

**CONET – CONTRACTUAL TERMS FOR SOFTWARE MAINTENANCE (VPS)
for Business Customers (Entrepreneurs, Legal Entities under Public Law
or Special Funds under Public Law)**

Applicable in Connection with CONET's General Terms and Conditions (AV)

CONET

A Objects of the Contract

A.1 Maintenance Software

The Provider offers the following agreed maintenance services only for the latest version of the standard software agreed as the object of maintenance ("maintenance software") in return for the agreed remuneration. If third-party software is expressly agreed in the contract as maintenance software, then the limitations described therein apply.

The Provider shall supply the following maintenance services:

A.2 Fault Management

2.1 Contractual Services

The Provider will receive fault notifications from the Customer, allocate them to the appropriate fault categories and, on the basis of this allocation, carry out the agreed measures to analyze and correct them.

Fault management does not include services in connection with use of the maintenance software in unapproved environments or with modifications of the maintenance software by the Customer or third parties.

2.2 Acceptance of Fault Notifications from the Customer

The Provider shall accept fault notifications in due form by the Customer during regular business hours and provide them with an identifier. On request by the Customer, the Provider will give confirmation to the Customer of receipt of the fault notification, stating the allocated identifier.

2.3 Allocation to Fault Categories

In the absence of an agreement to the contrary, the fault notifications received will be allocated by the Provider to one of the following categories after initial review:

a) Serious Fault

The fault is attributable to a defect in the maintenance software, making use of the maintenance software impossible or subject to serious limitations. The Customer cannot get around this problem himself in a reasonable manner and cannot therefore carry out tasks that cannot be postponed.

b) Other Fault

The fault is attributable to a defect in the maintenance software which more than marginally restricts use of the maintenance software by the Customer without constituting a serious fault.

c) Other Notification

Fault notifications not covered by categories a) or b) are classified as other notifications. Other notifications are handled by the Provider solely in accordance with the agreements entered into in this regard.

2.4 Implementation of Fault Correction Measures

In the case of notifications of serious faults and other faults, the Provider shall promptly initiate measures on the basis of the circumstances reported by the Customer to first of all localize the cause of the problem.

If initial analysis shows that the reported fault is not attributable to a defect in the maintenance software, the Provider shall promptly notify the Customer of this.

Otherwise, the Provider shall initiate the appropriate measures for further analysis and correction of the reported fault or – in the case of third-party software – pass on the fault notification to the distributor or manufacturer of the maintenance software, together with the results of its analysis and a request for assistance.

The Provider shall make existing measures for circumvention or correction of a defect in the maintenance software, such as instructions or corrections to the maintenance software, promptly available to the Customer. The Customer shall promptly undertake such measures to circumvent or correct faults, and shall promptly report to the Provider again on any defects remaining after their implementation.

A.3 Provision of New Versions

3.1 Contractual Services

The Provider shall supply the Customer with certain new releases of the maintenance software in order to keep it current and to guard against faults. The Provider shall also supply the Customer with updates of the maintenance software with technical modifications and improvements as well as minor functional extensions and improvements. Furthermore, the Provider shall supply the Customer with patches with corrections to the maintenance software and other measures to circumvent possible faults. These updates of the maintenance software are described together as "new versions."

In the absence of an express agreement to the contrary, the maintenance service does not include the provision of upgrades with major functional extensions or new products or commitments to further develop the maintenance software.

3.2 Duties and Rights with New Versions

The Provider shall supply the Customer with new versions of the software. The Customer shall examine the new versions without delay and report discernible defects in accordance with § 377 of the German Commercial Code/HGB. Faults and defects shall be handled in accordance with item A.2 above.

In cases where the Provider has made a new version available to the Customer, he shall also continue to maintain the older version for a reasonable transitional period; generally not in excess of three months.

The Customer has warranty claims with respect to the new versions only if reported defects can be reproduced or otherwise proven by the Customer. With regard to the notification of defects, item 2.3 of CONET's General Terms and Conditions (AV) applies in particular.

If the Customer has justifiable claims for defects, he is at first entitled only to subsequent performance within a reasonable period of time. According to the Provider's choice, subsequent performance shall consist either of rectification of defects or delivery of replacement software. In making his choice, the Provider shall take the Customer's interests sufficiently into consideration.

A.4 Point of Contact (Hotline)

4.1 Contractual Services

The Provider shall set up a contact facility (hotline) for the Customer. This will handle customer queries in connection with the technical requirements and conditions for use of the maintenance software and with individual functional aspects.

