

Supplementary Terms applying to Software Maintenance Agreements with Stemmer GmbH (version as of September 2009)

The following Supplementary Terms apply to all Software Maintenance Agreements concluded with us **in addition to our General Terms and Conditions**:

1. Subject Matter

- 1.1 We render the following services for the software products in respect of which the Customer has been granted the necessary rights of use by the software manufacturer:
 - advice and support in connection with the software product's functions, in particular regarding any errors occurring during proper use of the software product;
 - provision of updates for the software product.
- 1.2 Only the software products supplied by ourselves along with the applicable programme specifications and other appurtenant materials are covered by the Software Maintenance Agreement.
- 1.3 Attention is drawn to the fact that even the latest technology does not enable software to be developed such that it runs without errors on all available hardware systems and system combinations. The Software Maintenance Agreement therefore only applies to systems and system components that the manufacturer has declared in its specifications to be an all-round solution that is compatible with the software product concerned, thus working free of errors. We shall not assume any warranty or liability to the effect that the software products will function properly on any existing Customer installations that fail to meet the requirements set out in sentence 2 above.
- 1.4 By concluding the Software Maintenance Agreement, the Customer does not directly acquire any rights of use in the software product. Instead, the rights required are granted under a software license agreement, which the Customer must conclude directly with the software manufacturer. On signing the Software Maintenance Agreement, the Customer is merely granted entitlement to receive the latest version of the software product released by the manufacturer, which is supplied in the form of a relevant update. Relevant updates are only delivered free of charge as long as the new features do not exceed the usual scope for updates.
- 1.5 In addition, the Customer has the right to use our hotline (telephone support) during normal business hours, i.e. 9 a.m. until 5 p.m. Mondays to Fridays (excl. public holidays). If necessary, the Customer may also use the software manufacturer's hotline if the latter provides second-line support. Any costs thus incurred (in particular telecommunications costs) shall be borne by the Customer.
- 1.6 The Software Maintenance Agreement does not cover services going beyond the scope stipulated in the specifications of performance, such as e.g. training courses, installation, programming, and individual change requests or requests for system integration, etc. A separate charge will be made for any assignment we take on in this respect.
- 1.6 The Customer is solely responsible for saving its data, including any data stored externally. Unless expressly agreed otherwise in writing, we shall not assume any obliga-

tion to save data under the Software Maintenance Agreement.

2. Fee for Maintenance Services, Right to Adjust Fees

- 2.1 Upon payment of the agreed software maintenance fee, the normal maintenance costs for the services detailed in the specifications of performance shall be deemed balanced. We charge separately for any costs that are incurred for maintenance or repair tasks required as a result of improper handling, or of maintenance or repairs to the system having been done by persons not working under our instructions, or of failure to follow recommendations on maintenance, care and usage, or of additional components being used that have not been released by the manufacturer or by ourselves.
- 2.2 The annual maintenance fee shall be invoiced in advance at the beginning of each calendar year. If the term of the Software Maintenance Agreement commences during the year, then the annual maintenance fee shall be charged in advance *pro rata temporis* for the period between the commencement date of the Software Maintenance Agreement and the close of the calendar year.
- 2.3 In the event of any increases in costs for staff or materials, or if there is any change in the market conditions, then we shall be entitled to alter the maintenance fee by issuing written notification to this effect, observing a period of three months' notice (period for announcing price adjustments). In the event of a price increase, the Customer is entitled to give two months' notice terminating the contractual relationship as from the end of the period for announcing price adjustments; otherwise the new maintenance fee shall be deemed agreed as from the end of said period. If several software products are covered by the Software Maintenance Agreement, then the notice issued may be limited to individual software products.

3. Term and Termination of the Software Maintenance Agreement

- 3.1 The Software Maintenance Agreement has a minimum term of twelve months. Upon expiry of the minimum term, the Software Maintenance Agreement shall be renewed automatically for a further twelve months, unless either of the parties has issued three months' notice terminating it as from the end of the minimum term or the end of the respective renewal period.
- 3.2 If the Customer is in breach of terms of the software manufacturer's software license or terms of use despite a written request to cease and desist, then we shall be entitled to give extraordinary notice terminating the Software Maintenance Agreement with immediate effect, notwithstanding our further rights to give notice for important cause and other rights.