures. The Support Service can be reached during service hours on working days (Monday through Friday, not including statutory holidays at the seat of Axivion) from 9:00 a.m. through 6:00 p.m., by e-mail at support@axivion.com.
- 2.2 Following notification by the customer to the Support Service, failures occurring during the normal use of the Software will be handled by Axivion's support service. A failure is

deemed to exist if the Software does not fulfill the functions indicated in the program description, if it furnishes results deviating from the description in the program description, interrupts its run in an uncontrolled manner, or otherwise fails to work according to its agreed functions so that the normal use of the Software is significantly impaired.

- 2.3 Axivion undertakes in the context of the Support Service to narrow down the cause of the failure, analyze the failure, and remove it or, to the extent that a removal is not possible with a reasonable expenditure of money and/or time, to maintain the operation of the Software by pointing out a bypass solution.
- 2.4 Measures of the support service will be carried out during the service hours stated in no. 2.1 above. Measures outside these hours will only be taken on the basis of a separate agreement in the individual case, subject to payment of separate remuneration.
- 2.5 In the context of its Support Service and within the service hours stipulated in no. 2.1, Axivion offers a response time of 24 hours; this response time is counted from the point in time of the receipt of the detailed notification of the failure according to no. 5.1 below by the hotline service. Response time shall mean the time it takes for a qualified staff member of Axivion's Support Service Center to actively attend to the reported failure and initiate the handling of the failure either by telephone, e-mail, or remote access or, at Axivion's choice, by carrying out support services on the customer's premises.

3. Update Service

- 3.1 In the context of the Update Service, Axivion will supply the customer with new program versions of the Software as well as the pertinent program documentation via on-line download or, at Axivion's choice, on machine-readable data storage media in object code format for installation by the customer.
- 3.2 The Update Service, in addition to extensions of the Software with improved functions (Updates) also includes new features and modules offered by Axivion as standard for the product concerned (Upgrades). New Software products offered by Axivion under a different product name are not included as part of the Update Service. Licenses for the use of such new Software products can be purchased by the customer from Axivion against of the corresponding payment fees.
- 3.3 With regard to the right to use the new program versions of the Software supplied to the customer in the context of the Update Service, the GLT of Axivion shall apply. Axivion's warranty and liability obligations in respect of the new program versions shall be governed by the GTC of Axivion.

4. Delimitation: Services not Included

4.1 An obligation on the part of Axivion to provide maintenance services according to these GMT does not exist:

- outside the service hours for support services stipulated in no. 2.1 above;
- if the Software is used contrary to the provisions of the GLT of Axivion;
- To the extent the Software is modified by the customer or a third party, e.g. scripts created or amended by the customer;
- with regard to failures of the Software that have been caused by faulty application on the part of the customer and that could have been prevented in the event of careful consultation of the program documentation;
- for failures of the Software due to virus infestation or other external influences for which Axivion is not responsible;
- for failures of the Software that are due to defects of the hardware, the operating system, or other computer programs of the customer;
- for the reconstruction of sets of data that the customer has not sufficiently secured against loss, contrary to the provisions of no. 5.4 below.

4.2 Furthermore, the scope of maintenance does not include the installation of the Software and of new program versions supplied in the context of the update service according to no. 3.1 above on the customer's system, the performance of release changes, the programming of required adjustments, if any, as well as the training of staff members of the customer and a general user support on questions arising in connection with the normal use of the program, especially questions concerning the operation and possible applications of the Software. Such services will be rendered by Axivion upon request by the customer subject to separate remuneration on the basis of the GTC of Axivion.

4.3 Additional expenses incurred by Axivion within the framework of the provision of the maintenance services, such as work carried out on-site by Axivion employees that result from the fact that the maintenance services cannot be performed at the originally agreed installation site of the Software shall be borne by the customer.

5. Cooperation Duties of the Customer

5.1 In the context of the notification of the Support Service of failures, the customer shall furnish Axivion with all available failure reports, system logs, log files, interim and test results, as well as any other documentation and information necessary for analyzing and handling the failure. The failure must be described such that it can be reproduced.

If Axivion carries out an analysis of a failure at the customer's request and the analysis shows that there is no failure that Axivion is obligated to remove under these GMT, Axivion may invoice the customer for the corresponding expenditure on the basis of the hourly rates of Axivion as applicable from time to time.