The hotline will not provide any services in connection with use of the maintenance software in unapproved environments or with modifications of the maintenance software by the Customer or third parties.

4.2 Receipt and Processing of Queries

The Customer shall designate vis-à-vis the Provider only personnel with the appropriate specialist and technical qualifications to deal internally with customer queries from users of the maintenance software. Only these designated persons shall address queries to the hotline using forms supplied by the Provider. The hotline will accept such queries by e-mail, telefax and telephone during the Provider's regular business hours.

Properly submitted queries will be processed and answered as far as possible by the hotline in the normal course of business. In its response, the hotline may refer to documentation and other training material available to the Customer for the maintenance software. If the hotline is unable to provide an answer or to provide one quickly, the Provider shall pass on the query for further handling; this applies particularly in the case of maintenance software which is not manufactured by the Provider.

More extensive hotline services, such as different contact times and deadlines, on-call duty and on-site availability of the Provider to the Customer, must be expressly agreed in advance.

A.5 Additional Services

Services in addition to those in sections A.2 to A.4 are not due under this contract, but rather require a separate agreement with separate remuneration. These may relate, for example, to additionally agreed on-site availability of the Provider to the Customer, advice and support in the case of modified software, clarification of interfaces with third-party systems, and installation and/or configuration support.

B General Regulations

The following regulations apply equally to fault management (A.2), the provision of new versions (A.3) and the hotline (A.4).

B.1 Duration

1.1 In the absence of an agreement to the contrary, the maintenance contract starts on delivery in accordance with the contract for the provision of the standard software (Section 1 of CONET's Contractual Terms for the Provision of Software - VÜ).

1.2 At the end of any minimum duration which may be agreed, the maintenance contract may be terminated with three months' prior written notice up to the end of a calendar year; though for the first time at the end of the calendar year following the year in which the contract is concluded. The contract may furthermore be terminated by the Provider or the Customer without prior notice if there is good reason.

1.3 Declarations of termination are effective in written form only.

B.2 Remuneration

2.1 Flat-rate Remuneration

Remuneration for maintenance services will be paid by the Customer on an ongoing flat-rate basis. In the accounting period, the maintenance remuneration is payable in advance and will be billed by the Provider to the Customer at the start of the accounting period. The accounting period is generally the calendar year. If the contract commences during an accounting period, remuneration is payable on a prorated time basis and will be billed on conclusion of contract.

2.2 Remuneration for Additional Services

Remuneration for additional services not covered by the flat-rate remuneration is in accordance with item 1.1 of CONET's General Terms and Conditions (AV).

2.3 Adjustment of Remuneration

The remuneration may be adjusted annually by the Provider in line with general list prices. The Customer has a right of termination if the remuneration rates increase by more than ten percent.

B.3 Rights of Use

The Customer's utilization rights to new versions and other corrections to the maintenance software are in line with the utilization rights to the preceding version of the maintenance software. With regard to utilization rights, the rights to new versions and other corrections replace the rights to the preceding versions and other corrections after a reasonable transitional period of not more than one month as a general rule. The Customer is entitled to archive a copy.

B.4 Customer Obligations

4.1 The Customer shall inform the Provider promptly about changes in the application environment. In addition, the Customer shall ensure that the maintenance software is used only in an environment which is approved and which is supported by the maintenance software.

4.2 In the absence of an agreement to the contrary, all documents, information and data supplied to the Provider shall be additionally kept by the Customer in such a way that they can be replaced or reconstructed in the event of damage to or loss of such documents or data storage media.

B.5 Handover

To the extent that software is handed over within the parameters of these conditions and in the absence of an agreement to the contrary, this will take place in the same way as the provision of the maintenance software for customer use

B.6 Data Protection

To the extent that the Provider has access to personal data stored on systems of the Customer, he shall act exclusively as a contracted data processor (§ 11 par. 5 of the Federal Data Protection Act/BDSG) and process and use this data only for the purpose of executing the contract. The Provider shall observe the Customer's instructions with regard to handling this data. The Customer shall bear any negative consequences of such instructions with regard to contract execution. Details with regard to the handling of personal data will be agreed in writing by the contractual partners to the extent required by § 11 par. 2 BDSG or other legal norms.

B.7 Applicability of CONET's General Terms and Conditions (AV)

CONET's General Terms and Conditions (AV) apply on a supplementary basis.