- 5.2 For the provision of the maintenance services, especially in the context of the support service, the customer shall grant Axivion and its staff members free access to the Software as well as to the hardware and operating system of the customer upon which these are installed. Furthermore, the customer shall be obligated to provide Axivion with a suitable infrastructure for remote access to the Software in the event of a failure.
- 5.3 The employees of the customer authorized to use the Software (see no. 2.1 of the GLT of Axivion) are entitled to contact the Support Service of Axivion directly. Additionally, the customer shall name one staff member working at the place of installation of the Software as the principal contact person who will make all decisions in connection with the performance of the maintenance services or will ensure that such decisions are made without undue delay.
- 5.4 The customer shall be obligated to carry out data backups at regular intervals in accordance with the special requirements stipulated by Axivion in the applicable product documentation. In the absence of such special requirements, data backups must be made according to the generally acknowledged principles of secure data processing.

6. Remuneration

- 6.1 The remuneration for the maintenance services to be rendered according to these GMT shall be as stated in Axivion's offer or order confirmation. Unless otherwise agreed, the maintenance fees will be charged as from the date of the provision of the Software to the customer.
- 6.2 If the customer is granted a license for the Software on a permanent basis (see no. 3.3 of the GLT of Axivion) the maintenance fees for the first contract year are included in the one-time license fee payable upon supply of the Software, so that no separate invoice for the maintenance fees will be issued for the first year. After this period running maintenance fees for the maintenance of the Software must be paid annually in advance which will be invoiced 30 days in advance of the beginning of a new contract year. Timely payment of the maintenance fees is a prerequisite for the performance of maintenance services in the respective contract year.
- 6.3 To the extent that the maintenance services are performed in connection with a Software license that has been granted for a definite period of time (see no. 3.4 of the GLT of Axivion), the maintenance fees are included in the running license fees so that no separate invoice for the maintenance fees will be issued. The timely payment of the

license fees is the prerequisite for the provision of the maintenance services in the period concerned.

- 6.4 In the event of extensions of use through the acquisition of further licenses during the term of the Maintenance Agreement, the maintenance fees will increase proportionately. The increased maintenance fees shall be payable from the point in time of commencement of use of the additional licenses.
- 6.5 As regards permanent Software licenses (see no. 6.2 above) Axivion shall be entitled to reasonably adjust the fees for the maintenance services to be provided according to these GMT subject to three months' prior notice with effect as of the beginning of a new contract year in order to compensate increases in wage costs and other costs. If the increase – as the case may be, together with an automatic yearly increase of the fees as stated in the confirmation of the order by Axivion in total exceeds 3 % of the maintenance fee paid in the last contract year, the customer shall be entitled to terminate the Maintenance Agreement, in writing, subject to one month's notice with effect as of the beginning of the new contract year. Axivion shall notify the customer of this consequence in the notification of the increased maintenance fee.
- 6.6 With regard to the billing and payment of the maintenance fees, the provisions of the GTC of Axivion apply additionally.

7. Term, Termination

- 7.1 The obligation of Axivion to provide the maintenance services under this Maintenance Agreement shall commence with the provision of the Software to the customer and the first payment of the license and maintenance fee by the customer.
- 7.2 If the customer is granted a license for the Software on a permanent basis according to no. 3.3 of the GLT of Axivion, the Maintenance Agreement initially is concluded for the term of one year. Afterwards the Maintenance Agreement renews automatically for a further year, if it is not terminated by one party with three months' prior written notice with effect as of the end of the initial or any renewal term.
- 7.3 If the Maintenance Agreement has been terminated by the customer according to the preceding no. 7.2, but the customer at a later date wishes again the performance of maintenance services for the Software by Axivion, Axivion will only start again with the performance of maintenance services if the customer will pay the maintenance fees retroactively for the period of the break.
- 7.4 If the maintenance services are provided in connection with a license for Axivion Software that is limited in time (see no. 3.4 of the GLT of Axivion), a termination of the Maintenance Agreement by the customer without concurrent termination of the license

shall not be possible. The termination of the license shall be governed exclusively by the provisions of the GLT of Axivion.

- 7.5 The Maintenance Agreement shall end without notice of termination being required if the license granted to the customer for the Software to be maintained ends according to the GLT of Axivion. In this case, Axivion is not obligated to reimburse maintenance fees already paid for periods of time until the termination.
- 7.6 The right of both parties to terminate the Maintenance Agreement with immediate effect for good cause shall not be affected.
- 7.7 Notice of termination must be provided in writing.

8. Other Provisions

- 8.1 Axivion shall be entitled to provide parts of the maintenance services through or with the help of third parties.
- 8.2 To the extent that these GMT do not contain any special or deviating provisions, the performance of the maintenance services and the legal relation between Axivion and the customer shall additionally be governed by the GTC of Axivion.

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